



Dear Registrant,

In the past, a guardian could be appointed for an individual who was found to be incompetent under the Incompetent Persons Act. This legislation was struck down as unconstitutional by the court. Under that legislation competence was seen as a global domain: one was either competent or not, and only physicians could conduct an assessment of competence.

The Adult Capacity and Decision-making Act was passed by the legislature in the fall. This new legislation views competence and decision-making as involving numerous domains and names a variety of health professions who may conduct capacity assessment.

Regulations for the Adult Capacity and Decision-making Act were approved by Governor-in-Council in preparation for the Act which came into force on December 28th.

The regulations detail who can carry out capacity assessments, how they are to be conducted and what is to be included in the report.

Physicians and registered psychologists are able to complete capacity assessments. Other health professionals, specifically, nurse practitioners or registered nurses, occupational therapists, and social workers will be able to conduct these assessments once they have completed the specified training.

Training will be developed in 2018 with the assistance of a capacity assessment coordinator being hired by the Public Trustee's Office.

The Public Trustee will maintain a registry of all representation orders under this Act. Under the Incompetent Persons Act, there was no place to register orders. The Public Trustee will have the authority to receive and investigate written complaints so that anyone can report a guardian's or representative's failure to act within the law.

Government has taken steps to remove cost as a barrier for Nova Scotians who make applications under this legislation. Nova Scotians who want a capacity assessment under this Act can apply for help with the cost. The Nova Scotia Public Trustee Office will review applications to determine eligibility for financial assistance.

Legal Aid will be available to adults who are or could be subject to a representation order; families that meet a financial means test might also qualify for Legal Aid service.

Information on the *Act* and the duties and responsibilities of representatives, including guides and video resources, is available on the website of the Public Trustee's Office, at: <https://novascotia.ca/just/pto/adult-capacity-decision.asp>

For the regulations, visit:

<https://novascotia.ca/just/regulations/rxaa-1.htm#acdm>

Two public information sessions are planned, and a video of the presentation will be available on Youtube beginning in January. The first session is Jan. 29, at 9:30 a.m. at Keshen Goodman Public Library; the second is Feb. 7 at 7 p.m. at Woodlawn Public Library in Dartmouth.

Guardianship orders made under the *Incompetent Persons Act* continue as representation orders after December 28th. Guardians become representatives, and will have the same duties and obligations as new representatives under the new law. A key change is that representatives can only make decisions for the adult that the adult cannot make for

themselves. If an existing guardian knows or believes that the adult can make decisions in some areas, that guardian/representative must return to court to have the order reviewed.

Information about how to have the order reviewed is provided in the [“Guide on Applying for a Review of Adult Guardianship/Representation”](#) available on the Public Trustee Office’s webpage.

More information on the new Adult Capacity and Decision-making Act and the duties and responsibilities of representatives, including guides and video resources, is available on the website of the Public Trustee’s Office, at <https://novascotia.ca/just/pto/>.

For the regulations, visit:

<https://novascotia.ca/just/regulations/rxaa-1.htm#acdm>

For psychologists who may be interested in this work, the Board’s position is that a Registered Psychologist would be responsible for self-identifying such competence within their broader area of practice, akin to any other aspect of their competence.

Standard IV.1 of the Standards for Providers of Psychological Services states that:

Psychologists shall limit their delivery of services to those areas of competence as defined by verifiable training and experience.

Interpretation: In the event that a psychologist chooses to expand services beyond the range of those usually delivered, the psychologist shall obtain pertinent training and/or appropriate professional supervision

This could be an opportunity to establish Continuing Competence Goals with respect to this work, and to avail oneself of the training made available by the province or other pertinent training. However, the Adult Capacity and Decision-making Act does not require provincial training for Registered Psychologists or Physicians.

The legislation requires Government to maintain a list of professionals in the authorized health professions available to conduct this work. Registered Psychologists interested in this work may inform the Public Trustee’s Office. The contact information is available via the URL above. Psychologists who have a private practice listing with the Association of Psychologists of Nova Scotia can identify this work when they next update their private practice listing.