

Applying Policy to Practice: Navigating Conflict between Healthcare Teams and Substitute Decision Makers

ETHICS AND RESILIENCE GRAND ROUNDS

National Health Ethics Week Special Session

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We are privileged to provide care on lands that Indigenous peoples have called home for thousands of years.



Webinar Housekeeping

- Everyone will be muted except the host, moderator and panelists
- Ask questions through the Teams chat box
- All webinars will be recorded and posted on the internal PEaCE Hub page and on the Regional Ethics Network Website
- Please take a moment to scan the QR code to complete the evaluation

HHS Ethics Rounds & Community Education Sessions





November 2-8, 2025

Theme: **Ethics in times of Turbulence and Disruption**



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Title: CORP – Managing Conflict Regarding Treatment and/or Discharge

Applies to: All Hamilton Health Sciences (HHS) employees, including those of affiliated hospitals, and all HHS affiliates, members, and visitors.

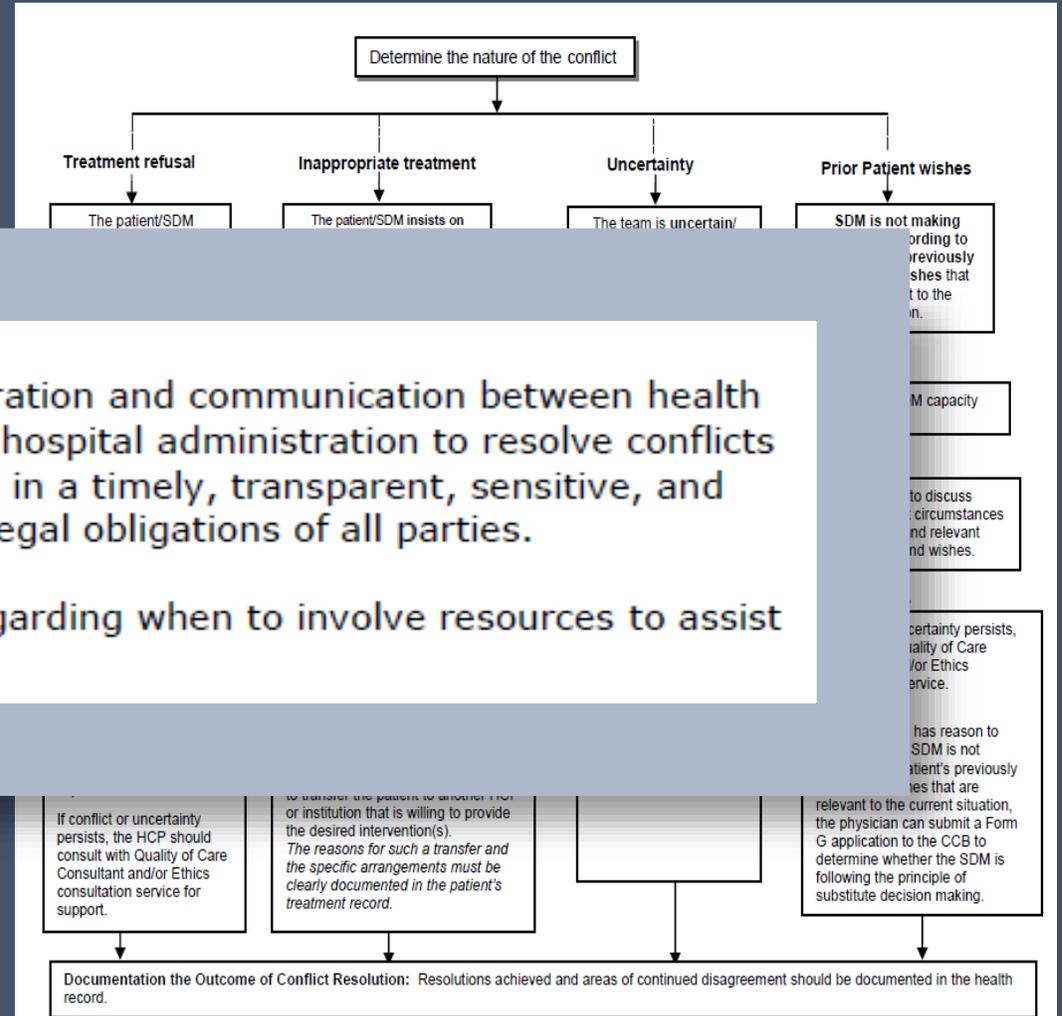
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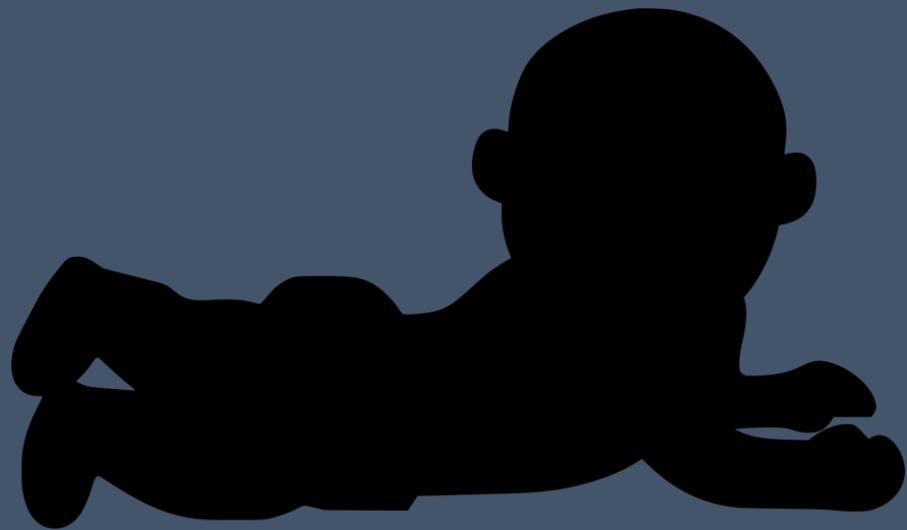
Purpose

