Provincial Practice Guidelines for Health Authorities

on the

Adult Guardianship Act, Part 2.1

On the process of Appointing the Public Guardian and Trustee as Statutory Property Guardian

for an Incapable Adult

DRAFT

Table of Contents

Introduction

Background

New legislation is scheduled to come into force on June 30, 2014 replacing the statutory committeeship provisions in section 1 of the Patients Property Act with Part 2.1 of the Adult Guardianship Act. The revised legislation will require additional education, coaching and support for health care professionals who participate in the process of assessing an individual for financial incapability (AGA Part 2.1). Guidelines have been developed to ensure that professionals working with this new legislation are able to act in the best interests of adults who may no longer have the capacity to make decisions about their personal financial[1] matters.

Purpose

The primary purpose of the guidelines is to establish consistent standards across the province for conducting assessments of incapability for financial matters. These guidelines emphasize areas of importance to health care professionals and will increase their awareness to the challenges and possible resolutions in conducting these assessments. There are several different health care professional roles involved in the process and this document discusses the objectives and priorities of each role. Although this document has been written for health care professionals it is intended to be accessible to anyone interested in knowing more about incapability assessments for financial matters[2]. The guidelines will assist health care professionals in interpreting and complying with specific legislation and regulations. The guidelines are not intended to duplicate information provided through other related documents (see list in Appendix A) nor are the guidelines intended to be a stand-alone document.

[1] Legal structures of business finances may mean that these are not affected by this process.
[2] These guidelines are for *financial matters* only and not for other matters such as health care decision making.

Guidelines, unlike legislation and regulations, do not have the force of law and therefore are not mandatory but are intended to establish provincial standards.

Scope

The scope of these guidelines speaks to the processes for the appointment of a statutory property guardian under the Adult Guardianship Act (AGA) (Part 2.1) working in conjunction with the general guardianship framework under the Patients Property Act[3] (PPA).

Participants

It is possible that many individuals may be involved in the assessment process, some at arms-length, others more deeply involved. The key participants are described in the chart below and a diagram providing an overview of roles is in Appendix 3.

Name of Role	Short Description
adult	Individual to be assessed (>19 years old)
case co-ordinator for certificate of incapability	Tracks the case from the start of the file through the process, up to and including to the hand-over to the Public Guardian and Trustee. This role may be combined with other roles within a health authority, including the role of assessor.
health authority designate	Individuals appointed by their health authority with the authority to issue a certificate of incapability
medical practitioner	Physician– can perform the entire assessment
PGT regional consultant	Individual within PGT identified as primary contact for each case. Provides support and expertise regarding the legislation and its application
process expert	Each health authority has an named expert available to support staff in understanding the application of the legislation within the health care system, including the legal requirements, risks, and process requirements
qualified health care provider	Certified according to their professional colleges' requirements to conduct the assessment other than the medical examination. The colleges are:

[3] Certain provisions of Part 2.1 of the Adult Guardianship Act come into force on June 30, 2014. The Patients Property Act will remain the general legislation governing adult guardianship that is court-ordered. Statutory guardianship will be governed by provisions of Part 2.1 of the Adult Guardianship Act (Statutory Property Guardianship).

	• British Columbia College of Social Workers • College of Licensed Registered Nurses of British Columbia • College of Occupational Therapists of British Columbia • College of Psychologists of British Columbia
support person	Someone other than the adult being assessed who may be present (at the request of the adult) during the assessment (e.g. family member, friend, legal representative or someone to assist with communications or other supports)

Structure of Document

This document is intended to be a reference document and is structured in a modular format enabling each topic to be explored separately. This approach increases usability of the document and will encourage health care professionals to review and refresh knowledge as they complete incapability assessments. As indicated earlier, this document is not intended to stand on its own, rather it expects the health care professional to have received formal training as well as coaching support (as required) prior to embarking on incapability assessments for financial affairs.

Each section of the document will include concise guidelines for the topic. A detailed explanation about the guidelines will follow.

Provincial Practice Guidelines

1. The health care professional must comply with the Adult Guardianship Act Part 2.1 and their professional standards of practice when administering an incapability assessment for legal purposes.

