

Overview of Nova Scotia Legislation related to Decision-making for Adults

October 2025

The Nova Scotia Government is exploring how supported decision-making can be implemented in Nova Scotia. Supported decision-making allows adults to make their own decisions about their lives with help from a person or group of people they choose. Currently in Nova Scotia, there is no law that explicitly addresses supported decision-making arrangements, but there are nine different laws or court rules that address decision-making for adults in some way. Each has a different area of focus, although there is also overlap between the different laws/court rules. This table provides an overview of the current legislative context for decision-making for adults in Nova Scotia.

Legislation	Description	Definition of Capacity	Types of Decisions	Guidance in Decision-making
Adult Capacity and Decision-making Act (ACDMA) Enacted/in force 2017, last amended 2025	This Act addresses representative decision making for adults who do not have capacity to make their own decisions.	• Defined as the ability, with or without support, to understand information relevant to making a decision and to appreciate the reasonably foreseeable consequences of making or not making a decision including, for greater certainty, the reasonably foreseeable consequences of the decision to be made.¹ • “Support” is defined, in relation to an adult’s capacity, to include “such forms of support as may be reasonably and practically available	• Living situation • Recreation and social activities • Employment • Education and training • Applying for a license or permit • Taking possession of property or managing the adult’s estate • Who the adult spends time with (i.e., to protect their health and safety) • Starting, continuing, settling or defending any claim or proceeding related to the adult	Representatives are to follow, in order of priority: • Prior informed wishes or instructions when the adult had capacity unless a contrary wish has been expressed while the adult had capacity, circumstances have changed, or following the instructions would put the adult’s health or safety at risk. • Current wishes “if it is reasonable to do so.” • What the representative reasonably believes the wishes of the adult would be, based on knowledge of the adult’s values or beliefs.

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		to assist the adult in making a decision, including peer support, communication and interpretive assistance, individual planning, coordination and referral for services and administrative assistance”.	• Healthcare • Personal care • Support and care for a spouse or child²	• What the representative reasonably believes would best promote the adult’s well-being and interests in financial matters (where “well-being” is defined to mean maximizing physical and mental health, personal autonomy, and social inclusion and participation).³
Adult Protection Act (APA) Enacted/in force 1989, last amended 2014	This Act addresses protecting adults who, in the residences where they reside, are unable to protect themselves against abuse or care adequately for themselves for reasons of physical or mental disability.	Act refers to adults who are “not mentally competent to decide whether or not to accept the assistance of the Minister”. ⁴ Capacity/competence is not otherwise defined.	• Decision whether to accept or refuse services offered by Minister⁵. • Public Trustee or other authorized decision-maker may be engaged to make decisions about property or managing the adult’s estate.⁶	No guidance provided in legislation except that the “welfare of the adult in need of protection is of paramount consideration”. ⁷
Court rules for litigation guardian appointments (Civil Procedure Rules)	These court rules address litigation guardians who make legal decisions and instruct counsel on behalf of an adult who does	• Refers to adults who do not have “capacity to act on their own, or to instruct counsel,”⁸ and to court appointment of a litigation guardian when the adult is incapable of managing their affairs.⁹	A litigation guardian may make any decision a party could make in a proceeding. ¹¹	The litigation guardian must make decisions according to what, in like circumstances, a reasonable person would do in the person’s own interest. ¹²

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Enacted/in force 2005, last amended 2022	not have the capacity to do so.	On service of documents, the rules refer to adults who do not have capacity to “understand the kind of document to be served.”¹⁰		
Hospitals Act (HA) Enacted/in force 1989, last amended 2023	This Act addresses the governance of hospitals in Nova Scotia including decisions about patient care (e.g., consenting to treatment) and the person’s estate for adults who are determined not to have the capacity to make these decisions themselves.	- Capacity to make treatment decisions is defined as whether the patient understands and appreciates: (a) the condition for which the treatment is proposed; (b) the nature and purpose of the treatment; (c) the risks and benefits involved in the treatment; (d) the risks and benefits of not undergoing treatment.¹³ - Assessment of a person’s competency to make decisions about property must consider (a) the nature and degree of the person’s condition; (b) the complexity of the estate; (c) the effect of the condition of the person upon his conduct in	The Act is specific to healthcare decisions in a hospital or psychiatric facility as well as decisions about property/estate assessed while in hospital or psychiatric facility.	Decision-makers are to follow, in order of priority: - Prior capable informed wishes or instructions expressed when the adult had capacity unless circumstances have changed, including technological and medical advances. - What the representative believes the wishes of the adult would be based on knowledge of their values and beliefs. - What the representative believes is in the best interest of the adult.¹⁶

