

B.C. HEALTH CARE (CONSENT) AND CARE FACILITY (ADMISSION) ACT – PART 3 FREQUENTLY ASKED QUESTIONS

Q. What is the Health Care (Consent) and Care Facility (Admission) Act?

A. In British Columbia, consent for health care is governed by the Health Care (Consent) and Care Facility (Admission) Act (the Act). The Act outlines the rights of patients, the required elements for consent, when consent for health care is required, and the process for determining consent if a patient is deemed to be incapable of giving or refusing consent.

Part 1 of the Act covers definitions and provisions, Part 2 outlines consent for health care, and Part 3 covers consent for admission to care facilities. Parts 1 and 2 were implemented in 2000 after the Act was originally passed in 1993.

Q. What is Part 3 of the Health Care (Consent) and Care Facility (Admission) Act?

A. Part 3 of the Act, which became law on November 4, 2019, outlines the consent requirements for an adult's admission into a care facility. It also spells out the guidelines for how a registered health professional can assess if an adult is incapable of giving or receiving consent (and how to identify the appropriate substitute if they are deemed incapable). Prior to the implementation of Part 3, there was nothing in existing legislation setting out rules of consent specific for care facility admission.

Q. How is care facility consent different from health care consent?

A. Care facility consent and health care consent are *not* the same. Each have separate and distinct processes with their own specific legal requirements. Part 2 of the Act covers consent for health care, while Part 3 covers the separate consent for care facility admission. For this reason, obtaining consent from a patient to admit them to a care facility does not eliminate the need to seek and obtain consent for any health care treatments that they may receive in a care facility.

Q. What is the role of a health care provider in this process?

A. If admission to a care facility is being considered for an adult who may be incapable of giving or refusing consent, the person responsible for obtaining consent must have the adult assessed for incapability. In that case, an assessment (documented on the 'Incapability Assessment Report') must be conducted by a physician, registered nurse, registered psychiatric nurse, nurse practitioner, psychologist, occupational therapist or social worker. The assessment determines if the adult is capable or incapable of giving or refusing consent.

Q. Who pays for the provider's time? Is it covered under MSP?

A. The incapability assessment can be completed as part of a physician's visit prior to admitting an individual into a long-term care facility. Health authority and non-profit employees completing the assessment, such as nurses, nurse practitioners, social workers, and

occupational therapists do so as part of their regular paid roles and responsibilities. For psychologists completing the assessment, the usual private-practice fees apply.

Q. What steps are involved in conducting an ‘incapability assessment’?

A. According to the Act, ‘incapability’ to consent must be based on whether an adult understands the information they are provided regarding admission to a care facility. The incapability assessment will typically be focused on discussion with the adult to find out whether they understand the information and appreciate the impact of their decision. An adult’s medical information is reviewed to determine if an underlying condition is temporarily affecting an adult’s capability. Information from other sources can be obtained if necessary. Informing the adult of the purpose of the assessment and the results is required.

The assessor is required to document the conclusion of their assessment, the factors considered and a summary of other sources of information gathered, if any. The [Incapability Assessment Report](#) form can be used to document this information.

Q. Are there any circumstances when a provider cannot conduct an incapability assessment?

A. If an adult is being placed in a private-pay long-term care facility, then an incapability assessment must be conducted by an independent assessor (someone who does not work for the facility). So, if a physician or other health care provider is an employee of the private facility (or contracted by one), the incapability assessment will need to be done by a different professional to avoid any potential conflict of interest.

Q. How can I learn more about this process?

A. For more information, please review the below supporting documentation:

- [Practice Guidelines for Seeking Consent to Care Facility Admission](#)
- [Consent to Care Facility Admission: A Quick Guide](#)

The Ministry of Health has also created an online eLearning course. While the course is not a mandatory requirement, completing it will help ensure that physicians conducting assessments are doing so in compliance with the Act. Health care providers may be able to claim self-learning credit for taking the online course but should consult and follow their respective college’s guidelines in doing so. For more information and to register for the course, go to:

- [Consent to Care Facility Admission in British Columbia: A Course for Managers and Assessors](#)