2. The assessment process is conducted by the health care professional when the Public Guardian and Trustee of BC has determined the appropriateness of the process[4].
3. The health care professional must understand the tests for incapability as defined within the legislation and administer them accordingly.
4. The legislation enables expediency in cases where harm to the adult or substantial loss of assets is probable. When applying this part of the legislation clear documentation of the risk to loss of assets is necessary.
    a. This legislation is distinct from the Adult Guardianship Act (Part 3) which is intended to create a support and assistance plan for an adult in cases of abuse, neglect or self-neglect.
5. This legislation recognizes that incapability in one decision-making area does not necessarily reflect incapability in other decision-making areas.

[4] The health professional may be the first to identify a financial management concern and then work in collaboration with the PGT to determine if an assessment process is required. Only the PGT can determine if there is an appropriate financial need that warrants possible PGT intervention.

The Adult

Provincial Practice Guidelines

1. All individuals have a right to live at risk, and this right must be balanced within the application of the legislation. Every effort should be made to apply a "least restrictive, least intrusive and most effective" alternative to protection of an individual's financial affairs. .
2. The interests of the adult are at all times a priority.
3. The potential stress of the assessment process means that alternatives for meeting the adult's needs are considered before, during and after the assessment process.
4. Only the adult's responses to assessment questions during the functional assessment interview are considered.
5. The assessment process is to be conducted in an optimal manner for the adult in order to reduce stressors, communication barriers and other impediments to performance success.
6. The adult should be informed that the assessment process may continue and observation and collateral information will be used if assessors are satisfied that the assessment would be accurately completed using the information available. This includes full or partial refusal by the adult to participate in the assessment

Discussion

An assessment of incapability is a serious event for an adult, as the outcome may result in the adult losing their right to make autonomous decisions about their financial matters or their choice of representative may be removed. This means that the process can be perceived as

threatening and highly stressful for the adult as well as those who care about the adult's well-being. Assessors need to determine the best possible approach for conducting the assessment with a primary goal of ensuring process rigor and optimum adult participation. The health care professional is expected to employ an approach that is respectful, non-threatening and informative to support the adult in coping with the potential stress of the assessment and enable their optimal performance. The assessment process is not meant to be a judgement of the adult's character and is conducted in a compassionate manner.

Support persons may accompany the adult at the adult's request throughout the assessment process. The process of assessing incapability is directed only to the adult. A proxy cannot respond on the adult's behalf regardless of relationship or good intention. A translator must be employed if a language barrier is identified. A strong recommendation is made that the translator be independent to the assessment, and are to be directed to provide information between the adult and the assessor(s) as precisely as possible.

The Interests of Others

In some instances, third parties may identify their interest in the outcome of the incapability assessment process. It is the adult's incapability that is assessed and therefore no third party can participate in any part of the assessment. Third parties can accompany the adult and observe as a support person during the assessment process, according to the legislation and regulations.

Third parties may include family members, close friends, legal representatives or any others requested by the adult. The health care professional is responsible for speaking privately with the adult to confirm that the third party is requested by the adult to be present throughout

the assessment. This is to ensure that the adult is not under duress to have a third party present. The adult may indicate a preference that the third party not accompany them or observe the process and these wishes must be honoured, regardless of the third-party's reaction to the request. If the adult is unable to express a preference that the third party not be present the assessor may need to use discretion about when a third party is exhibiting undue influence

The Certificate of Incapability Process

Provincial Practice Guidelines

1. Each case must have a clearly documented start date initiating the process, and an end date signifying a final determination is made.
2. Each type of assessment (an initial assessment, reassessment, second assessment) must adhere to the principles of fairness and compliance with the legislation (including under Public Guardian and Trustee Act - urgent protection of assets in emergency conditions).
3. If a Certificate of Incapability has been issued, a second assessment or reassessment will follow the same process as an initial assessment.
4. Response to requests for personal health information must adhere to the health information privacy laws of British Columbia.
5. The assessment of incapability is based on the current status of the adult, not on a past or predicted future status.
6. The assessment of an adult is expected to occur in a timely manner, however, some diagnoses or prognoses may suggest that an assessment be temporarily delayed because the health condition is likely temporary and assessment results will be materially affected by this change. In this case, the health care provider is required to document the rationale for the expected temporary delay and a date by which the timing of the assessment will be reviewed.
7. The Adult Guardianship Act (Part 3), Support and Assistance for Abused and Neglected Adults is a process that is separate from AGA (Part 2.1), Statutory Property Guardianship but may contribute collateral information.

