

Guide to:

Healthcare and Mental Healthcare



This pamphlet gives legal information on the rights of young people who are under 18 and living in Ontario about:

- Healthcare rights
- Privacy rights when seeking healthcare
- Capacity to make healthcare decisions
- Substitute decision makers if found incapable
- Psychiatric facilities
- Secure treatment facilities

You should always speak to a lawyer or legal worker about specific questions.

What is healthcare?

Healthcare includes any procedure carried out or prescribed by a health practitioner to diagnose or treat a physical or mental health condition. Examples of health practitioners are doctors, nurses, dentists, psychologists and psychiatrists.

What is OHIP?

OHIP is the Ontario Health Insurance Plan. It pays for a wide range of healthcare costs for people who live in Ontario. To qualify, you must be a citizen, landed immigrant, refugee, or have status under Canada's *Indian Act*.

For newcomers to Ontario, there is normally a 3-month waiting period from the time of arrival. There are exceptions, for example: children under the age of 16 who are adopted by someone who already qualifies for OHIP; and a baby who is born in Ontario to someone who already qualifies for OHIP.

For more information,

- call Service Ontario at 1-866-532-3161 or
- visit www.health.gov.on.ca

Are drugs covered under OHIP?

Starting Jan 1, 2018, "OHIP+" will pay for a wide range of drugs for children and youth aged 24 and under. You must qualify for OHIP to receive this.

To see the list of drugs and learn about the Exceptional Access Program for drugs that are not on the list, visit: <http://www.health.gov.on.ca/en/pro/programs/drugs/ohiplus/>

What is IFHP?

IFHP is the Interim Federal Health program provides essential health care services for refugee claimants, and Convention refugees.

For more information,

- call Service Canada: 1-888-242-2100 or
- visit <https://www.canada.ca/en/immigration-refugees-citizenship/services/refugees/help-within-canada/health-care.html>

What if I do not qualify for OHIP or IFHP?

You will have to pay for services by yourself or get private insurance. If you cannot afford these options, you should call or visit a local Community Health Centre to find out if there are free services in your community. In Scarborough, there is a medical clinic for the uninsured; call 416-754-8116 for an appointment.

In an emergency, go to a hospital immediately. You will not be turned away if you do not have OHIP.

Can I see a health practitioner by myself?

Yes, you can see a health practitioner by yourself (and without your parents involvement) unless the health practitioner decides that you are incapable. Being capable or incapable depends on your ability to understand the information you are given about the treatment, your ability to make decisions based on that information, and how complicated the treatment is. For example: a doctor may decide that you are capable to make decisions about taking specific drugs but that you are not capable to decide whether to undergo surgery.

If you are 12 years of age or older and you are in the care of a Children's Aid Society, you do not need permission to see a counsellor.

Will anyone know if I go for healthcare?

A health practitioner should not give out any information about you to anyone (including your parents) without your consent unless you have been found incapable.

The consent you give should be done on a Consent to Release Information Form that says exactly what information you allow them to share and who they are allowed to share it with. Before you sign a consent form, always read it carefully to make sure you agree with everything on it. You can ask for changes and withdraw your consent at any time.

You can also ask your health practitioner at the beginning to respect your rights and not tell anyone

(including your parents) about your treatment and the information that you share with them.

If you are 12 years of age or older and you are in the care of a Children's Aid Society, your health practitioner cannot tell your foster parent, worker or anyone else about the things you talk about unless you give your consent to share this information.

Exceptions:

- Anyone who works with children under 16 are required by law to report all reasonable suspicions that a child is being harmed and in need of protection. For example, if you are under 16 and tell someone that you have been abused, neglected or poorly treated, they must report this to the Children's Aid Society.
- If you say you are going to harm someone else, they may have to tell the police.

Can I see my healthcare records?

Yes. You have the right to see your healthcare records (also called "clinical records") as long as you have not been found incapable. These records include notes, letters and reports written by a health practitioner about you.

Exception:

- You may be stopped from seeing your record if it has been decided that it is bad for you to see it (eg. by the health practitioner or a Children's Aid Society).

Who else can see my healthcare records?

In general, no one else can see your records without your consent. Any consent that you give should be done on a Consent to Release Information Form.

Before you sign a consent form, always read it carefully to make sure you agree with everything on it. If you only want specific parts of your records shared, then you should list exactly what you want to share and write down that everything else must be kept private. You can ask for changes and withdraw your consent at any time.

Exceptions:

- If you are under 16 and your records include any information that there is a reasonable suspicion that you are being harmed and in need of protection, the suspicion must be reported to the Children's Aid Society.
- If you are found incapable then your record can be seen by your substitute decision-maker.

What if I am not sure about a certain treatment?

If you are unsure, ask lots of questions. Your consent or refusal for each treatment must be both voluntary and informed. Before any treatment, your health practitioner should explain:

- what the treatment is and what its for,
- how they expect it will help you,
- the possible risks and side effects,
- other options and alternatives that might exist, and
- the likely consequences of not having the treatment.

Can I change my mind after I consented to treatment?

