

# Consent to Care Facility Admission in BC:

## A Quick Guide

This summary outlines how consent to care facility admission is obtained before admitting an adult to a care facility. It is based on the requirements of Part 3 of the *Health Care (Consent) and Care Facility (Admission) Act*.

### 1. What is a care facility?

- a care facility that is licensed or designated under the *Community Care and Assisted Living Act*, and provides residential care to adults
- a private hospital licensed under Part 2 of the *Hospital Act*,
- an institution designated as a hospital under the *Hospital Act* for the treatment of persons convalescing from or being rehabilitated after acute illness or injury, or requiring extended care
- not a service provider under the *Community Living Authority Act*

### 2. When is consent to care facility admission required?

Every time an adult is going to be admitted to one of the above care facilities, consent to care facility admission is required by the adult before the admission may take place.

If the adult is determined to be incapable of giving or refusing consent to care facility admission (see #7), a substitute must provide consent on behalf of the adult (see #11).

An adult can be admitted to a care facility without consent in an emergency (see #15).

### 3. Presumption of capability

All adults are presumed to be capable of giving, refusing, or revoking consent to care facility admission until the contrary is demonstrated; an adult's way of communicating with others is not, by itself, grounds for deciding that they are incapable.

### 4. Who is responsible for seeking consent to care facility admission?

A *manager* is responsible for seeking and obtaining consent to care facility admission. A *manager* is the person who is responsible for the operation of, and/or admissions to, a care facility, who could be a health authority employee.

### 5. What is consent?

Consent must be informed, voluntary (free of coercion), not obtained by fraud or misinterpretation and obtained from a capable adult.

The manager must give an adult or substitute information that a reasonable person would need to make the decision including:

- the care the adult will receive in the specific care facility
- the services that will be available to the adult
- the circumstances under which the adult may leave the care facility

Adults must be given the opportunity to ask questions about the information they are given and receive answers.

### 6. What is capability?

- being able to understand and appreciate a decision:
  - **understanding**: adult is able to understand the information that is relevant to making a decision
  - **appreciation**: adult is able to apply that information to their situation
- capability is specific to the type of decision and to the particular decision to be made

A determination that an adult is incapable of a particular decision at a particular time does not mean the adult is considered incapable of all future decisions.

### 7. What is incapability to consent to care facility admission?

Incapability to consent to care facility admission is a determination based on:

- an assessment made in accordance with the regulations
- whether or not the adult demonstrates that they understand the information the manager gives them when consent is sought

### 8. Who determines incapability to consent to care facility admission?

Only a medical practitioner or one of the following registered health care providers may determine whether an adult is incapable of giving or refusing consent to admission:

- registered nurses
- nurse practitioners
- registered psychiatric nurses
- social workers
- occupational therapists
- psychologists

## 9. What are the requirements for assessing for incapability to consent to care facility admission?

Adults who are being assessed for incapability to make a facility admission decision must be informed:

- that they are being assessed and of the purpose of the assessment
- what will occur if they are found incapable of making a facility admission decision
- of the assessment's results

An adult may request others to be present, but the assessor may decide if that is necessary or beneficial to the assessment.

If an adult refuses to be assessed, the assessment may be conducted without the adult's participation if the assessor believes it can be completed accurately.

## 10. Seeking substitute consent to care facility admission for an incapable adult

The manager will seek consent from the adult's personal guardian (court-appointed committee of person). If there is no personal guardian and the adult has been determined to be incapable of making a care facility admission decision, the manager will seek consent from a substitute from this ranked list:

- the adult's representative with power to make admission decision (only section 9 representation agreements)
- the adult's spouse
- the adult's child
- the adult's parent
- the adult's brother or sister
- the adult's grandparent
- the adult's grandchild
- anyone else related by birth or adoption to the adult
- close friend of the adult
- a person immediately related to the adult by marriage
- a person chosen by the Public Guardian and Trustee (which may include a Public Guardian and Trustee employee)

## 11. Criteria for substitute

- not be the manager of the care facility to which the adult may be admitted
- be capable of giving or refusing consent
- be 19 years or older
- have been in contact with the adult in the past 12 months
- have no dispute with the adult
- be willing to comply with their duties (see #13)

## 12. Duties of substitute decision makers

- to consult with the adult or with the adult's spouse, friend or relative who offers to assist
- to make a decision in the adult's best interests

## 13. What must be the substitute consider when determining the adult's best interests?

- the adult's current wishes, and any pre-expressed wishes, values and beliefs
- whether the adult could benefit from admission to a care facility
- whether a course of action other than admission to a care facility or a less restrictive type of care facility, is available and appropriate in the circumstances.

## 14. What happens if there is no one available or qualified to be a substitute, or there is a dispute about who will be the substitute?

In these cases, contact the Public Guardian and Trustee.

## 15. What happens in emergencies?

Consent to care facility admission is not immediately required if the adult is determined to be incapable of giving or refusing consent and the admission is required to:

- save the adult's life
- protect the adult from serious physical or mental harm, or protect others from serious physical harm

Consent to care facility admission is not required if the adult is part of an emergency measure under s. 59 of the *Adult Guardianship Act*

An emergency admission without consent requires the manager to seek consent within 72 hours.

**This summary is for information only and does not constitute legal advice and is not a substitute for the *Health Care (Consent) and Care Facility (Admission) Act*.**

**For more information, please consult the *Practice Guidelines for Seeking Consent to Care Facility Admission***