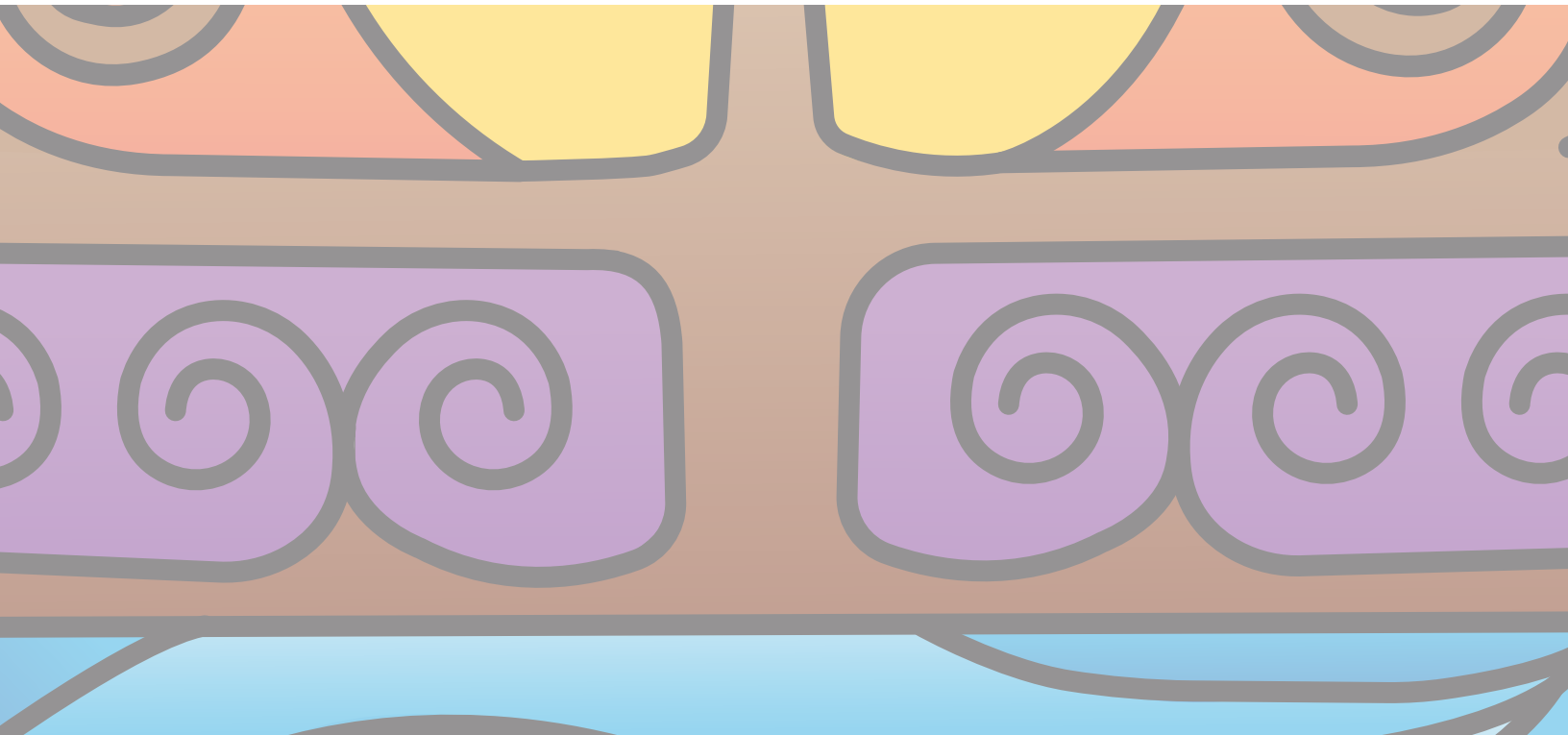
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WHAT IS SUPPORTED DECISION-MAKING?

If you or someone close to you has a disability, or a neurodegenerative condition like Alzheimer's disease, it is important to know about the ***New Brunswick's Supported Decision-Making and Representation Act.*** This law is aimed at protecting your ability to control your own life. It assumes that people have **capacity** to make decisions, even if they need assistance to communicate or make the decision.



It also sets out a **supported decision-making framework.** You remain the ultimate decision-maker, but you can choose a trusted person to help you make important life decisions, either as a **decision-making assistant** or **decision-making supporter.** These assistants or supporters must act for your benefit, and cannot be paid for helping you.

In extreme cases — where you lose your capacity entirely, you do not have a **enduring power of attorney** and you cannot make decisions even with help — the court may appoint a **representative** for you. Continue reading for more information on each of these roles.

What Are Decision-Making Assistants?