Yes. You can withdraw your consent at any time as long as you have not been found incapable. Tell your health practitioner that you don't want the treatment anymore. You may also want to write a short letter saying this and you should sign, date and keep a copy of your letter.

How can I be found "incapable"?

A health practitioner will look at a number of things before they can find you incapable. This includes deciding whether you are able to understand:

- the nature of the problem or issue,
- the treatment that is being suggested, and
- what might happen to you if you give or refuse consent.

If you are found incapable, the health practitioner cannot just go ahead and make treatment decisions for you. Decisions about treatment will be made by your substitute decision-maker. That person must be at least 16 years old (unless they are the parents of the patient).

Who will be my substitute decision-maker?

If you are under 16, your substitute decision-maker will be your parent (or another person who is standing in the place of your parent).

If you are 16 or older, it will be one of the following (if there is no one who fits the description in #1, it will be #2, etc.):

1. your court-appointed guardian of the person
2. your "attorney for personal care"
3. a person appointed by the Consent and Capacity Board
4. your spouse or common-law partner
5. your parent
6. Children's Aid Society or another person standing in the place of your parent
7. your parent who has access rights only
8. your brother or sister (who must be 16 or older)
9. any other relative
10. the Public Guardian and Trustee

What is an Attorney for Personal Care?

Your Attorney for Personal Care is someone you choose to make health-related decisions for you if you are later found to be incapable. You must be 16 or older and capable to make this choice.

You must do this in writing and you can choose more than one person. You should choose someone that you trust. You can also be specific about your treatment wishes; this is especially important if you want or do not want certain treatments.

Where can I get more information on appointing an Attorney for Personal Care?

You can get more information and a Power of Attorney Kit (with forms to complete) by visiting: www.attorneygeneral.jus.gov.on.ca/english/family/pgt/incapacity/poa.asp

You should talk to a lawyer for specific advice.

How will my substitute decision-maker make decisions?

When your substitute decision-maker is making decisions about your treatment(s), they must consider any wishes that you made after you turned 16 and while you were capable. Otherwise, they must act in your best interests. The law sets out how to determine what's in your best interests. For example, they must consider your values and beliefs.

You should talk to the people who may end up as your substitute decision-maker about your treatment beliefs and wishes in case you are later found to be incapable.

What can I do if I feel that I am capable?

If someone decides that you are incapable, you can appeal the decision to the Consent and Capacity Board.

Talk to a lawyer to find out more information about this process.

What is a psychiatric facility?

A psychiatric facility is a place for the observation, care and treatment of people with a mental health problem.

I want to go to a psychiatric facility because I'm feeling suicidal or really need help right away – how do I do this?

You can make the decision to go to a hospital on your own unless you have been found incapable. The hospital does not have to take you in unless they agree that you need their help.

Can I be put in a psychiatric facility against my will?

Yes. If someone (eg. a parent, friend, relative, police officer, doctor or teacher) thinks that one or more of the following situations is happening, you may be put in a psychiatric facility:

- you have harmed yourself or someone else, or you have threatened to cause harm to yourself or another person; or
- you have shown or are showing an inability to take care of yourself. For example, walking outside in shorts during a snowstorm, not eating, or walking in traffic.

You could also be put in the facility if you have been found incapable and in the past you received helpful treatment for a similar mental problem which, if not treated this time, will likely lead to you causing serious harm to yourself or someone else or lead to you getting worse.

If you are kept in a facility against your wishes, you are an involuntary patient.

How long can I be forced to stay in a psychiatric facility?

It depends. Doctors can sign different Forms to hold you:

- If a doctor signs a Form 1, you can be held for up to 72 hours so that the facility can assess your condition. The doctor may then decide that you can leave.

- If the doctor still thinks you should not leave and you are not willing to stay, a doctor can sign a Form 3, which is called a Certificate of Involuntary Admission. This allows the facility to hold you for up to 2 more weeks.
- After that, if the doctor thinks you should still stay and you don't want to, the doctor can sign a Form 4, which is called a Certificate of Renewal.
 - The first time a Form 4 is signed, you can be held up to another month.
 - The second time, you can be held up to 2 more months.
 - The third time, you can be held up to 3 more months.
 - After that, every Form 4 means you can be held in the facility for up to 3 more months.

Can I appeal these Forms?

You cannot appeal a Form 1. However, you can appeal a Form 3 or Form 4 to the Consent and Capacity Board.

A Rights Advisor from the Psychiatric Patient Advocates Office must visit you each time a Form 3 or 4 is signed to explain your right to appeal and ask if you want to appeal. Even if you decide to not appeal when the Rights Advisor visits you, you can change your mind later and ask to see the Rights Advisor again.

The Rights Advisor can help you apply for Legal Aid so that you can have a lawyer for your appeal. If you are under 16 and go to the hearing without a lawyer, the Consent and Capacity Board may ask the Office of the Children's Lawyer to appoint a lawyer to represent you.

When can I leave the facility?

If you are a voluntary patient, you can leave anytime.

