



*Health Care (Consent) and
Care Facility (Admission) Act*

HEALTH CARE CONSENT
REGULATION

B.C. Reg. 20/2000

Deposited and effective January 28, 2000
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Consolidated Regulations of British Columbia

This is an unofficial consolidation.

B.C. Reg. 20/2000 (O.C. 89/2000), deposited and effective January 28, 2000, is made under the *Health Care (Consent) and Care Facility (Admission) Act*, R.S.B.C. 1996, c. 181, ss. 34 and 35.1.

This is an unofficial consolidation provided for convenience only. This is not a copy prepared for the purposes of the *Evidence Act*.

This consolidation includes any amendments deposited and in force as of the currency date at the bottom of each page. See the end of this regulation for any amendments deposited but not in force as of the currency date. Any amendments deposited after the currency date are listed in the B.C. Regulations Bulletins. All amendments to this regulation are listed in the *Index of B.C. Regulations*. Regulations Bulletins and the Index are available online at www.bclaws.ca.

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Prepared by:
Office of Legislative Counsel
Ministry of Attorney General
Victoria, B.C.

Health Care (Consent) and Care Facility (Admission) Act

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Health Care (Consent) and Care Facility (Admission) Act

HEALTH CARE CONSENT REGULATION

B.C. Reg. 20/2000

PART 1 – DEFINITIONS

Definitions

- 1** (1) In this regulation:
- “**Act**” means the *Health Care (Consent) and Care Facility (Admission) Act*;
 - “**assessment**” means an assessment under section 26 of the Act;
 - “**assessor**” means a medical practitioner and a person within a class prescribed under section 16 for the purpose of performing assessments;
 - “**psychosurgery**” means a procedure by which
 - (a) histologically normal brain tissue is, by direct or indirect access to the brain, removed or destroyed or its continuity is interrupted, or
 - (b) indwelling electrodes are inserted in the brain for pulsed electrical stimulation to alter behaviour or to treat psychiatric illness,but does not include any neurological procedure used to diagnose or treat intractable physical pain or epilepsy if these conditions are clearly demonstrable.
- (2) Repealed. [B.C. Reg. 431/2004, s. 1 (c).]
[am. B.C. Regs. 431/2004, s. 1; 279/2005, s. (a); 114/2019, Sch. 1, s. 1.]

PART 2 – CONSENT

Committees that may approve medical research programs

- 2** The following committees are designated for the purposes of paragraph (c) of the definition of “health care” in section 1 of the Act:
- (a) University of British Columbia – British Columbia Cancer Agency Research Ethics Board;
 - (b) University of British Columbia – Clinical Research Ethics Board;
 - (c) University of British Columbia – Behavioural Research Ethics Board;
 - (d) Simon Fraser University – Research Ethics Review Committee;
 - (e) University of Victoria – Human Research Ethics Committee;
 - (f) University of British Columbia – Providence Health Care Research Ethics Board;
 - (g) Vancouver Island Health Authority Research Review and Ethical Approval Committee;
 - (h) Fraser Health Research Ethics Board;
 - (i) Repealed. [B.C. Reg. 279/2005, s. (b).]
 - (j) Repealed. [B.C. Reg. 99/2006, s. (a).]

- (k) Northern Health Research Review Committee;
- (l) Penticton Regional Hospital Ethics Committee;
- (m) Interior Health Research Ethics Board.

[en. B.C. Reg. 431/2004, s. 2; am. B.C. Regs. 279/2005, s. (b); 99/2006; 123/2007.]

Health care providers

3 The following Acts are prescribed for the purposes of the definition of “health care provider” in section 1 of the Act:

- (a) Repealed. [B.C. Reg. 420/2008, App. s. 5.]
- (b) Repealed. [B.C. Reg. 421/2008, App. s. 5.]
- (c) *Health Professions Act*;
- (d) Repealed. [B.C. Reg. 412/2008, App. s. 4.]
- (e) Repealed. [B.C. Reg. 423/2008, App. s. 5.]
- (f) Repealed. [B.C. Reg. 232/2005, App. s. 4.]
- (g) Repealed. [B.C. Reg. 422/2008, App. s. 5.]
- (h) Repealed. [B.C. Reg. 169/2010, App. s. 5.]
- (i) *Social Workers Act*.

[am. B.C. Regs. 232/2005, App. s. 4; 412/2008, App. s. 4; 420/2008, App. s. 5; 421/2008, App. s. 5; 422/2008, App. s. 5; 423/2008, App. ss. 4 and 5; 169/2010, App. s. 5.]

