

What if there is no one to make the decision or there is a dispute among equally ranked decision makers?

When no one from the ranked list of substitute decision makers is available or qualified, or there is a dispute between two equally ranked substitutes about who is to be chosen and it cannot be resolved by the health care provider, the health care provider must contact the Public Guardian and Trustee (PGT).

What if someone disagrees with the substitute's decision?

If there is a dispute that cannot be resolved, you may wish to obtain legal advice.

Under the *Health Care (Consent) and Care Facility (Admission) Act*, certain people have legal authority to make other decisions for the adult and are also now able to apply to court to have a decision of a substitute decision maker reversed or varied. Those people are:

- the adult;
- health care providers;
- a committee of person;
- a representative;
- a TSDM.

If you have concerns that a committee of person, or representative (or TSDM that was authorized by the PGT), is not complying with their duties, a report can be made to the PGT.

A Regional Consultant will investigate if the health care decisions being made may negatively affect the health and safety of the adult. However, the PGT cannot substitute its own decisions.

Public Guardian and Trustee

Greater Vancouver Regional Office
700-808 West Hastings Street,
Vancouver, BC V6C 3L3
Tel: 604-660-4444
Fax: 604-660-0374
email: ais-hcd@trustee.bc.ca

Toll free calling is available through Service BC. After dialing the appropriate number for your area (below), request to be transferred to the Public Guardian and Trustee (regular office hours 8:30am–4:30pm, Mon-Fri).

Vancouver: 604-660-2421
Victoria: 1-250-387-6121
Other areas of BC: 1-800-663-7867

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Consent to Health Care

Information for Adults, Families,
and Health Care Providers

What do adults, families and health care providers need to know about the law?

This brochure explains key provisions of the ***Health Care (Consent) and Care Facility (Admission) Act*** - Consent to Health Care.

If you are an adult needing health care, or a health care provider, the ***BC Health Care (Consent) and Care Facility (Admission) Act*** will affect you. The law formally recognizes the role of family and friends who are able and willing to make health care decisions for an adult when the adult is no longer able to make the decisions.

If an adult is unconscious, mentally incapable, or otherwise unable to give consent, the law sets out procedures to follow.

When is an adult's consent NOT required?

The main exceptions to the general rule are:

- when urgent or emergency health care is required, the adult is incapable of consenting, and a committee or representative with authority to consent or a TSDM is not available;
- when involuntary psychiatric treatment is needed under the *Mental Health Act*; and
- for preliminary examinations such as triage or assessment.

What if an adult is unable to give or refuse consent?

An adult must be approached first for a decision. If the health care provider believes an adult is capable, then the adult has the right to give, refuse or revoke consent.

In deciding whether an adult is incapable of making a health care decision, the health care provider must determine whether the adult demonstrates an understanding of the information provided about the health care and that this information applies to the adult's situation.

Who can make health care decisions for an adult who is unable to make independent decisions?

The Act sets out a list of decision makers and documents. They are, in order:

- **A court appointed committee of person:**
- **A representative:** An adult may, when able to do so, have planned for their future by making a representation agreement to make the adult's health care decisions in the event the adult is unable to, if the representation agreement covers the decision.
- **An advance directive:** On September 1, 2011 it became possible in BC for a capable adult to make a binding advance directive to give or refuse health care described

in the advance directive. If it covers the health care decision, and there is no committee or representative appointed, then the health care provider can follow the instructions in the document. For more information on advance directives, see the Ministry of Health website at www2.gov.bc.ca and search "incapacity planning".

- **A temporary substitute decision maker (TSDM):** If there is no representative or committee of person and no valid advance directive, a health care provider must choose a TSDM from the following list, in order:
 - the adult's spouse;
 - child;
 - parent;
 - sibling;
 - grandparent;
 - grandchild;
 - anyone related to the adult by birth or adoption;
 - a close friend;
 - a person immediately related to the adult by marriage.

The person chosen must meet certain criteria. This includes that the person must:

- be at least 19 years of age;
- have been in contact with the adult in the preceding 12 months;
- have no dispute with the adult;
- be capable of making the decision; and
- be willing to comply with the duties of a TSDM