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		administering his estate; and (d) any other circumstances considered relevant to the estate and the person and his condition.¹⁴ • States that adults are presumed to have the capacity to make decisions unless it is clearly demonstrated that they do not.¹⁵		
Involuntary Psychiatric Treatment Act (IPTA) Enacted/in force 2005, last amended 2022	This Act addresses substitute consent to admission and treatment decisions related to psychiatric care for adults who do not have the capacity to make these decisions themselves.	• Defined as the ability, with or without support, to understand information relevant to making a decision, and appreciate the reasonably foreseeable consequences of making or not making a decision.¹⁷ • The ability to understand the nature of the condition for which treatment is sought; understand the nature and purpose of the treatment; appreciate the risks & benefits of the	The Act is specific to decisions regarding psychiatric hospital admission and treatment, as well as treatment in the form of community treatment orders.	Decision-makers are to follow, in order of priority: • Prior instructions when the adult had capacity unless a contrary wish has been expressed while the adult had capacity, circumstances have changed, or reasonable and probable grounds to believe that following the instructions would put the health or safety of the adult or another person at risk. • Current wishes unless reasonable and probable grounds to believe this would put the health or

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		treatment; appreciate the risks and benefits of declining treatment.¹⁸ • Regulations adopt definition of “support” from the ACDMA.¹⁹		safety of the adult or another person at risk. • What the decision-maker reasonably believes the wishes of the adult would be, based on knowledge of their values and beliefs. • What the decision-maker reasonably believes is in the best interest of the adult.²⁰ The decision-maker must consult with the patient regarding their instructions, wishes, beliefs and values, advise them of the options, facilitate participation, and consult with others who have knowledge of the person’s instructions, wishes, beliefs and values.²¹
Personal Directives Act (PDA) Enacted/in force 2008	This Act addresses personal care decisions for adults who do not have the capacity to make these decisions themselves.	Defined as “the ability to understand information that is relevant to the making of a personal-care decision and the ability to appreciate the reasonably foreseeable consequences of a decision or lack of a decision”.²²	Personal care decisions are defined as including “health care, nutrition, hydration, shelter, residence, clothing, hygiene, safety, comfort, recreation, social activities, support services and any other	Decision-makers are to follow, in order of priority: • Instructions in the personal directive unless a contrary wish has been expressed while the adult had capacity, or circumstances have changed, including technological and medical advances.

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			personal matter listed in regulation.” ²³	• What the decision-maker believes the wishes of the adult would be based on knowledge of the values and beliefs of the person. • What the decision-maker believes is in the best interest of the adult.²⁴
Personal Health Information Act (PHIA) Enacted/in force 2010, last amended 2022	This Act addresses decisions about collecting, using, and sharing personal health information, including for adults who do not have the capacity to make these decisions themselves.	Defined as “the ability to understand information that is relevant to the making of a decision related to the collection, use or disclosure of personal health information and the ability to appreciate the reasonably foreseeable consequences of a decision or lack of a decision.” ²⁵	The Act is specific to the use and disclosure of health information.	Decision-makers are to follow, in order of priority: • Prior capable informed wishes or instructions when the adult had capacity unless circumstances have changed. • What the decision-maker believes the wishes of the adult to be based on knowledge of the values and beliefs of the person. • What the decision-maker believes is in the best interest of the adult.²⁶
Powers of Attorney Act (POAA) Enacted/in force 1989, last amended 2022	This Act addresses providing decision-making authority over an individual’s finances and property through	• A person is incapable of making a power of attorney if the person is incapable of understanding and appreciating the nature and effects of granting a power of attorney (e.g.,	Decisions specified in the power of attorney related to managing the adult’s property and estate.	Attorneys are to follow, in order of priority: • Relevant instructions given when the adult had capacity. • Current wishes of the adult (donor) “if the wishes are reasonable”.

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	a power of attorney.	type and value of property, legal obligations, when the power of attorney can be revoked).²⁷ • A person is not incapable of making a power of attorney simply because the person needs support to understand and appreciate the relevant information. • “Support” is defined as per ACDMA.²⁸		• What the attorney believes the wishes of the donor would be, based on knowledge of the values and beliefs of the donor. • What the decision-maker believes is in the best interest of the donor.²⁹
Public Trustee Act (PTA) Enacted/in force 1989, last amended 2022	This Act addresses the authority of the Public Trustee.	• Broadly defined as “not capable of managing the person’s financial affairs.”³⁰ No further statutory definition of capacity. • Also references duties triggered by incapacity as defined in other laws such as APA and HA.³¹	• The Public Trustee may perform the duties of a representative in the ACDMA as well as other legislation. • The Public Trustee may also act in other areas as authorized by a judge, Governor in Council, court rules, or other legislation.³²	No specific guidance is provided, except that when disposing of or dealing with property and finances the Public Trustee must devote proceeds to the necessary maintenance, support and best interests of the adult. ³³ Further, if the Public Trustee is appointed as representative under the ACDMA or other laws, they must follow that legislation.