Major health care

4 The following are designated as major health care:

- (a) radiation therapy;
- (b) intravenous chemotherapy;
- (c) kidney dialysis;
- (d) electroconvulsive therapy;
- (e) laser surgery.

Health care to which temporary substitute decision maker cannot consent

5 (1) The following types of health care are prescribed for the purposes of section 18 (1) of the Act:

- (a) abortion unless recommended in writing by the treating physician and at least one other medical practitioner who has examined the adult for whom it is proposed;
- (b) electroconvulsive therapy unless recommended in writing by the treating physician and at least one other medical practitioner who has examined the adult for whom it is proposed;
- (c) psychosurgery;
- (d) removal of tissue from a living human body for implantation in another human body or for medical education or research;

- (e) experimental health care involving a foreseeable risk to the adult for whom the health care is proposed that is not outweighed by the expected therapeutic benefit;
 - (f) participation in a health care or medical research program that has not been approved by a committee referred to in section 2;
 - (g) any treatment, procedure or therapy that involves using aversive stimuli to induce a change in behaviour.
- (2) and (3) Repealed. [B.C. Reg. 431/2004, s. 3.]
- (4) In this section, “**experimental health care**” means health care
- (a) that is a deviation from standard professional practice, and
 - (b) that has not been approved by a committee referred to in section 2.
- [am. B.C. Reg. 431/2004, s. 3.]

Notice of substitute consent – major health care

- 6 A notice under section 14 (4) (b) of the Act must be in Form 1.

PART 3

- 7 to 14 Repealed. [B.C. Reg. 431/2004, s. 4.]

PART 4 – ADVANCE DIRECTIVES

Instructions given before Part 2.1 of Act came into force

- 15 For the purposes of section 35.1 of the Act, written instructions made by a capable adult as described in that section are deemed to be advance directives if made and executed in accordance with sections 19.4 and 19.5 of the Act, as if those sections had been in force at the time the written instructions were made.
- [en. B.C. Reg. 17/2011, s. 2.]

PART 5 – CARE FACILITIES

Division 1 – Assessments of Incapability

Prescribed health care providers

- 16 The classes of health care providers who are prescribed as assessors for the purposes of the Act are as follows:
- (a) persons who are authorized under the *Health Professions Act* to practise the designated health profession of nursing, psychiatric nursing, occupational therapy or psychology;
 - (b) registrants within the meaning of the *Social Workers Act*.
- [en. B.C. Reg. 132/2024, Sch., s. 13.]

Information to be given before assessment

- 17** Before conducting an assessment in respect of an adult, an assessor must ensure that the adult has been advised that
- (a) the adult is being assessed to determine whether the adult is incapable of giving or refusing consent to admission to, or continued residence in, a care facility, and
 - (b) if the adult is found to be incapable of making decisions about the adult's admission to, or continued residence in, a care facility, a substitute decision maker may make those decisions on the adult's behalf.
- [en. B.C. Reg. 114/2019, Sch. 1, s. 2.]

Others may be present

- 18** (1) An assessor may permit a person other than the adult being assessed to be present during all or part of an assessment if
- (a) requested by the adult, or
 - (b) necessary or advisable for the purposes of either communicating with the adult or conducting the assessment.
- (2) An assessor may prohibit a person from being present during all or part of an assessment if, in the opinion of the assessor, the presence of the person would disrupt or in any way adversely affect the assessment process.
- (3) Subsection (2) applies even if the adult requests the person to be present.
- [en. B.C. Reg. 114/2019, Sch. 1, s. 2.]

Review of medical information

- 19** An assessor must, before completing an assessment in respect of an adult, review all available relevant medical diagnoses and prognoses about the adult with respect to any underlying, or potentially reversible, health conditions that may affect the ability of that adult to make decisions about that adult's admission to, or continued residence in, a care facility.
- [en. B.C. Reg. 114/2019, Sch. 1, s. 2.]

Assessment may occur without adult

- 20** An assessment, or part of an assessment, may be conducted without the adult being present, and based on observational information and relevant information gathered from other sources, if
- (a) the adult
 - (i) refuses, in full or in part, to participate in the assessment, or
 - (ii) cannot reasonably be accessed or is not reasonably able to participate in the assessment, and
 - (b) the assessor has reason to believe that the assessment would be completed accurately using the information available.
- [en. B.C. Reg. 114/2019, Sch. 1, s. 2.]

