

Adult Guardianship and Trusteeship Act

Specific decision-making

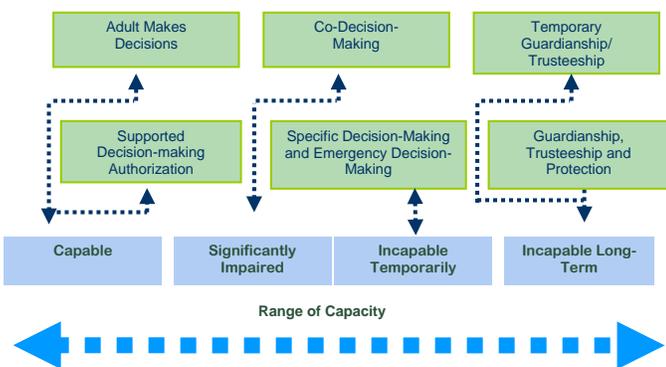
What is the AGTA?

On October 30, 2009, the *Adult Guardianship and Trusteeship Act* (AGTA) replaced 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.

The AGTA responds to the needs of health care providers by providing a more efficient decision-making process and expedient procedures for dealing with time sensitive emergency situations. If you would like more information on the AGTA, please read the "AGTA - Frequently Asked Questions" available at our website: www.seniors.alberta.ca/opg.



What is specific decision-making?

Specific decision-making is designed to provide timely and effective decision-making services for adults who do not have the capacity to provide informed consent for health care decisions or temporary admission to, or discharge from, a residential facility.

Under the AGTA, physicians, nurse practitioners and dentists (for dental care only) may select a specific decision-maker from a ranked list of family members to make the decision for the adult. For individuals who do not have a family member willing or able to act as a specific decision-maker or if there is a dispute in the family about who should make the decision, health care providers can contact the Public Guardian who will make the decision or, in some cases, will authorize someone from the ranked list to make the decision.

Health care means any examination, diagnosis, procedure, or treatment undertaken to prevent or manage any disease, illness, ailment or health condition; any procedure undertaken for the purpose of an examination or diagnosis; any medical, surgical, obstetrical or dental treatment; anything done that is ancillary to any examination, diagnosis, procedure or treatment; any procedure undertaken to prevent pregnancy, except sterilization that is not medically necessary; palliative care; and a treatment plan. Specific decision-making does not apply to decisions regarding treatment of mental health decisions for formal patients, psychosurgery, and sterilization, removal of tissue for implantation or experimental activities, or end of life decisions.

Residential facility means a nursing home; a place of care for adults who are aged or infirm or who require special care; an approved hospital or auxiliary hospital; or a premises, other than a private residence, in which four or more adults who are not related to the operator of the premises are provided with living accommodation, care and supervision.

Temporary admission means admission for a period not exceeding 6 months (beginning on the day that a specific decision-maker consents to the admission).



Specific decision-making in 4 Simple Steps

STEP ONE: ASSESS

Assess the adult's capacity to make the specific decision at hand. If the adult is assessed as incapable to make the specific decision, inform the adult of the assessment and their right to apply for a review of the assessment.

STEP TWO: SELECT

Choose the nearest relative to act as the specific decision-maker. When selecting a specific decision-maker, the adult's eldest relative of full blood is preferred in the following ranked order:

- spouse or adult interdependent partner;
- adult son or daughter;
- father or mother;
- adult brother or sister;
- grandfather or grandmother;
- adult uncle or aunt; or
- adult nephew or niece.

If there is a dispute regarding the selection of the specific decision-maker or there is no one willing or able to make the decision, contact the regional Office of the Public Guardian (OPG) and the Public Guardian will make the decision. For after hours emergency decisions call 1-866-262-9731.

STEP THREE: DECIDE

The specific decision-maker declares they meet the requirements to be a specific decision-maker and then consults with the adult, to the extent possible, in order to make the decision.

STEP FOUR: RECORD

Form 6 for Specific Decision Making includes three parts:

- Part 1: Assessment of Capacity of the adult to make decisions respecting either the adult's proposed health care or the adult's temporary admission to or discharge from a residential facility.
- Part 2: Declaration of the Specific Decision-Maker
- Part 3: Record of the Health Care Provider includes information on the decision made.

Specific decision-makers must make reasonable efforts to notify the nearest relative of the adult of a decision made for the adult. If there is no nearest relative, the specific decision-maker will notify the Public Guardian of the decision.

Form 6 is available online at www.seniors.alberta.ca/opg.

What if someone disagrees?

The adult, any relative, legal representative or person with a close substantive relationship with the adult may apply to the court for a review of the assessment of the adult's capacity to make a specific decision or the decision of the specific decision-maker. These same individuals may also request a capacity assessor to conduct a full capacity assessment using Capacity Assessment Report (Form 10).

If an individual informs the health care provider that they intend to file an application with the Court or they intend to initiate a full capacity assessment, the health care provider must not act on the decision. The individual must take action to initiate the Court application or assessment within seven days. If they do not, the health care provider has authority to act on the decision.

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) health care providers may access, collect or obtain any necessary personal information about an adult, except financial information, in order to assess the adult's capacity or to select a specific decision-maker. Health care providers may disclose personal information in order to select a specific decision-maker or to inform the specific decision-maker. A health care provider is entitled to rely on the accuracy of information provided by a specific decision-maker in their declaration to establish the person's eligibility to be selected.

For more information

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

Northwest Region

Grande Prairie 780-833-4319

Edmonton Region

Edmonton 780-427-0017

South Region

Lethbridge 403-381-5648

Medicine Hat 403-529-3744

Northeast Region

St. Paul 780-645-6278

Central Region

Red Deer 403-340-5165

Calgary Region

Calgary 403-297-3364

Please visit our website: www.seniors.alberta.ca/opg or call us toll-free at 1-877-427-4527.