The objective of this protocol is to ensure collaboration and communication between health care providers (HCPs), patients and families, and hospital administration to resolve conflicts about patient care plans (treatment or discharge) in a timely, transparent, sensitive, and respectful manner and to uphold the ethical and legal obligations of all parties.

This protocol also provides staff with guidance regarding when to involve resources to assist with decisions about treatment or discharge.



MEET PENNY



Address Conflict Regarding Treatment/Discharge and Support Patients and Families by:

- Offering care that is consistent with best practice in accordance with ethical considerations and legal obligations
- Fostering transparent, positive, collaborative and culturally safe relationships with all patients, SDMs and their families
- Acknowledging and respecting the values and beliefs of patients and families
- Providing patients/SDMs with appropriate information in keeping with their needs and preferences
- Proactively and sensitively managing challenging situations to provide quality care
- Fostering trust through engagement, transparency and partnership (when possible)



Support Health Care Teams in Conflict Situations Regarding Treatment/Discharge by:

- Proactively addressing situations of conflict to avoid harm and safeguard quality care
- Supporting staff/physicians to fulfill their fiduciary duties and legal/ethical obligations to patients
- Providing resources to help teams to cope with distress that can result from disagreements with patients, SDMs, and their families
- Supporting healthcare teams to resolve conflict in ways that align with the guiding principles of this policy



Guiding Principles

- 1. Fiduciary Duty:** The special obligation healthcare professionals have to safeguard the best interests of their patients
- 2. Best Interest:** When the patients previously expressed capable wishes are not known, decisions for an incapable patient are made according to their best interests, as defined in the HCCA
- 3. Clinical Benefit & Avoidance of Harm:** Fiduciary duty to offer treatment or care recommendations that are expected to benefit the patient and align with clinical and ethical standards
- 4. Patient & Family Centered Care:** A commitment to communicate effectively with patients, SDMs, and their families, to collaborate with them in planning and implementing treatment and/or discharge plans, and to respond to their needs and concerns