A decision-making assistant is someone who can:

- Gather important information to help your decision (e.g. medical information that would otherwise be private)
- Communicate your decision to others

An assistant must refuse to exercise these powers if they believe you do not have capacity to make the decision. They can also refuse to communicate your decision, if the decision would cause serious harm to you. However, they cannot override your decision or make decisions for you.

To appoint someone as a decision-making assistant, you must go to a lawyer and fill out an **assistance authorization.** An authorization sets out which powers the decision-making assistant will have, and on what topics (e.g. diet, health care, employment, recreation, etc.). You can also set a date for the authorization to expire. **A lawyer must review the authorization with you, be present when you sign it, and sign the authorization themselves.** As of December 2025, you may find an assistance authorization online (Form 1 to General, NB Reg 2023-66).

You can have more than one decision-making assistant. They can work together, or separately.

What Are Decision-Making Supporters?

Like decision-making assistants, decision-making supporters can help by gathering important information, and communicating your decision to others. They also have the additional ability to:

- Help you make a decision through a **"supported decision-making process"**, meaning:
  - discussing the relevant information and the impacts of each option, in way that you are likely to best understand; and
  - assessing each option based on your specific wishes.
- Do anything necessary to implement your decision.

A supporter must accept your decision made through the supported decision-making process, unless doing so would cause serious harm to you. In such cases, the supporter can refuse to communicate your decision, or refuse to do anything to implement your decision. Again, however, supporters cannot override your decisions or make decisions for you.

To get a decision-making supporter, the process is a bit more involved. The person interested in being your decision-making supporter (the **"interested person"**) must apply to the court. They need to provide supporting documents, including an affidavit explaining the situation, and a capacity assessment for you. If the interested person wants to support you in financial matters, they also have to provide a summary of your finances (such as your bank accounts, income, debt, and expenses).

Note on the Court's Power

> When making an order for a decision-making supporter or representation, the court is also allowed to change, terminate, or provide directions about a enduring power of attorney. If there is a conflict between your EPA and a representation order or a supported decision-making order, **the court order will prevail.**

What is an Affidavit?

It is a document containing a written statement where a person swears that the facts they are sharing are true. The document must be signed in front of a legal official, like a lawyer or notary.

What is a Capacity Assessment?

It is an assessment used to determine if a person can understand information and make decisions about their own life. The assessment is done by qualified professionals, such as a doctor or a psychologist.

The court will only appoint a decision-making supporter if:

- You do not have the capacity to make decisions about your personal care or money on your own; but
- You would have the capacity to make such decisions with the help of a supporter, through a supported decision-making process; and
- There are no less intrusive way to meet your needs.

When deciding whether the interested person should be a decision-making supporter, the court will consider things like:

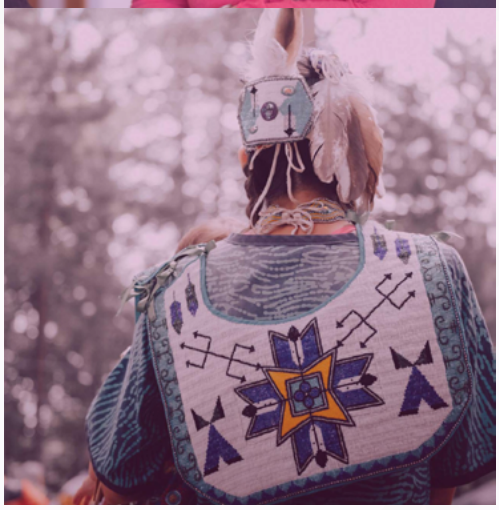
- The nature of the relationship between you and the interested person, and whether that relationship is one of trust;
- Your views;
- The interested person's ability and availability to be a decision-making supporter.



What Are Representatives?

It is possible that you may are unable to make decisions, even if you had assistance from an assistant or supporter. In these cases, someone must be appointed to make decisions for you.





You can choose who makes decisions for you in advance, through an Enduring Power of Attorney (**"EPA"**). For more information on EPAs, please see *"What You Need to Know About Enduring Powers of Attorney".* These agreements are subject to court review, but can give you some control over who can make decisions on your behalf.

Somebody who wants to be your representative can also apply to the court for permission to make decisions for you. They need to provide similar supporting documents as someone applying to be a decision-making supporter.

The court will only appoint a decision-making supporter if you do not have the capacity to make decisions about your personal care or money on your own, and there is no other less intrusive way to meet your needs. When deciding whether the interested person should be a decision-making supporter, the court will consider similar factors to appointing a decision-making supporter, such as:

- The nature of the relationship between you and the representative, and whether that relationship is one of trust;
- Your views;
- The interested person's ability and availability to be a decision-making supporter.

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