

Social Workers and the Adult Guardianship and Trusteeship Act

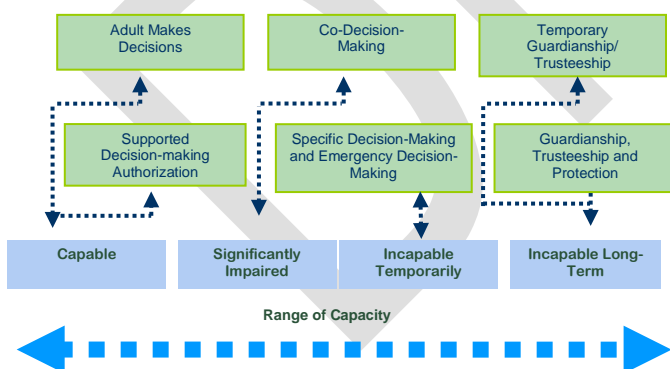
What is the AGTA?

Once proclaimed in fall 2009, the *Adult Guardianship and Trusteeship Act* (AGTA) will replace the *Dependent Adults Act* (DAA). The AGTA is administered by the Office of the Public Guardian (OPG).

The AGTA provides a continuum of decision-making options when an adult needs assistance or requires a substitute for personal and financial decisions. The AGTA is based on four guiding principles:

- the adult is presumed to have capacity until the contrary is determined;
- the adult is entitled to communicate by any means that enables them to be understood;
- focus on the autonomy of the adult with the least intrusive and least restrictive approach; and
- decision-making that focuses on the best interests of the adult and how the adult would make decisions, if capable.

One of the key concepts of the AGTA is the belief that capacity, which is the ability to understand information that is relevant to a decision and to appreciate the reasonably foreseeable consequences of a decision, is on a continuum. Under the AGTA, decision-making options have been tailored to different levels of capacity and are designed to provide as much autonomy to the adult as possible. The intent is that adults will be able to keep making personal decisions for a longer period of time with the support of family members.



Social Workers and the AGTA

The OPG recognizes the key role that social workers have around planning and service coordination for individuals who require decision-making support. The OPG is committed to working with Alberta's social workers to create a bridge between the new legislation and the community. Under the AGTA, social workers will have new roles guiding the public and organizations through the new decision-making options. Also, social workers can now receive intensive training to become designated capacity assessors under the AGTA.

Decision-making options Supported decision-making

Supported decision-making is a new option under the AGTA that allows adults who would like support when making decisions and communicating. This option may benefit people with disabilities or language barriers and could be especially useful for individuals during doctor visits. The **supported** adult can give their supporter legal permission to access relevant personal information that might otherwise be protected under privacy laws about personal matters like health care. For a supported decision-making toolkit, please visit our website.

If a supporter requests personal information regarding one of your clients, ask to see their Supported Decision-Making Authorization Form which will specify the areas of personal information the supporter has been authorized to access.

Specific decision-making

When an adult does not have the capacity to make a decision and they do not have a guardian or personal directive, a physician, nurse practitioner or dentist (for dental care only) may choose the nearest relative to act as a specific decision-maker. Specific decision-making is used for time sensitive decisions regarding health care and temporary admission to or discharge from a residential facility.



Emergency health care

A physician may provide emergency health care to an adult without consent if the health care is necessary to preserve the adult's life, prevent serious physical or mental harm to the adult or alleviate severe pain and the adult lacks capacity as a result of drug or alcohol impairment, lack of consciousness or another cause. Where practical, the physician should obtain a second opinion from a second physician or registered nurse.

Court ordered decision-making options

The AGTA modernizes the Court application process so it is easier and more affordable for Albertans.

The AGTA creates a review officer role, which will be carried out by the OPG. The review officer will provide information to the public and assist applicants with service requirements for Court applications. The review officer will also provide the Court with a written report of the adult's views about the application and the suitability of proposed co-decision-makers, guardians or trustees. All forms for Court applications are available at www.seniors.alberta.ca/opg.

Co-decision-making

Co-decision-making orders come into play if an adult is assessed as having a significant impairment, but can still make decisions about personal matters with assistance. A co-decision-maker and the **assisted adult** must make decisions together. The assisted adult must consent to the order. This option will work well for people with long standing, trusting relationships.

Guardianship and trusteeship

A guardian or trustee, appointed by the Court, has the legal responsibility to make decisions for an adult who lacks the capacity to make personal or financial decisions. Decisions must be made in the best interests of the **represented** adult and court must decide that this appointment would be the least restrictive and least intrusive measure that would still be effective.

Guardianship deals with personal decision-making such as health care decisions and trusteeship deals with financial decision-making.

Capacity Assessments

The AGTA establishes a standardized framework for capacity assessments that will protect an individual's rights when assessments take place and provide clear guidance to health care professionals who conduct assessments. Assessments will include a medical evaluation conducted by physicians to rule out temporary reversible conditions that may affect capacity.

Under the AGTA, physicians and psychologists are grandfathered in as capacity assessors. Other health care professionals such as social workers, occupational therapists, registered nurses, and registered psychiatric and mental deficiency nurses may assess capacity only if they complete a required training program and are designated by the Minister as capacity assessors.

Who can access personal information?

Under the AGTA and in compliance with the *Health Information Act* (HIA) and the *Freedom of Information and Protection of Privacy Act* (FOIP), social workers may disclose personal information to the following individuals for the purposes of fulfilling their legislative roles:

- supporter, specific decision-maker, co-decision-maker, guardian or trustee;
- someone applying for a guardianship or trusteeship order;
- capacity assessors; and
- investigators for the purposes of an investigation.

Protective Measures

The AGTA strengthens the protection of vulnerable people by incorporating new protective measures. These include: enhanced screening of new private guardian and trustee suitability, allowing the Public Guardian or Public Trustee to investigate complaints that a private guardian or trustee may be causing harm to the adult they represent; and emergency protection provisions if a represented adult needs to be removed to a place of safety.

For more information

We welcome the opportunity to speak with you! OPG offices are open Monday to Friday from 8:15 a.m. to 4:30 p.m. To be connected toll-free, call 310-0000.

Northwest Region

Grande Prairie **780-833-4319**

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Edmonton **780-427-0017**

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