5. Inter-professional Communication/Collaboration: Partnering with relevant parties in a respectful and accountable manner such that each individual and entity understands their associated role and accountabilities

6. Respect for the Patients Right to Autonomy and Self-Determination: Individuals have the right to make personal choices and healthcare decisions in accordance with their unique goals, wishes, and values within legal and professional practice parameters

7. Privacy & Confidentiality: Recognition of the moral, ethical, legal, professional and employment obligation of the healthcare professionals to protect the information of individuals entrusted to them

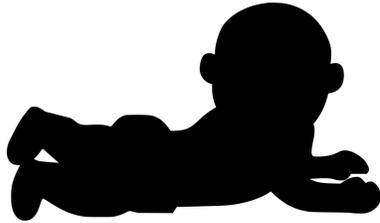
8. Equity, Diversity, & Inclusion: Acknowledging the historical and current discriminatory practices against marginalized and racialized persons, healthcare professionals must work to examine and mitigate implicit biases and use cultural sensitivity, awareness, and a trauma informed approach



Tips & Tricks for Navigating Conflict between Team Members and SDMs

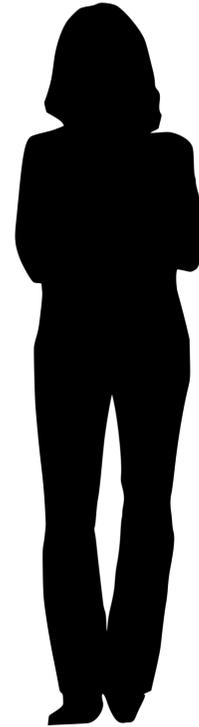


Tip #1: Is the patient capable of making treatment/discharge decisions? If not, identify & educate the appropriate SDM.



The Health Care Consent Act instructs the SDM(s) to make decisions based on the following principles:

1. Previously expressed capable wishes of the individual (aged 16 or over) that are applicable to the situation; or
2. If there are no previously expressed capable wishes as described above, best interests of the individual.



Tip #2: Identify Appropriate Treatment Options

- Get really clear on **what** you are asking and **why**
 - Consider best available evidence, standards of practice, professional guidelines/policies
 - What are the patients known capable wishes (when available)
 - Clinical judgement regarding the patient's best interest
- **What are the treatment/discharge options?**
- **What are the benefits and risks of each option?**
- **Is there a decision to be made by the SDM?**

Healthcare professionals are not obligated to offer treatments that are unduly harmful, clinically inappropriate, that will only prolong or increase suffering, or that have minimal chance of benefitting or mitigating the patient's condition



Interprofessional Team Meeting

Solicitation & documentation of independent second and/or third opinions

The need for further medical investigations

Identification of appropriate internal resources (e.g., Manager, Director, EDI & Human Rights, Quality of Care Consultants, Ethics Consultation etc.)

Resources that may support the patient/SDM in their decision-making (e.g., Psycho-spiritual Practitioners, Elders and Traditional Healers, Faith Leaders etc.)

Consideration of external resources (e.g., Home care, Children's Aid Society etc.)

Once appropriate treatment options are identified, the SDM should be engaged to discuss the options and provide informed consent or refusal. Their decision should be documented in the Health Record.



Family Meeting

Review the current medical status of the patient, confirm diagnosis and clearly articulate the prognosis

Communicate appropriate treatment options and recommendations

Review the role and responsibilities of the SDM, including relevant patient wishes, values and goals, as well as best interest

Identify timelines for decision-making

Identify supports to assist the SDM in decision-making

Obtain consent/refusal of treatment and identify next steps

If conflict persists after the family meeting, the team should connect with supportive resources such as Manager, Director, Inter-professional Practice Chief, Physician Chiefs/Leads, Quality of Care Consultants, Legal Counsel, PSP's, Ethics, CAAP, CAS, Rights Advisor, CMPA for Physicians, EDI & Human Rights



If Conflict Remains:

- Is the patient suffering or being harmed by the current care situation?
- Is there evidence that the SDM is not complying with their role/responsibilities as described in the HCCA?
- How long has the conflict gone on? Is it likely to resolve in a reasonable time period? Has the SDM indicated when they will be ready to make a decision?
- Is the patient's medical situation stable or changing? How long can a decision be delayed without harming the patient?



