

ADVISORY STATEMENT

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Occupational Therapists' Role in Determining Incapability to Consent to Facility Admission

Occupational therapists practise within the scope of the profession, with knowledge of, and adherence to, national and provincial legislation, regulations, standards of practice and policies relevant to the practice of occupational therapy — COTBC Code of Ethics (p. 4)

Purpose

This advisory statement describes the roles that occupational therapists may have in completing assessments to determine the incapability of a client to consent to admission to a care facility. Specifically, it explores the impact that Part 3 of the *Health Care (Consent) and Care Facility (Admission) Act* (HCCCFAA) has on occupational therapists' practice.

Introduction

Occupational therapists have demonstrated a long-standing commitment to ethical, client-centred practice including ensuring that valid client consent is obtained prior to providing services. On November 4, 2019, Part 3 of the HCCCFAA came into force. While occupational therapists will be familiar with Part 2 of the Act, which describes obligations related to obtaining consent for health care services (e.g., occupational therapy services), Part 3 of the HCCCFAA details obligations related to the process of obtaining consent for admission to a care facility. While many features of consent to facility admission resemble those for consent to health care, it is important that occupational therapists recognize that these are separate and distinct processes with their own legal requirements. Individuals with questions regarding obtaining consent for occupational therapy services are advised to review COTBC's [Practice Standards for Consent](#).

Occupational Therapy Scope of Practice

The *Occupational Therapists Regulation* indicates that “a registrant may assess occupational performance and modify human and environmental conditions to maintain, restore or enhance occupational performance and health” (s. 4). According to this regulation, occupational performance “means the ability to choose, organize and effectively and safely perform everyday activities necessary for self-care and participation in educational, leisure, home management and work activities” (s. 1).

Within their scope of practice, occupational therapists may act as managers and admit an adult to a care facility and/or act as assessors to determine if an adult is incapable of consenting to admission.

Occupational therapists need to understand these roles and their associated responsibilities to ensure that

- clients' rights are protected;
- best practices and consistent procedures are followed, consistent with Part 3 of the HCCCFAA and *Health Care Consent Regulation*; and
- occupational therapists are aware of their legal obligations under Part 3 of the HCCCFAA.

Occupational Therapists' Roles

Managers of a Care Facility

According to Part 3 of the HCCCFAA, a manager must admit an adult to a care facility only if consent has been received, except in certain emergency situations. While adults are presumed to be capable, should the manager have reason to question an adult's capability, the manager must make a referral for an assessment of incapability to consent to facility admission from a prescribed health care provider, detailed below. If the assessment results in the adult being determined incapable of consenting to admission, the manager must seek consent from a substitute decision maker.

Note that occupational therapists are prescribed health care providers per the *Health Care Consent Regulation*. As such, a manager who is an occupational therapist may also act as the assessor, effectively creating a seamless process.

Assessors

An individual who is responsible for assessing an adult for incapability to consent or refuse consent to facility admission (an assessor) must be a physician or a prescribed health care provider listed in the *Health Care Consent Regulation*. Prescribed health care providers comprise registered nurses, nurse practitioners, registered social workers, registered psychologists, registered occupational therapists, and registered psychiatric nurses.

Occupational therapists acting as prescribed health care providers are accountable for obtaining and maintaining the necessary competencies to perform their roles and functions safely, ethically, and effectively. Given the risks associated with assessing incapability as well as the complexity of the process requirements, occupational therapists intending to act as managers and/or assessors in this context are advised to do the following:

- complete the e-learning course [Consent to Care Facility Admission in British Columbia: A Course for Managers and Assessors](#);
- follow the Province of British Columbia's (2019) [Practice Guidelines for Seeking Consent to Care Facility Admission](#) that "establish the foundation for consistent and fair provincial processes for seeking consent to facility admission and assessing for incapability to make such decisions" (p. 2);
- review [Consent to Care Facility Admission in BC: A Quick Guide](#);
- participate in any employer mandated and recommended educational opportunities; and
- complete self-directed learning to maintain or enhance competence in this clinical practice area.

Definitions¹

Assessor refers to the person who is responsible for assessing an adult for incapability to consent or refuse consent to facility admission. An assessor must be a physician, or a prescribed health care provider identified in the Health Care Consent Regulation.

Care Facility means:

- a 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; or
- any other facility, or class of facility, designated by regulation as a care facility, but does not include a service provider under the *Community Living Authority Act*.

Manager: an individual who is responsible for either or both of:

- a) the operation of a care facility; or
- b) admissions to a care facility.

Prescribed health care provider: a health care provider who is permitted by law to determine whether an adult is incapable of giving or refusing consent to admission to, or continued residence in a care facility. This includes the following providers: registered nurse, nurse practitioner, registered social worker, registered psychologist, registered occupational therapist and registered psychiatric nurse. (A medical practitioner is also permitted to determine whether an adult is incapable of giving or refusing consent to admission to, or continued residence in a care facility.)

References

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¹ These definitions were taken from *Practice Guidelines for Seeking Consent to Care Facility Admission* (Province of British Columbia, n.d., pp. 3–4).

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Advisory statements are published by the College of Occupational Therapists of British Columbia to increase registrants' awareness of important issues relevant to the practice of occupational therapy.