8. An assessment of incapability will proceed even with the adult's refusal to participate in the assessment process as long as it is reasonable to assume that this can be done with accuracy (i.e. there is suitable observation time and access to collateral information). A single point of refusal is generally not sufficient to deem the adult's unwillingness. Subsequent attempts to gain the adult's involvement should be employed, and strategies should include approach by alternate other assessors, after some of the initial stress has been reduced, in a different setting and so forth.
9. Financial risk to the adult is not sufficient to determine that an adult is incapable. Their inability to understand and appreciate the risk must be determined[5].

Discussion

A formal start and end point for the assessment of incapability process is necessary in order to ensure that the entire process is conducted in compliance with the legislation. An assessment of incapability cannot be undertaken without clear rationale for carrying out the assessment and determination that the assessment based on the Adult Guardianship Act Section 2.1 is the appropriate assessment process for the described issue. The request for an assessment must include specific information identifying evidence for challenging the adult's presumption of capability[6]. Diagnoses, disorders or disabilities are not sufficient grounds within which to determine incapability. For example, even a diagnosis of severe or later stage dementia does not provide enough information to determine if there are other options such as a substitute decision maker who may have been unwilling to perform this role, but as they learn more about the outcomes of the assessment they may become more willing. The Public Guardian and Trustee in

[5] Wahl's document on incapability (2007)
[6] Wahl's document on capacity (2007)

BC (PGT) will provide specific information identifying the evidence to support an incapability assessment.

The PGT and health authority work in collaboration to determine if the certificate of incapability process is appropriate for this individual. The PGT will identify if the adult has a need that can be met by the PGT services. Although an adult may be a candidate for the assessment process based on concerns about current capability, they may lack a need for a statutory guardian (e.g. they may not have financial resources requiring management oversight). Until the PGT has determined the need it would be inappropriate to subject the adult to the potential stress of the assessment process.

The determination of the formal start of an incapability assessment process will signal to health care professionals that this assessment process is based in legislation and materials and process could be subject to legal challenge. All steps in the process are to be followed according to the legislation, regardless of whether the process and outcome may be subject to a legal process, thereby ensuring fairness to the adult. A formal start will also mean that relevant personal health care information can be provided to the PGT as part of the assessment process.

A formal end to the incapability process will signal that a decision has been made, communicated to the adult, and the required waiting period (section 33 (3) (a) of AGA has been completed without any further request from the adult or the adult's family. Upon reaching the end of the certificate of incapability assessment process the professional health care worker is no longer acting as the qualified health care provider and therefore has no authority to provide any personal health information to the PGT in this specific role. Other requests to the health

authority from the PGT in their role as Committee of Estate may occur but this is not within the official assessment process.

The legislation provides for different types of assessments to occur, including: the initial assessment, a second assessments and reassessments. Each of these is initiated for different reasons. Each requires that procedural fairness and compliance occurs, and employs the same process, with the assumption of that the adult is capable. In the event a second assessment is requested, there may be reason to eliminate some process steps, depending on the circumstance. The rationale for eliminating any step must be clearly documented. For example, the adult may be satisfied with most parts of the assessment except for some concerns about the approach of the QHCP who administered the financial interview questions. This may result in only a part of the functional assessment being re-administered.

The reassessment, according to legislation (S X.X), typically takes place after a minimum twelve-month wait period from the date of signing the certificate of incapability or from the most recent assessment[7]. The reassessment process is required to follow the same process as the initial assessment process (no eliminated steps), however, a court-ordered reassessment may be required within less than twelve-month period. Again, the reassessment is required to follow the same process as the initial assessment (no eliminated steps).

Health care professionals are required to start and complete assessments in a timely manner. The assessment process places a burden of uncertainty on the adult and their family or friends, and a timely response endeavours to reduce the burden of the unknown. In some circumstances it may be suitable to delay an assessment in order to ensure that temporary health

[7] Some adults may have had previous reassessments and the date of the most recent assessment provides the start of the 12-month waiting period.

issues (e.g. delirium) are addressed and do not negatively impact their ability to successfully complete the assessment process. In situations such as this, it is reasonable to undertake the assessment after the adult's specific health condition has been addressed. Health care professionals must consider that any delay in the process may expose the adult to unnecessary financial risk or harm and if so, an alternative course of action such as temporary protective powers by the PGT may be considered. Health care professionals may receive informal queries or requests for health care information regarding an adult's capability. The health care professional must adhere to the health information privacy laws of BC http://www.healthinfoprivacybc.ca/the-laws/overview.

