

## Capacity Assessments Options under the *Adult Capacity and Decision-making Act (ACDMA)*

December 2020

The *Adult Capacity and Decision-making Act* allows an individual to apply to the court to be appointed as a **Representative** for an adult who has been **assessed** to lack capacity to make decisions for themselves in one or more areas. An adult's ability to make decisions must be assessed by a professionally qualified capacity assessor.

All adults (19 years and older) are assumed to have capacity. They have the right to make their own decisions unless it can be demonstrated they are **unable** to **understand** the information relevant to make a decision or **appreciate** the reasonably foreseeable consequences of making or not making a decision.

Capacity assessment is a formal process where a designated healthcare professional follows an assessment and reporting format. They meet with the client and collaborate with the client's family and other health professionals to complete an accurate and comprehensive capacity assessment. Capacity can fluctuate by time of day and by decision complexity. Difficulty communicating does not equate to a lack of capacity. Translators, friends and technology can be used to convey wishes and choices.

**Capacity assessments are conducted to give individuals the best possible chance to demonstrate their capacity.**

Under the ACDMA, the following health care professionals may conduct a capacity assessment:

- Designated healthcare professionals on the public roster found on the Public Trustee Office website (<https://novascotia.ca/just/pto/forms/Adult-Capacity-and-Decision-making-Act-Allied-Health-Roster.pdf>)
- Psychologists and
- Physicians

Under the *Hospitals Act* and *Personal Directives Act*, only a physician may conduct formal capacity assessments; however, under the *Adult Capacity and Decision-making Act (ACDMA)* other health care professionals can become designated assessors with additional training through the Public Trustee's office. This training is offered on a periodic basis and advertised through the colleges and the Public Trustee Website.

**Designated healthcare professional assessors are a valuable resource for Nova Scotians, as they provide an alternative, accessible, cost-effective option.**

A person applying for a representation order under the ACDMA may be eligible for financial assistance from the Public Trustee's office to help pay the costs of a capacity assessment if they can demonstrate financial hardship. Eligible applicants may be reimbursed

- up to \$500 for an assessment of either personal care or financial matters
- up to \$700 for an assessment of both personal care and financial matters

Addition Information can be found at the following links:

- Overview: <https://novascotia.ca/just/pto/adult-capacity-decision.asp>
- Roster: <https://novascotia.ca/just/pto/forms/Adult-Capacity-and-Decision-making-Act-Allied-Health-Roster.pdf>
- Capacity Assessment Report: <https://novascotia.ca/just/pto/forms/adult-capacity-form-1-capacity-assessment-report.pdf>
- Application for Financial Assistance: <https://novascotia.ca/just/pto/forms/adult-capacity-form-6-payment-capacity-assessment.pdf>

If you have any questions about capacity assessments under the ACDMA, please contact Marian Casey at Marian.Casey@novascotia.ca or 902-424-4881.

Thank You.

Yours truly,



Marian Casey

Director of Health Care Decisions and Capacity Assessments

Acting under the authority of the Public Trustee pursuant to the *Public Trustee Act*