Tip #3: Boundary Setting

- Setting boundaries involves defining and communicating limits of acceptable behaviour, and determining how you will respond when those limits are violated
- Why is this important? Setting boundaries ensures that:
 - The same level of care is provided to all patients
 - Care decisions are made objectively and in the best interest of patients
 - Patients and families do not have unrealistic expectations of care team members
 - Health care team members are respected as professionals

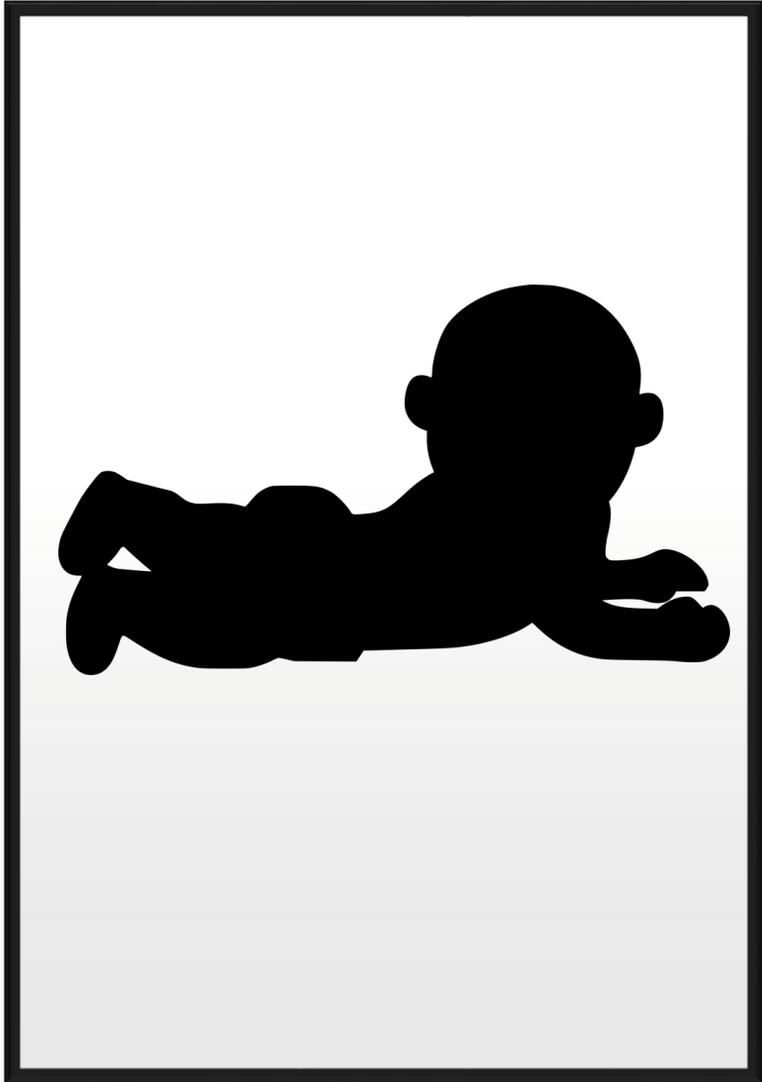


Tip #4: Trauma Informed Approach to Conflict Resolution

“What is wrong with this person?”

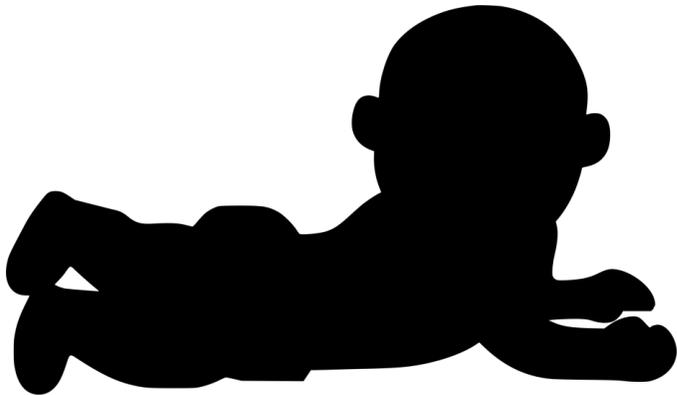
“What has happened to this person?”