The Functional Component

See diagram overview of assessment in Appendix E.

Provincial Practice Guidelines

1. The assessment is completed only as a test for incapability in financial decision-making. (All adults are presumed to be capable. For example, age, diagnosis or disability are not determinants of incapability.)
2. The determination of financial incapability requires a multi-disciplinary assessment (e.g. their health, medications, available supports, living environment, financial beliefs, etc…) and a determination of financial incapability reflects the individual adult as a whole.
3. The assessment is person-centered, respecting the values, beliefs, goals, expectations and preferences of the adult.
4. The assessment is undertaken in a manner that optimizes the performance of the adult (e.g. time of day, language, location).
5. The assessment is structured to ensure valid outcomes including consideration of rote or regularly and easily repeated activities versus knowledgeable, informed and reasoned responses, error versus lack of specific or relevant information and reasoned versus reasonable choices.
6. The functional assessment form (see Appendix C) must be completed in full and signed by the assessor.

Discussion

The functional assessment forms part of the larger incapability assessment process, and maintains the same principles under which the incapability assessment is applied. This section provides detail on the functional assessment process administered by the qualified health care provider (QHCP). There are additional components of the larger process, including the role of the assessor and the communications protocols that are discussed in separate sections of these guidelines.

The functional assessment form in Appendix C is for reference purposes only. Each health authority may decide to adapt the form to fit to meet their needs while maintaining the mandatory assessment areas on the form in Appendix C. Each QHCP who completes any part of the functional assessment must sign the form, indicating which parts of the assessment they have completed. The functional assessment requires consideration of a broad range of information and therefore provides a holistic perspective of the adult's situation. This may require, in some instances, that a multi-disciplinary team contribute to the assessment. However, only one QHCP is identified as lead and signs the assessment.

The assessment form has been created in a manner that logically groups information and provides a flow to the acquisition of information. The assessor will determine the best approach to the collection of the required data elements in order to reduce any distress the adult may feel. As well, the assessor is cautioned to be aware of potential rote or regularly and easily repeated activities versus knowledgeable, informed and reasoned responses to questions the adult may have deep familiarity with. (For example, some adults will be able to provide information about their financial status without having a true understanding of the obligations required.) The health care professional is expected to use their clinical expertise to determine that an adult has

understanding of their financial status. The assessor should also consider asking some of the assessment details more than once during the process in order to confirm that the adult is retaining information.

All adults are presumed to be capable of making financial decisions. An adult-centered approach respects the values, beliefs, goals, expectations and preferences of the adult. This means that a holistic approach is undertaken, emphasizing an understanding of the varied backgrounds and experiences of each person. In some cases the adult may be unable to provide the correct response to financial knowledge questions because they have had little or no prior exposure to financial matters. For example, some cultures or faiths do not participate in some aspects of the financial system. Others may exclude certain family members from financial matters or their more recent residence in Canada may have resulted in minimal exposure to the Canadian financial system and terminology. It is important that the health care professional be able to distinguish between an erroneous response to a question and that of a lack of specific financial experience or knowledge. It would be unreasonable to remove the rights of an adult to manage their finances due to a lack of knowledge of financial matters, versus an incapability to understand financial matters.

The health care professional is to conduct the assessment in a manner that is respectful of the adult and their abilities. Consideration for issues of stress, agitation, comfort and location (among other issues) should be considered to ensure the adult has the best opportunity to succeed in the functional assessment. Unless there is risk of grave harm, the health care provider should proceed with the functional assessment based on the ability of the adult to participate. If an unusual situation arises (exacerbation of a health issue, interruptions by others for example)

during the process the assessor should note the details on the assessment form including their observations and their chosen resolution.

The health care professional will explore responses from the adult to differentiate between that of a reasoned choice and that of a reasonable choice. In other words, incapability is the inability to make a reasoned choice, not a reasonable choice.