If you are an involuntary patient you must stay until:

- your doctor says you can leave; or
- the Consent and Capacity Board says you can leave; or
- you are no longer an involuntary patient. For example, this can happen if a Form 3 or 4 expires and a new form is not signed by a doctor, then you become a voluntary patient and can leave anytime.

Can my parents put me in a psychiatric facility even if I don't want to go?

If you are under 16 and you have been found incapable, your parents or other substitute decision-maker can agree to you being admitted in a psychiatric facility so that you can get treatment. You cannot be forced to stay by your parents or substitute decision-maker; however, the doctor can sign the necessary forms to make you an involuntary patient.

If you are 16 and over and you have been found incapable, your parents cannot agree to your admission against your wishes unless they are:

- your court-appointed guardian of the person,
- if they have the appropriate power; or
- your attorney for personal care.

You cannot be forced to stay by your parents; however, the doctor can sign the necessary forms to make you an involuntary patient.

Can I appeal if I have been found incapable and it was my substitute-decision maker who consented to my admission to a psychiatric facility?

If you are under 12, no.

If you are between 12 and 15, sort of.

- You cannot appeal the decision made by someone else to admit you to a psychiatric facility. But you can apply to the Consent and Capacity Board to determine whether you need “observation, care and treatment in a psychiatric facility”.
- Because the board will consider your views and wishes it is important to tell the people close to you what your views and wishes are especially if you do not want to be in a psychiatric facility.
- You can make this application as soon as you arrive at the psychiatric facility. You can also apply every 3 months. A hearing will be held every 6 months even if you do not apply. You can have a lawyer at the hearing.

If you are 16 or older, yes.

- You can apply to the Consent and Capacity Board to challenge someone else’s decision to admit you to the facility for treatment.

What is a secure treatment program?

A secure treatment program is for treating people under the age of 19 for mental health issues. Placement in a secure treatment program are ordered by a court unless it’s an emergency. You may also not be allowed to see your Healthcare Record.

Can I go into a secure treatment program by myself?

If you are 16 or 17 years old, you can apply to be in a secure treatment program. Speak to a lawyer or contact the Office of the Provincial Advocate for Children and Youth (OPACY) about making this application.

There are 4 secure treatment facilities in Ontario:

- Oakville: Syl Apps Youth Centre
- Ottawa: Roberts Smart Centre
- Toronto: Youthdale (emergencies only – up to 30 days)
- Whitby: Ontario Shores Centre

Can anyone else put me in secure treatment?

If you are under 12, the Minister of Community and Social Services has to give permission before a court can order you into a secure treatment program.

If you are between 12 and 15, your parents, guardians or a Children’s Aid Society can ask a court to order you into a secure treatment program.

If you are 16 or 17, your parents, guardians or a Children’s Aid Society can ask for a court order only if you agree; and your doctor can ask for a court order without your consent.

In an emergency, the same rules apply but it is the administrator of the secure treatment facility that must consent (not the court).

How does the court process work?

A hearing will be held within 10 days to decide if you should be in a secure treatment program. If you are between 12-17 years old, you can have a lawyer there to help you. If you go to the hearing without a lawyer, one will be appointed for you.

The court will consider whether:

- you have a mental health issue,
- you have harmed or tried to harm yourself or someone else in the last 45 days,
- you have also threatened to harm, tried to harm, or actually harmed yourself or someone else, in the last year,
- the program would be effective in preventing you from harming yourself or others,
- the right treatment is available at the facility, and
- there is no less restrictive way of providing the treatment.

The test for an emergency short-term admission (up to 30 days) is almost the same except that there only needs to be one example of threatened or actual harm.

How long will I be kept in secure treatment?

The court can order that you stay there for up to 180 days at a time. These orders can be made longer by another court order, which is usually made near the end of the existing order. The facility can let you go before the order is over if they believe you no longer require a secure treatment program.

What If I'm in secure treatment but I don't want to be?

If you are 12 years old or older, you can make apply for a "review" of your secure treatment order.

For help, contact the Office of the Provincial Advocate for Child and Youth (OPACY).

RESOURCES

Telehealth Ontario - 1-866-797-0000 (24 hours)
Free and confidential health information & advice from a nurse

Psychiatric Patient Advocates Office - ppao.gov.on.ca
416-327-7000 or 1-800-578-2343

Office of the Provincial Advocate for Children and Youth
provincialadvocate.on.ca
416-325-5669 or 1-800-263-2841

SELECT YOUTH SERVICES

Kids Help Phone - kidshelpphone.ca - 1-800-668-6868
Phone and on-line support and information (under 20)

Lesbian Gay Bi Trans Youthline - youthline.ca
416-962-9688 or 1-800-268-9688
Peer-phone and online support and information
Sun - Fri, 4:00 - 9:30 pm

Kids Health - kidshealth.org
Health care information with separate sections for kids, teens, parents and educators.

FINDING A LAWYER

Justice for Children and Youth - jfcy.org
416-920-1633 or 1-866-999-5329

Law Society Referral Service - lsuc.on.ca
Up to 30 min of free legal advice

This pamphlet gives general information to people 17 years and under living in Ontario about their healthcare rights. Speak to a lawyer or legal worker about specific questions.
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