Consultation with others

- 21** (1) Without limiting section 20, an assessor may consult with and collect information from other persons if the assessor has reason to believe that
- (a) it is necessary or advisable for the purposes of the assessment, and
 - (b) the person consulted with has information relevant to the assessment.
- (2) Without limiting subsection (1), an assessor may consult with and collect relevant information from the following:
- (a) a person who has provided social or health care services to the adult;
 - (b) the adult's spouse, near relatives and close friends.
- [en. B.C. Reg. 114/2019, Sch. 1, s. 2.]

On completing assessment

- 22** (1) On completing an assessment, an assessor must, subject to subsection (2), do all of the following:
- (a) complete an assessment report detailing the assessment, including
 - (i) the factors that were considered in making the determination of the adult's capability or incapability,
 - (ii) the conclusions that were reached on the basis of those factors, and
 - (iii) a summary of the information, if any, gathered under section 20 or 21;
 - (b) advise the adult who is the subject of the assessment regarding the assessor's determination of the adult's capability or incapability;
 - (c) provide a copy of the assessment report to
 - (i) the manager who requested the assessment, and
 - (ii) the manager of the care facility to which the adult is admitted, if different from the manager who requested the assessment;
 - (d) offer to provide, and provide if requested, a copy of the assessment report to
 - (i) the adult, and
 - (ii) the person responsible for giving substitute consent on behalf of the adult under section 22 of the Act, if the adult is determined to be incapable.
- (2) An assessor need not comply with the requirements of subsection (1) (b) or (d) if the assessor has reason to believe that it may result in
- (a) serious physical or mental harm to the adult, or
 - (b) significant damage or loss to the adult's property.
- [en. B.C. Reg. 114/2019, Sch. 1, s. 2.]

Division 2 – Use of Restraints**Manner and means of restraint**

- 23** For the purposes of section 26.1 (1) (b) of the Act, “**restrain**” includes to control or restrict the freedom of movement of a person in care by
- (a) chemical, electronic, mechanical or other means, and
 - (b) accommodating the person in care in a secure unit.
- [en. B.C. Reg. 114/2019, Sch. 1, s. 2.]

Adoption of Residential Care Regulation requirements

- 24** (1) For the purposes of section 26.1 of the Act, Division 5 of Part 5 and section 84 of the Residential Care Regulation, B.C. Reg. 96/2009, are adopted as amended from time to time.
- (2) For the purposes of applying the Residential Care Regulation, references to the text in that regulation referred to in column 1 of the following table are to be read as references to the text set out opposite in column 2:

Item	Column 1 Residential Care Regulation	Column 2 Health Care Consent Regulation
1	care plan	a health record kept in a care facility for the purposes of recording information respecting the person in care who is the subject of the record, including a plan of care for that person
2	community care facility	care facility
3	employee	person providing services under contract or other person ordinarily present at a care facility, other than a person in care
4	licensee	manager, but only if responsible for the operation of the care facility

[en. B.C. Reg. 114/2019, Sch. 1, s. 2.]

FORM 1

[en. B.C. Reg. 40/2002, s. (c); am. B.C. Regs. 431/2004, s. 5; 76/2022, s. 9.]

HEALTH CARE (CONSENT) AND CARE FACILITY (ADMISSION) ACT

Section 14 (4) (b) of the Act

**NOTICE OF INCAPABILITY AND SUBSTITUTE
CONSENT (MAJOR HEALTH CARE)**

To:[*name of adult for whom substitute consent has been given
(please print)*]

I,:[*name of health care
provider (please print)*], am your physician/other health care provider and I have proposed the following
health care for you:

.....
.....
.....

I have determined, using the legal test of incapability stated in section 7 of the *Health Care (Consent) and
Care Facility (Admission) Act*, that you are incapable of giving or refusing consent to the health care
described above.

To the best of my knowledge, you do not have a committee, or representative, who is authorized to make
a decision for you about the health care described above.

Therefore, I have chosen:[*name and phone
number of Temporary Substitute Decision Maker (please print)*] as temporary substitute decision maker for you
and this person has given refused [*check ONE box only*] substitute consent to the health care described
above.

If you disagree with the decision of your temporary substitute decision maker, you may ask your attending
physician or one of the nurses caring for you how to have the decision reviewed.

The decision to give refuse [*check ONE box only*] substitute consent to the health care described above
was made on:[*dd/mm/yyyy*] at:[*time*] am/pm.

.....:[*signature of health care provider*]:[*position/title*]

.....:[*dd/mm/yyyy*]:[*time*] am/pm.

FORM 2

Repealed. [B.C. Reg. 431/2004, s. 6.]