The Assessor

Provincial Practice Guidelines

1. Health care professionals who are undertaking an assessment of incapability are acting in the legislated role of a qualified health care provider and must communicate their role in the assessment process (as per Sx.x) clearly to the adult.
2. Health professionals must confirm their current qualification to conduct an assessment of incapability as defined by AGA Part 2.1, 'qualified health care provider', with their professional regulatory body.
3. Health care professionals must act in a professional, compassionate and respectful manner. Their conduct must be consistent with their professional practice standards.
4. The assessor should have experience with the client population (for example, experience with acquired brain injury (ABI) populations if the client is diagnosed with ABI).
5. Health care professionals should be sensitive to the power imbalance of the assessment process.
6. Health care professionals must adhere to protection of privacy policy and legislation for the release of personal health information even while a formal incapability assessment process is underway.
7. A medical practitioner is the only health care professional that can complete all parts of the assessment (both the medical examination and the functional component).
8. The qualified health care provider requires a formal initiation of the process to be completed by PGT before starting an assessment.
9. Health care professionals must self-identify potential bias or conflict of interest before beginning the process. The health care professional should elect to be removed from the

process. In the rare event that is not possible, the guidance of an identified management role within the health authority will be sought prior to proceeding with the assessment.

10. Disagreement amongst the assessment team on whether or not incapability is demonstrated or inability to reach a clear determination of incapability should result in the request for consultation with other qualified professionals including HA management or the PGT, depending on the specific circumstances. Areas of disagreement should be clearly documented.
11. One health care professional must be assigned as the coordinator of the assessment. This may be one of the incapability assessors or it may be a separate role within the HA.

Discussion

The assessor, according to the legislation, must be a qualified health care provider (QHCP). A QHCP is 'qualified' only when they have met all the requirements for conducting financial incapability assessments based on their Scope of Practice as specified by their professional governing body and any policy of their Health Authority. The QHCP's signature on any assessment form will be evidence of compliance within their designated Scope of Practice and Health Authority policy. Only a physician is qualified to perform the entire assessment. The medical examination portion of the assessment is only able to be completed by a physician.

The purpose of the incapability assessment by the QHCP is to determine if the adult meets the criteria for incapability as defined in the legislation. Throughout the process the QHCP is using their clinical skills to conduct a legal test and is not engage in duties related to a plan of care. This distinction means that the QHCP must communicate their role as an incapability assessor to the adult so the adult understands the goal of the assessment as separate and distinct from the provision of clinical care, service or treatment.

It is important that the health care professional continue to reassure the adult about the process, including reminding them the assessment is conducted by a team who are acting in the best interests of the adult and that the team's input, as well as the information provided by the adult is considered when the final decision is made. In rare instances, the health care professional may have an existing clinical relationship with the adult, or may have observed the QHCP acting in a clinical capacity.

In these rare instances, the health care professional must approach the assessment and the outcome with understanding that the adult may become angry or hurt when they perceive that a clinician who previously provided care is now viewed as supporting an outcome that may remove some of the adult's rights. The QHCP must consider the power imbalance[8] between them and the adult as the outcome may be significant if a statutory guardian is appointed.

The health care professional is reminded to consider the least intrusive options to support an adult in managing their financial affairs, including pension trusteeship, informal supports, supported decision making and private guardianship applications to the Court by a trusted friend or family member. As the assessment process is underway, the adult may gain additional insight for the need for a trusted friend or family support as they further realize the significance of the process that is underway. If any suggestions are provided throughout the assessment process, the QHCP must document this information so that it can be reviewed.

The Legal Test of Incapability

The regulations define the legal test of incapability (see Appendix D). The legal test is administered within the context of a more comprehensive assessment. The breadth of the

[8] Deborah Bowman. Who decides who decides? Ethical perspectives on capacity and decision-making. Chapter 5, pp 51-59.

assessment provides additional information on which to understand the results of the legal test as it pertains to each individual. For example, the discovery of a recent medication change or a loss of a life partner who managed the finances may suggest that the results from the legal test reflect a temporary situation and may not be suitable criteria for finding the adult incapable to manage their financial affairs.

The regulations also require that the legal test of incapability include assessing whether the adult is able to understand their limitations and seek appropriate assistance. This is best described as:

> "An assessor must give full consideration not only to what the individual can accomplish, but to whether the person acknowledges any personal limitations, knows his or her options, and has considered the merits of obtaining appropriate assistance to meet his or her decision-making needs."[9]

Disagreement Between Assessors

When a team approach is used for the functional assessment, each member's contribution has merit, and as a result, the team may not be able to agree on the adult's capabilities. This is important information and should be clearly documented, indicating the perspective of each of the team members. Agreement should not be unreasonably sought in order to complete the assessment. The difference in health care professional opinions requires further analysis, and may require input from health care professionals with additional or alternate expertise and should be regarded as an opportunity to provide additional insight into the adult's challenges. Conflicting opinions may also suggest that parts of the assessment were performed in sub-

