

Care Facility Admission Consent

1. Introduction

1.1. Description

Vancouver Coastal Health Authority (“VCH”) and Providence Health Care (“PHC”) are required to obtain valid and informed consent to [Care Facility](#) admission in accordance with the [Health Care \(Consent\) and Care Facility \(Admission\) Act](#) (the “HCCCFAA”).

1.2. Scope

This policy applies only to the admission of an [Adult](#).

This policy applies to all VCH and PHC programs managing access to, and continued residence in, [licensed care facilities](#) including:

- Long-term care homes
- Short-term transition or respite care homes for adults
- Hospices
- Acquired brain injury housing
- Short or long-term rehabilitation/convalescent services
- Services for adults with mental health and/or substance use including:
 - Crisis intervention and stabilization services
 - Detox services
 - Mental health/substance housing and rehabilitation services

1.3. Exceptions

This policy does not apply to:

- Group homes and other residential services governed by the [Community Living Authority Act](#); and
- Assisted Living residences.

2. Policy

2.1. Overarching Principles and Requirements

All Adults are presumed to be capable of consenting to admission to, or continued residence in, a Care Facility unless they have been assessed and determined to be incapable. All Adults have a right to have information conveyed to them by a [Manager](#) or [Assessor](#) in a manner appropriate to the Adult’s skills and abilities.

Managers and Assessors performing duties under this policy must follow this policy and the [Care Facility Admission Consent \(ages 19 and above\) Guideline](#) and the BC [Practice Guidelines for Seeking Consent to Care Facility Admission](#) (the “Guidelines”).

2.2. Consent to Care Facility Admission and Continued Residence

2.2.1. Consent by Adult

Managers must obtain consent to Care Facility admission from a capable Adult in accordance with the Guidelines.

Consent may be gathered orally or in writing. Consent is invalid if an Adult signed a consent form for admission to a Care Facility when the Adult was not capable of understanding and appreciating what they were signing, even if the Adult seemed agreeable to the decision.

Managers must allow Adults to have a support person, such as a family member or a close friend, to assist them in understanding the information provided to them by the Manager seeking to obtain consent unless there are concerns about the person's role. Staff may contact Ethics Services or ReAct for guidance about support persons.

If a Manager is concerned that an Adult may not be capable of making a consent decision, the Manager must arrange for the Adult to undergo an incapability assessment prior to engaging in consent for Care Facility admission. An incapability assessment is not required if the Adult has a [Committee of Person](#).

2.2.2. Consent by Substitute Decision Maker

If an Adult has been assessed as incapable, the Manager must obtain consent to Care Facility admission from a [Substitute Decision Maker](#) (SDM).

To obtain substitute consent to Care Facility admission or continued residence, the Manager must obtain consent from a person with authority to provide substitute consent. The Manager must get consent from **the first** person in list below who is available and qualifies:

- the Committee of Person, appointed by the court under the [Patients Property Act](#)
- the Adult's Representative, if they have the authority to consent to the Care Facility admission through a section 9 [Representation Agreement](#) under the [Representation Agreement Act](#)
- the Adult's [Spouse](#)
- the Adult's Adult child. All Adult children are ranked equally unless one of them is a Committee of Person or a Representative
- 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

- a close friend of the Adult
- a person immediately related to the Adult by marriage
- the Public Guardian and Trustee of BC (PGT) (if no one listed above is available or qualifies, or if there is dispute about who is to be chosen)

This SDM must also meet the following criteria to be eligible:

- not be the manager of the Care Facility to which the Adult is being admitted,
- be at least 19 years of age;
- have been in contact with Adult in the past 12 months;
- have no dispute with Adult;
- be capable of giving or refusing consent; and
- be willing to comply with the duties set out in Section 23 of the HCCCFAA.

The Manager must obtain a copy of the court order or the Representation Agreement before obtaining consent from a Committee of Person or a Representative.

2.2.3. Exception – Consent not required in an Emergency under the HCCCFAA

Managers must only admit without consent an Adult who has been determined to be incapable of providing consent to a Care Facility if the admission is required to preserve the Adult's life, to prevent serious mental or physical harm to the Adult, or to prevent serious physical harm to another person. In such circumstances, Managers must follow the [Emergency Admission to a Licensed Care Facility workflow](#).

If an Adult is admitted pursuant to an emergency under the HCCCFAA, the Manager must obtain consent from a SDM or the Adult (if they are capable) within 72 hours of the admission.

2.2.4. Exception – Consent not required under Adult Guardianship Act

Managers must admit an Adult without consent if:

- The Adult is the subject of an emergency measure taken under Section 59 of the *Adult Guardianship Act*. If an Adult is admitted under Section 59, the Manager must arrange an incapability assessment and obtain consent from a SDM or the Adult (if they are capable) within 72 hours of the admission.
- The Adult's admission has been ordered by a court under Section 56 of the *Adult Guardianship Act*. Consent is not required for the period specified in the order, which may be for up to one year, and can be renewed by a court. The Manager must get consent for continued admission under this policy when the court ordered time period ends, or once the order is no longer in effect.

