

Highlights of the new legislation

Adult Guardianship and Trusteeship Act (AGTA)

Alberta

Freedom To Create. Spirit To Achieve.



Agenda

- Key concepts
- Guiding principles
- Decision-making options
- Capacity assessment



Key Concepts



Key Concepts

- **Capacity is on a continuum**
 - Capacity is the ability to make decisions for yourself
- **AGTA has new decision making options**
 - Designed to provide as much autonomy as possible.
- **AGTA balances autonomy with protection**
 - More safeguards, new complaints and investigation process.



Guiding Principles



Guiding Principles

- **Capacity is presumed**
 - Regardless of age, disability, etc.

- **Communication method is not relevant to determination of capacity**
 - Hearing aid, sign language, technology



Guiding Principles

- **Autonomy is to be maintained through least intrusive and least restrictive measures**
 - New decision-making support options
-
- **Decisions are to be based on best interests and how the person would have made the decision if capable**
 - What are the adult's values and beliefs?



Personal Decision-making Options



1. Supported Decision-making *(new)*

Capable

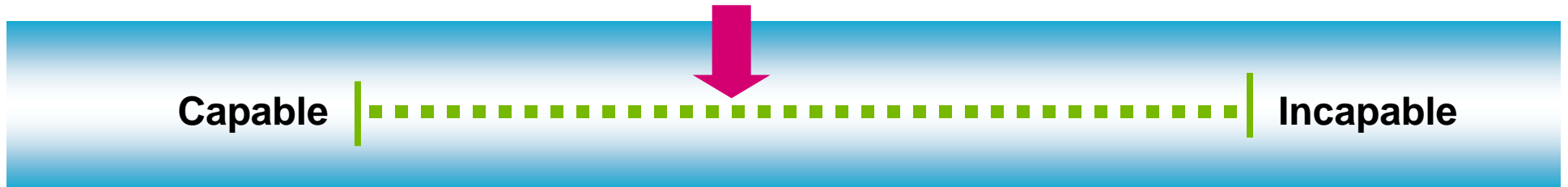


Incapable

- The adult is capable—they make their own decisions
- They choose someone to help them:
 - Find information
 - Make decisions
 - Communicate their decisions



2. Co-decision-making *(new)*



- Adult's ability to make decisions is significantly impaired
 - Adult can make decisions with good support
- The adult and the co-decision maker make decisions together



3. Guardianship *(updated)*



Capable |-----| Incapable

- Adult is incapable of making their own personal decisions
- Court appoints someone to make personal decisions on behalf of the adult
 - Usually a trusted friend or family applies
 - OPG can become the guardian as a last resort



If You are Already a Guardian

- You are still a guardian under the new *Act*
- Do your scheduled review on the appointed date—after that, the Court sets review date based on individual circumstances (not necessarily 6 years)
- You will need an updated capacity assessment (within 6 months of the review)
- File your application with OPG, not the Court



Applying to be a Guardian

- Submit your application to OPG, not the Court
- Need two references and a police records check
- Need a guardianship plan
- Someone from OPG will visit the adult to get their views, where possible



4. Specific Decision-making *(new)*

Capable



Incapable

- Health care system needs a one-time decision:
 1. health care treatment or
 2. temporary admission to a residential facility
- Adult is unable to make a decision (eg., stroke)
- Physician or nurse practitioner can choose “nearest relative” based on a ranked list to make the decision.



5. Emergency Health Care *(updated)*



Capable |-----| Incapable

- Adult needs emergency health care
- Adult cannot provide consent
- Physician can make the decision
 - Where practical, physician must consult with a 2nd physician or health care provider.



6. Temporary Guardianship *(updated)*



Capable |-----| Incapable

- Only for urgent or high risk cases
- Adult does not have capacity to make decisions
- Fast track to Court
- Temporary guardian appointed for 90 days.



Financial Decision-making Options



Financial Decision-making Options

- Decisions about finances and estates
- No continuum of capacity: you're either capable or incapable

Office of the Public Trustee

Edmonton: 780-427-2744

Calgary: 403-297-6547



Applying to be a Trustee

- Submit application to OPG, not the Court
- Two references: a police records check and a credit check
- Trusteeship plan
- OPG will visit the adult to get their views, where possible



Capacity Assessment



Capacity Assessment *(updated)*



- For guardianship, co-decision-making and trusteeship (Court orders), you need a capacity assessment.
- Include it in the application package.



Capacity Assessment *(updated)*

- Capacity assessment process will be more thorough and will target areas where support is needed.
- Physician must rule out medical causes first.
- Traditionally performed by physician or psychologist
 - Some other health care professionals may also be qualified, if they have training



Questions? We're here to help

- Office of the Public Guardian's toll-free information line

1-877-427-4525

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