Endnotes

¹ Nova Scotia. (2017). *Adult Capacity and Decision-making Act* (hereafter ACDMA), S.N.S. 2017, c. 4 (amended 2019, 2023, 2025). Retrieved from <https://nslegislature.ca/sites/default/files/legc/statutes/adult%20capacity%20and%20decision-making.pdf>, s 3(d).

² ACDMA, ss 27(4), 38(1).

³ ACDMA, s 40(1).

⁴ Nova Scotia. (1989). *Adult Protection Act* (hereafter APA) (R.S., c. 2; amended). Retrieved from <https://nslegislature.ca/sites/default/files/legc/statutes/adult%20protection.pdf>, s 9(3).

⁵ APA, ss 9(3)

⁶ APA, ss 9, 10.

⁷ APA, s 12.

⁸ Courts of Nova Scotia. (2025, June 27). *Official Consolidated Civil Procedure Rules* (Nova Scotia) (hereafter Civil Procedure Rules). Retrieved from https://courts.ns.ca/sites/default/files/rules/CPR%20Rules/Official_Consolidated_Civil_Procedure_Rules_June_27_2025.pdf, ss 36.01(1).

⁹ Civil Procedure Rules, s 59.54(1).

¹⁰ Civil Procedure Rules, s 31.03(1).

¹¹ Civil Procedure Rules, s 36.09(1).

¹² Civil Procedure Rules, s 36.09(1).

¹³ Nova Scotia. *Hospitals Act*. R.S.N.S. 1989 (hereafter HA), c. 208. Retrieved from <https://nslegislature.ca/sites/default/files/legc/statutes/hospitals.pdf>, s 52(2A).

¹⁴ HA, s 52(3).

¹⁵ HA, s 52(1).

¹⁶ HA, s 54A.

¹⁷ Nova Scotia. *Involuntary Psychiatric Treatment Act* (hereafter IPTA), S.N.S. 2005, c. 42 (as amended 2008, 2010, 2014, 2022). Retrieved from <https://nslegislature.ca/sites/default/files/legc/statutes/involuntary%20psychiatric%20treatment.pdf>, s 18(1).

¹⁸ IPTA, s 18(2).

¹⁹ Nova Scotia. *Involuntary Psychiatric Treatment Regulations* (hereafter IPTA Regulations). N.S. Reg. 235/2007, as amended by O.I.C. 2024-309. Retrieved from <https://novascotia.ca/just/regulations/regs/IPTtreatmentregs.htm>, s 2.

²⁰ IPTA, s 39(1).

²¹ IPTA, s 39(2).

²² Nova Scotia. *Personal Directives Act* (hereafter PDA), S.N.S. 2010, c. 4 (as amended 2018, 2022). Retrieved from <https://nslegislature.ca/sites/default/files/legc/statutes/personal%20directives.pdf> s 2(a).

²³ PDA, s 2(1).

²⁴ PDA, s 15.

²⁵ Nova Scotia. *Personal Health Information Act* (hereafter PHIA), S.N.S. 2010, c. 41. Retrieved from <https://nslegislature.ca/sites/default/files/legc/statutes/personal%20health%20information.pdf>, s 3(b).

²⁶ PHIA, s 22.

²⁷ Nova Scotia. *Power of Attorney Act* (hereafter *POAA*), S.N.S. 2000, c. 352 (as amended 2010, 2015). Retrieved from https://nslegislature.ca/sites/default/files/legc/statutes/power_of_attorney.pdf, s 2.

²⁸ POAA, s 1A(j).

²⁹ POAA, s 2B.

³⁰ Nova Scotia. *Public Trustee Act* (hereafter *PTA*), R.S.N.S. 1989, c. 379 (as amended 2002, 2014, 2022). Retrieved from <https://nslegislature.ca/sites/default/files/legc/statutes/public%20trustee.pdf>, s 8(1) .

³¹ PTA, s 14A(1).

³² PTA, s 4.

³³ PTA, s 14A(2).