[9] Grisso, T. Chapter 2 : Legally Relevant Assessments for Legal Competencies, New York : Plenum Press, 1986, p. 14-30.

optimal conditions, including environment or comfort with a particular health care professional. The team has the ability to determine if portions of the assessment should be re-assessed prior to completing the assessment forms, considering options such as engaging an alternate assigned assessor or under modified environmental or other conditions. The plan for re-approaching a portion of the assessment must be clearly documented, including the rationale for the re-approach. The health authority designates should be fully informed in writing within the assessment file about conflicting results, additional assessment steps and other actions that were taken during the assessment.

The Health Authority Designate

Provincial Practice Guidelines

1. The role of the health authority designate begins when the completed assessment file is received.
2. The role ends when the file is passed to the PGT. This would indicate that the decision has been communicated to the adult, the thirty day wait period has been completed and no reassessment is required or the reassessment has also been completed.
3. Health authority designates do not participate in any part of the assessment.
4. The seriousness of the decision requires that the health authority designates have sufficient time to provide a careful and thoughtful decision in each case.
5. The health authority designate communicates the decision verbally (or using a communications method that is suitable for the circumstances) to the adult or their family before the official letter is released.

Discussion

The health authority designate is responsible for reviewing the information provided by the assessing health care professional and/or team in order to ensure that the process has been conducted fairly and that all the necessary information, including that from the PGT or other sources, has been provided (This would be a good point to reference the new form). The health authority designate must be satisfied that the process is complete before a decision can be contemplated. If gaps or process issues are identified, the health authority designate must take steps to ensure these are addressed prior to making any decision.

Although the assessment process is carried out by health care professionals, the health authority designate does not require a clinical expertise however, this may be an asset in some circumstances. The qualified health care providers must provide their assessments in a detailed manner, avoiding health care jargon, acronyms and references that are not easily understood. The documentation must outline observations, circumstances and any unusual occurrences so that the health authority designate has a clear picture of not only the assessment results but also any relevant factors that may impact their decision. If the assessors have not come to agreement on the outcome of the assessment, and/or there are differences in perspective, the health authority designate may determine that additional or augmented assessment of the adult is required.

Collateral Information

Provincial Practice Guidelines

1. Only information relevant to the assessment decision is to be considered and documented. Any information shared may only be shared within the parameters of the appropriate legislation.
2. The collection of collateral information for assessment purposes is restricted to those individuals who have (or may have) relevant information that would provide clarity to the decision-making process.
3. The analysis and interpretation of collateral information is restricted to the appropriate experts involved with the assessment process.
4. The outcome and determination of financial incapability by the health authority designate will be provided to the assessment team in order to complete the process.
5. The information collected is sensitive and personal and needs to be protected according to the highest level of privacy.

Discussion

In those instances when a health care professional involved in the assessment process has information or knowledge about the adult from their role as a clinician, the health care professional is required to only consider that information that is pertinent to the assessment process, and will form part of the adult's assessment record. This also assumes that, when acting in a clinician role, the health care professional will properly act on any information that is of an urgent nature.

The QHCP may require additional information about the adult that is not typically available through health-related tests or records. Information regarding aspects such as financial assets is expected to be collected and collated by experts in the financial area and not by the QHCP. The QHCP can expect the PGT to forward information necessary to conduct the financial assessment process, typically referred to as a summary of financial accounts (see Appendix D). If the QHCP feels that additional information about financial or legal matters is required they should direct their questions to their PGT colleagues, who are expected to manage this part of the information collection process.

The QHCP is not expected to have any expertise in financial matters, rather they are encouraged to seek assistance from the PGT in understanding the financial or legal collateral information.