2.2.5. Consent to continued residence

A capable Adult may make a decision to leave a Care Facility either temporarily or permanently. Staff must not prevent a capable Adult from leaving a Care Facility.

If an Adult who has been assessed as incapable expresses a desire to leave the Care Facility, the Manager must obtain confirmation of consent for continued residence from the SDM unless:

- The Adult was admitted within the last 30 days;
- Substitute consent for continued residence was obtained in the last 90 days; or
- The Manager doubts that the Adult remains incapable, in which case the Manager must arrange for an incapability assessment.

2.3. **Duty to Report Adult who is Experiencing Abuse, Neglect, or Self-Neglect**

If the Manager seeking consent to Care Facility admission or continued residency has reason to believe that a SDM is acting in a manner that may be abusive or harmful to the Adult, or that the Adult is experiencing neglect, the Manager must:

- Immediately notify the [Designated Responder Coordinator](#) (DRC) or [ReAct Adult Protection Program](#); and
- Follow the [VCH Adult Protection: Abuse, Neglect or Self-Neglect of Vulnerable Adults policy](#) or the [PHC Screening Patients and Residents for Abuse](#) policy and the [Adult Protection: Duty to Report](#) Guideline.

Under such circumstances, consent to continued care facility admission is not required. The Manager must refuse to discharge the Adult in care from a Care Facility while they await instructions from the DRC if in the Manager believes this is reasonably necessary to protect the Adult.

2.4. **Incapability Assessments**

2.4.1. General Requirements

The Manager must request an incapability assessment in accordance with the Guidelines if they have reason to believe an Adult is incapable of consenting to Care Facility admission or continued residence in a Care Facility. Assessments previously conducted for other purposes or outside of the admission process cannot be used to establish incapability for Care Facility admission.

Assessors must follow the requirements in the Guidelines when conducting incapability assessments.

Assessors must allow Adults to have a support person, such as a family member or a close friend, to assist them in understanding the information provided to them by the Assessor unless, in the opinion of the Assessor, the other person's presence may disrupt or adversely affect the assessment process.

2.4.2. Second Assessments

If an Adult has been assessed as incapable, the Adult may request that the Manager arrange a second assessment. Managers must ensure that a different Assessor conducts the second assessment, and that at least one of the assessments is conducted by an Assessor who is a physician or a nurse practitioner. Any potential admission of an Adult to a Care Facility is suspended until the second assessment is completed.

If the second assessment confirms the finding that the Adult is incapable, the Manager must seek consent for Care Facility admission or continued residence from a SDM.

If the second assessment determines that the Adult is capable, Managers must obtain consent to Care Facility admission or continued residence from the Adult.

2.5. Responsibilities

2.5.1. Operations managers and Clinical leaders

Operational managers and clinical leaders are responsible for:

- Ensuring Staff reporting to them are aware of this policy and related policies and guidelines;
- Identifying and approving Staff who may serve as Managers or qualified clinicians who may serve as Assessors, and ensuring that they have completed the training and registration requirements before serving in those roles; and
- Assisting in resolving any concerns arising from this policy, and consulting with leadership and Risk Management as appropriate.

2.5.2. Managers

Staff who are identified and approved by their operational manager or clinical leader to serve as Managers for the purpose of this policy and the Guidelines must complete the [Ministry of Health eLearning course](#).

Managers are responsible for:

- Obtaining consent from the Adult or the SDM in accordance with this policy and the Guidelines;
- Arranging for incapability assessments and, if applicable, second assessments of Adults in accordance with this policy;
- Ensuring the Public Guardian and Trustee has been notified if there is a dispute amongst equally ranked SDMs, or if there is no SDM available; and
- Documenting the consent decision in the health record, in accordance with the Guidelines.

2.5.3. Assessors

Clinicians who are identified and approved by their operational manager or clinical leader to become Assessors and conduct incapability assessments must complete the [Ministry of Health eLearning course](#).

To be eligible to be appointed as an Assessor the clinician must be one of the following:

- Registered Social Worker;
- Registered Occupational Therapist;
- Registered Nurse;
- Nurse Practitioner;
- Registered Psychiatric Nurse; or
- Registered Psychologist.

Physicians may also be Assessors and it is recommended (though not required) that they complete the [Ministry of Health eLearning course](#).

Assessors are responsible for:

- Assessing Adults for incapability in accordance with this policy and the Guidelines; and
- Documenting the outcome of an incapability assessment in the health record, in accordance with the Guidelines.

