

Form 3: Capacity Assessment Report

(Supported Decision-Making and Representation Act, S.N.B. 2022, c.60, s.53(3))

This is a form that an assessor is required to use to record the results of a capacity assessment conducted for the purposes of a court application under the Supported Decision-Making and Representation Act. Relevant provisions of the Act are set out at the end of the form.

A. Assessor

Name of assessor: _____

Address: _____

I am a medical practitioner nurse practitioner psychologist

I am lawfully entitled to practise in New Brunswick.

Year I began practising: _____

B. Person being assessed

Name of person being assessed: _____ Date of birth: _____

Address: _____

If you have met the person being assessed before, provide information about how long you have known them and how often you have seen them.

C. Request for assessment

Name of person who requested assessment: _____

Relationship of person who requested assessment to person being assessed: _____

Type of court order sought:

appointment of decision-making supporter(s) appointment of representative(s) other: _____

Name(s) of proposed appointee(s):

Matters in relation to which the proposed appointee(s) will exercise powers if the court makes the order sought:

personal care matters financial matters personal care matters and financial matters

D. Temporary conditions

- I am satisfied that the person being assessed does not have a temporary condition that may affect their capacity.

If you made this determination on the basis of information obtained from another person, provide details.

E. Circumstances of assessment

Date of assessment: _____ Location of assessment: _____

- I took reasonable steps to ensure that the assessment was conducted at a time and in circumstances in which the person being assessed was likely to be able to demonstrate their capacity.

Comments: _____

The person being assessed refused did not refuse to undergo or continue with the assessment.

If the person refused to undergo or continue with the assessment, provide details.

The person being assessed was able was not able to participate in the assessment.

If the person was not able to participate in the assessment, provide details.

If a person other than the person being assessed was present during the assessment, provide their name and their relationship to the person being assessed.

F. Information provided to person

Before starting the assessment, I advised the person being assessed of the following:

- the reason for the assessment
- the nature of the assessment
- that the person is entitled to
 - refuse to undergo the assessment or refuse to continue with the assessment
 - have a person of their choosing accompany them
 - have a device or an interpreter or other person to assist them to communicate
 - ask me questions or raise concerns with me about the assessment or the results of the assessment
 - receive a copy of the capacity assessment report on request

Comments: _____

H. Opinion – Personal care matters

For the purposes of this section and section I, the person being assessed has the capacity to make a decision if they have the capacity to do so without assistance or with the assistance that is available to them.

In my opinion, the person being assessed

- (a) has the capacity to make all of the decisions that are likely to arise in relation to *all* of their personal care matters.
- (b) has the capacity to make all of the decisions that are likely to arise in relation to their personal care matters *except for the following*:
 - health care education
 - diet employment
 - clothing recreation
 - accommodation social activities
 - support services other: _____

- (c) *does not* have the capacity to make all of the decisions that are likely to arise in relation to *any* of their personal care matters.

If you checked (b) or (c), check one of the following:

In my opinion, the decisions that the person being assessed does not have the capacity to make

- could be made could not be made through a supported decision-making process with a suitable decision-making supporter.

Reasons for opinion:

I. Opinion – Financial matters

In my opinion, the person being assessed

(a) has the capacity to make all of the decisions that are likely to arise in relation to *all* of their financial matters.

(b) has the capacity to make all of the decisions that are likely to arise in relation to their financial matters *except for the following*:

(c) *does not* have the capacity to make all of the decisions that are likely to arise in relation to *any* of their financial matters.

If you checked (b) or (c), check one of the following:

In my opinion, the decisions that the person being assessed does not have the capacity to make

could be made could not be made through a supported decision-making process with a suitable decision-making supporter.

Reasons for opinion:

J. Views on proposed appointee(s)

Provide any information you have about the views of the person being assessed with respect to the proposed appointee(s). Indicate whether this information was provided to you by the person being assessed or by another person.

K. Additional comments

Provide additional comments regarding the person being assessed, if you wish.

Signature of assessor: _____ Date: _____

Provisions of the *Supported Decision-Making and Representation Act* relating to capacity, assistance and the supported decision-making process

2 In this Act, a reference to “assistance” in relation to decision-making means any measure that helps a person have the capacity to make a decision, including explanations of relevant information and reasonably foreseeable consequences of the available options.

3(1) A person has the capacity to make a decision if the person is able to

- (a) understand the information that is relevant to the decision, and
- (b) appreciate the reasonably foreseeable consequences of the decision.

3(2) A person has the capacity to make a decision if the person is able to satisfy paragraphs (1)(a) and (b) with the assistance that is available.

3(3) A person may have the capacity to make a decision even if the person

- (a) makes or would make a decision that another person would consider risky or unwise,
- (b) lacked the capacity to make a similar decision in the past,
- (c) lacks the capacity to make other decisions, or
- (d) requires assistance to communicate.

3(4) A person is presumed to have the capacity to make a decision unless the contrary is demonstrated.

27(1) In making decisions with a supported person through a supported decision-making process, a decision-making supporter shall

- (a) discuss the relevant information and the reasonably foreseeable consequences of the available options with the supported person in a manner that the supported person is likely to best understand,
- (b) assess the available options together with the supported person on the basis of the supported person’s wishes and preferences, including those expressed by the supported person at the time the options are discussed and those that are otherwise known to the decision-making supporter, and
- (c) ensure that the decision is guided by the supported person’s wishes and preferences.