

## Definitions for the Consent to Treatment Process under the *Health Care Consent Act, 1996*

	<b>Definition</b>	<b>Clarifying Details</b>
<b>Capacity</b>	With respect to treatment decisions, a person is capable ... if the person is able to understand the information that is relevant to making a decision ... and able to appreciate the reasonably foreseeable consequences of a decision or lack of decision.	<p>A person is presumed capable unless there are reasonable grounds to believe that the person is incapable.</p> <p>A person may be incapable of consenting to some treatments and capable of consenting to others.</p> <p>A person may be incapable of consenting to a treatment at one time and capable at another.</p>
<b>Understand</b>	<p>With respect to treatment decisions, you can determine that a person is able to understand as long as they can:</p> <ol style="list-style-type: none"> <li>1. Take in, retain and process relevant information long enough to reach a decision and</li> <li>2. Demonstrate in their communications with you that they understand the treatment being proposed.</li> </ol>	<p>A person is able to understand if they can take in information and use it to guide choices and actions.</p> <p>“Understanding” is about knowing a particular fact, it’s also about recognizing how other information relates to that fact.</p> <p>For example: “I understand I have diabetes. I understand diet can affect diabetes.”</p>
<b>Appreciate</b>	<p>With respect to treatment decisions, you can determine that a person is able to appreciate the consequences of their decision as long as they are able to:</p> <ol style="list-style-type: none"> <li>1. Realistically evaluate their current condition or situation.</li> <li>2. Apply relevant information to their own circumstances.</li> <li>3. Weigh risks and benefits of the available options</li> <li>4. Demonstrate that they have considered the consequences of their choice.</li> </ol>	<p>The person must have the ability to take in the information and use it in a way that is grounded in reality.</p> <p>The person must be able to recognize that their condition is impacting them. The person doesn’t have to agree with the specific diagnosis or terminology used to describe the condition.</p> <p>The person must have considered any of their deficits and the potential impacts of these.</p> <p>For example: “I understand that I have diabetes and I appreciate:</p> <ul style="list-style-type: none"> <li>• that if I drink pop, it will affect my blood sugar levels.</li> <li>• I need to monitor my blood sugar levels</li> <li>• I may need to adjust my diet and/or medication</li> </ul>

## Resources

A Practical Guide to Mental Health and the Law in Ontario, OHA: [https://blg.com/en/News-And-Publications/Documents/Publication\\_4649.pdf](https://blg.com/en/News-And-Publications/Documents/Publication_4649.pdf)

Speak Up Ontario, on Consent: <https://www.speakupontario.ca/resource-guide/consent/>

Ontario Human Rights Commission, on Consent and Capacity: <http://www.ohrc.on.ca/en/policy-preventing-discrimination-based-mental-health-disabilities-and-addictions/16-consent-and-capacity>

Guidelines for Conducting Assessments of Capacity:

<https://www.attorneygeneral.jus.gov.on.ca/english/family/pgt/capacity/2005-06/guide-0505.pdf>

Starson v. Swayze: [http://www.bcrb.bc.ca/Starson\\_vSwayze.pdf](http://www.bcrb.bc.ca/Starson_vSwayze.pdf)

Health Care Consent Act: <https://www.ontario.ca/laws/statute/96h02>