2.5.4. Licensing Officers

During routine inspections conducted under the [Residential Care Regulation](#), Licensing Officers will assess if the Care Facility:

- has a written policy regarding obtaining consent to admission or continued admission in accordance with the HCCCFAA; and
- has records of consent for admission or continued residence.

Upon receiving an incident report or complaint, Licensing Officers will assess the Care Facility and Manager's compliance with the applicable legislation.

3. Compliance

Staff members are expected to notify their supervisor of situations where they perceive non-compliance with this policy. Failure to comply with this policy may result in disciplinary action up to and including termination of employment or privileges.

4. Supporting Documents and References

4.1. Cited Policies

- VCH [Adult Protection: Abuse, Neglect or Self-Neglect of Vulnerable Adults](#) policy
- PHC [Screening Patients and Residents for Abuse](#) policy

4.2. Guidelines, Procedures and Forms

- [Care Facility Admission Consent \(ages 19 and above\) Guideline](#)
- BC [Practice Guidelines for Seeking Consent to Care Facility Admission](#)
- See [Consent to Care Facility Admission & Continued Residency \(VCH OneVCH Intranet\)](#) for all Practice Support Tools, Provincial Guidelines and Forms, PGT Referral Forms
- [Ethical Decision Making Framework](#)
- [Supporting Choices through Informed Decision-Making and Collaboration](#)
- VCH ReAct [Emergency Admission to a Licensed Care Facility workflow](#)
- PHC Adult Protection: Abuse, Neglect or Self-Neglect of Vulnerable Adults Designated Responder [Guideline](#)
- PHC [Adult Protection: Duty to Report](#) Guideline

4.3. Related Legislation

- [Adult Guardianship Act](#)
- [Public Guardian and Trustee Act](#)
- [Health Care \(Consent\) and Care Facility \(Admission\) Act](#)
- [Representation Agreement Act](#)
- [Patients Property Act](#)
- [Health Care Consent Regulation](#)
- [Residential Care Regulation](#)

4.4. Keywords

Consent, Long Term Care, Care Facility Admission, Continued Residence, Substitute Consent, SDM, Substitute Decision Maker, Incapability Assessment, Licensed Care Facility, Public Guardian and Trustee

5. Definitions

“Adult” means anyone who has reached 19 years of age.

“Assessor” refers to the person who is responsible for assessing an Adult for incapability to consent or refuse consent to facility admission.

“Care Facility” means:

- A community care facility licensed under the *Community Care and Assisted Living Act* that provides residential care to Adults;

- A Private Hospital licensed under Part 2 of the *Hospital Act*;
- An institution designated under the *Hospital Act* for the treatment of persons convalescing from or being rehabilitated after acute illness or injury, or requiring extended care; or
- any other facility, or class of facility, designated by regulation of the HCCCFAA as a care facility, but does not include a service provider under the *Community Living Authority Act*.

“**Committee of Person**” refers to an individual appointed by a court to manage the personal and health affairs of an incapable Adult, pursuant to the *Patients Property Act*.

“**Designated Responder Coordinator**” means the person within VCH who receives reports under Part 3 of the *Adult Guardianship Act*, ensures reports are investigated, ensures the Designated Agency meets its obligations, and provides clinical consultation and education to Designated Responders.

“**Designated Responder**” means Staff within VCH who have undergone established adult protection training and are responsible to investigate, and if necessary intervene, concerning reports under the *Adult Guardianship Act* of vulnerable adults suspected of being abused, neglected or self-neglected.

“**Manager**” means the VCH or PHC Staff person responsible for obtaining consent from an Adult or Substitute Decision Maker for admission or continued residence.

“**Representation Agreement**” is a legal document that appoints a SDM or a decision making supporter chosen voluntarily by an Adult.

“**Spouse**” means a person who is married to another person, and is not living separate and apart, within the meaning of the *Divorce Act* (Canada), from the other person, or is living with another person in a marriage-like relationship.

“**Staff**” means all employees (including management and leadership), medical staff members (including physicians, midwives, dentists, and nurse practitioners), resident doctors, fellows and trainees, health care professionals, students, volunteers, contractors and other service providers engaged by VCH or PHC.

“**Substitute Decision Maker (SDM)**” means the individual authorized to give or refuse consent to Care Facility admission or continued residence on behalf of an incapable Adult according to HCCCFAA.

6. Questions

Contact: Risk Management

Issued by VCH:		
Name: _____ Dr. Matthew Kwok	Title: _____ Interim VP, Quality & Patient Safety,	Date: _____ 23.Nov.2023
Issued by PHC:		
Name: _____ Dr. Janet Kow	Title: _____ VP, Quality & Safety	Date: _____ 23.Nov.2023

Before starting a new policy, please contact the VCH Policy Office at policy@vch.ca.