Decision to Contact PG&T

- Public Guardian and Trustee (PG&T):
 - Contact the PG&T as a last resort decision-maker if/when two or more equally ranked SDMs disagree about whether to give or refuse consent to treatment/discharge



Decision to Contact the Consent and Capacity Board

- Consent and Capacity Board of Ontario (CCB):
 - Operating under the Health Care Consent Act (1996), the CCB is an independent, adjudicative body that convenes hearings and makes decisions related to consent and capacity in Ontario. Form G's are one of the most submitted applications to the Board.
 - Form G applications are submitted to the Board to determine compliance under Subsection 37(1), 54(1), or 69(1) of the Health Care Consent Act, wherein the health care provider believes a substitute decision maker (SDM) is not making decisions that follow the principles of i) giving or refusing consent (on behalf of a patient) that follows a previously expressed wish, and/or ii) in the incapable patient's best interest.



Additional Resources

TIPS FOR HEALTHCARE TEAMS: SUPPORTING SUBSTITUTE DECISION MAKERS (SDMs)

WHAT IS AN SDM?

A **Substitute Decision Maker (SDM)** is the person legally authorized to make healthcare decisions for a patient who is not capable of making their own decisions. In Ontario, the **Health Care Consent Act (HCCA)** outlines who this person is based on a hierarchy. This role is guided by the patient's known wishes, values, and best interests.

WHO CAN BE AN SDM? (HCCA HIERARCHY)

Healthcare providers must seek consent from the **highest-ranking available and capable person** on this list:

1. **Guardian of the Person*** (appointed by court and named in court order)
2. **Power of Attorney for Personal Care*** (named in legal POA-PC document)
3. **Representative*** (appointed by Consent and Capacity Board)
4. **Spouse (married or common-law) or Partner**
5. **Child(ren) and Parent(s)** (includes legal adoptive relationships)
6. **Sibling(s)**
7. **Any Other Relative** (e.g., aunt/uncle, niece/nephew, cousin)
8. **Public Guardian & Trustee** (if no one else is available)

Best Practices

- Request legal documentation*
- Collect contact information for all possible decision-makers

An SDM must be:

- Capable of making decisions (whenever proposing the recommendation is responsible for determining if the SDM is capable)
- At least 16 years old (unless they are the parent of the patient)
- Not prohibited by court order or separation agreement
- Available
- Willing to assume the responsibility

WHAT DOES THIS LOOK LIKE?

- Maintains communication with team
- Responds to calls and messages
- Attends care planning meetings (by phone, virtual, or in-person)
- Understands treatment options
- Provides informed consent when required
- Engages in discussion about the patient's values, wishes, and best interests
- Advocates for patient preferences
- Understands their legal role

Key Messages to Share with SDMs

- **Your role is to be the voice of your loved one.** You need to make decisions that they would want based on their wishes, values, beliefs, and best interests - NOT based on what you would want or your preferences for them.
- **You are not alone.** We're here to support you in this role.
- **We will guide you through the process and answer your questions.**

Quick Tips for Teams

- **Be patient and listen actively.** SDMs may need time to process.
- **Be neutral and supportive.** SDMs may feel surprised or overwhelmed.
- **Use plain language.** Avoid medical jargon.
- **Validate emotions.** Acknowledge how difficult being an SDM can be.
- **Clarify roles.** Emphasize that the SDM is to be the voice of the patient, not for themselves.
- **Be curious.** Explore patients' cultural and religious values. Use an interpreter when needed.
- **Document clearly.** Note who is acting as SDM, their understanding, decisions, and any concerns. Copy and scan legal documents (e.g., POA-PC) into the medical chart.
- **Ask for support.** Consult with social work and/or ethics for guidance when you cannot reach an SDM, when you feel they are not making decisions in the patient's best interests, or when there is conflict or disagreement with SDMs.

TIPS FOR HEALTHCARE TEAMS: ASSESSING PATIENT DECISION-MAKING CAPACITY

WHAT IS PATIENT DECISION-MAKING CAPACITY?

- Decision-making capacity is the ability to understand information and appreciate consequences of a decision.
- Capacity is a legal term, not a clinical diagnosis.
- Patients are presumed **capable** unless proven otherwise.
- There is **no minimum age** for capacity in Ontario.
- Capacity is specific to the decision, time, and situation.

HOW TO ASSESS PATIENT CAPACITY

- Ask decision-specific questions in conversation with the patient, to evaluate their understanding and appreciation of the consequences of the decision.
- Explore any prior expressed wishes that may apply.
- Consider any conditions, medications, or language factors that might impact communication. Take steps to reduce these barriers and assess capacity at the optimal time.
- Inform the patient of the findings:
 - If capable, patient is decision-maker
 - If incapable, team will seek decisions from the SDM. Inform SDM and patient of their right to appeal finding of incapacity to the CCB (Form C).
- Document finding of capacity or incapacity in the health record.

WHAT DOES CAPACITY LOOK LIKE?

Patient must be able to:

- Understand key information related to the decision.
- Appreciate how making the decision - or not making it - could affect them.

WHO ASSESSES CAPACITY?

Treatment Decisions	The healthcare provider proposing the treatment
Long Term Care Admission	Ontario Health at Home Assessor
Personal Assistance Services	Ontario Health at Home Assessor



Ethics FAQ
Fostering Relationships and Family Presence



TIPS FOR HEALTHCARE TEAMS: MANAGING CONFLICT WITH PATIENTS AND FAMILIES

WHAT ARE THE ROOTS OF CONFLICT?

Conflict between teams and patients/families may be rooted in:

- Emotional distress from illness or hospitalization
- Trauma
- Unfamiliar and high-pressure settings
- Cultural or communication barriers
- Differing values, beliefs, or coping styles
- Health literacy
- Misunderstanding of roles
- Lack of clarity or inconsistent messaging from care teams
- Long-standing family dynamics surfacing during crisis

Conflict is not inherently negative—it signals unmet needs or misalignment that when addressed thoughtfully, can lead to stronger relationships and better outcomes.

WHAT COULD CONFLICT LOOK LIKE?

- Team is uncertain whether the current treatment aligns with the patient's best interests.
- Team is in disagreement regarding treatment options.
- Patient/SDM refuses treatment the team believes is in the patient's best interests.
- Patient/SDM insists on treatment that falls outside accepted standards of care.
- SDM's decisions conflict with the patient's prior expressed capable wishes.

LOOKING FOR MORE GUIDANCE?

Check out the *Managing Conflict Regarding Treatment and/or Discharge Protocol* for helpful direction.

SCRIPT SUGGESTIONS FOR CONVERSATIONS

WHEN CONFLICT IS BREWING
"I hear that there are different views here. Let's pause and make sure we all understand each other before moving forward."

ACKNOWLEDGING AND VALIDATING EMOTIONS
"This is a very difficult situation. It's understandable to feel upset."

SETTING BOUNDARIES
"I want to make sure everyone feels heard, and that means we need to keep this conversation respectful."

SUPPORTING SHARED DECISION-MAKING
"Our role is to help make decisions that align with what your loved one would have wanted and what is medically indicated. Let's focus on your loved one's values and wishes as we decide on next steps."

INTRODUCING SUPPORTIVE RESOURCES
"Sometimes it helps to have extra support. Would you like me to connect you with [ethics, social work, psycho-spiritual care, your faith leader, patient experience, etc.]?"

Key Messages to Share with Patients & SDMs

- **We're here to work with you** to ensure care decisions are clear and informed.
- **Your role is to be the voice of your loved one.**
- **If you have questions or concerns** we want to hear and address them.

...to respectful communication and a safe care environment.

Questions?

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