In all matters relating to collateral information and sources the QHCP is required to follow legislation and policy regarding privacy and confidentiality as referenced here: http://www.healthinfoprivacybc.ca/the-laws/overview

Documentation and Record Keeping

Provincial Practice Guidelines

1. Documentation of the assessment process and outcome is expected to be undertaken and completed in a professional manner and to a professional standard, understanding that it may become part of a court process.
2. Only information relevant to the assessment is to be documented or included with the file[10].
3. All assessment documentation must be provided to the health authority designate.
4. Only summary records of the assessment are to be provided to the PGT at the completion of the process, respecting privacy legislation and policy. The PGT may request additional information and these requests should be reviewed and responded to based on the privacy laws (http://www.healthinfoprivacybc.ca/the-laws/overview) and in accordance with Section 62(3) of the AGA which indicates:
    - "A designated agency must not disclose information obtained under this Act except for the purposes of performing the duties, powers or functions of the designated agency under this Act." When receiving an information request beyond the normal certificate process which provides information at the summary level, the health authority has the right to ask "how do these records fit within the scope of the investigation?" if further records are requested by the PGT.
5. Formal notification of the decision must be documented in the adult's clinical health care record.

[10] Report writing and testimony, p. 115-116.

6. Documents and records associated with the assessment process and outcome, including a copy of the Certificate of Incapability (where applicable) are required to be securely stored as per Health Authority policy. The location of these records should be identified in the tracking database (see point #7 below). The Health Authority is required to track requested financial incapability assessments, including the name of the assessor, start and end date of the assessment and outcome in a centralized manner for ease of future access.
7. Standardized data collection is to be undertaken for each assessment (detailed in the discussion notes below).

Discussion

A standard approach to documentation of the assessment process is required. The financial incapability assessment report is required to include information indicating who was consulted (name, professional designation, contact information), the outcome of each assessment step, a timeline and detailed record of the communications with the adult, and any collateral informants, responses received, and relevant additional (collateral) information. Only the summary results of the assessment and a copy of the certificate of incapability (where applicable) are forwarded to the PGT.

The adult's health care records should reflect that a financial incapability assessment has been completed (dated) and append a brief letter outlining the findings of the process. A copy of the certificate of incapability (where applicable) is not to be placed in the adult's clinical records, as there is no expiry date, and the ability to determine if the certificate is still in force will not be possible. The letter should indicate the date of the assessment decision, the decision and suggest

that the health care professional seeking current information about the financial incapability of the adult contact the PGT to determine if any more current assessment has been completed.

The Health Authority is required to collect data in a standardized manner for each assessment, including any second assessment or re-assessment completed in that Health Authority. Information tracked should include at a minimum: adult identifiers (legal name, date of birth, sex), assessment information (health authority, type of assessment (new assessment, reassessment, second assessment, court-ordered assessment), date of start, date of decision, date of file closing, lead QHCP, physician, indication of any financial abuse or neglect, the decision, health authority designate, the location of the closed file records including a copy of the CI where applicable).

The Health Authority processes must include a process that ensures that the file is complete before closing the case and placing it in the health care record.

Communication

Provincial Practice Guidelines

1. The health care professional must clearly communicate that they are acting in a legislated capacity as an assessor for the purposes of a financial incapability assessment, and not a clinical capacity (still to be a clinical function because these are professional clinicians performing the role).
2. All written communications to the adult are documented, and (as much as is possible) should have its receipt by the adult confirmed.
3. All communications with the adult should be at a level understood by the adult, avoiding the use of technical, clinical and legal jargon as much as possible.
4. At the request of the adult, copies of all written communications may be provided to a close family member or friend chosen by the adult (if the adult is capable at the outset then they should be in control of their own document and distribution). If any concerns of harm to the adult arise due to the sharing of information then documentation of the concern is required and the information may be withheld (see Sx.x).
5. All communications (verbal, written, telephone) with the adult or the family must be documented, including date, purpose, attendees, time, and outcome of the discussion.

Discussion

Communications are a key part of the financial incapability assessment process and are an important aspect of procedural fairness, transparency and reducing stress for the adult. Effective communications can better enable a successful process by helping to reduce the adult's anxiety and understanding of the assessment.

The formal communications are required to be documented as part of the assessment process and maintained within the file. A record of informal communications (date, time, purpose, and outcome) also require documentation. The QHCP is encouraged to consider, and share with the adult possible alternatives to a statutory guardian, and any other relevant information to the assessment process. The documented communications should only include relevant contributory information. Inclusion of non-relevant and non-contributory information is incongruent with professional practice standards, and may reflect poorly on the assessors' abilities[11].

[11] Report writing and Testimony, p115.

Appendices:

Appendix A – Reference Documents

Note: This list is not exhaustive. Check with your health authority to identify any additional policy and documents on this topic.

- Patient Property Act - link
- Ombudperson's full report
- Ombudperson's executive summary
- Legislation – link
- Regulations – link
- PGT guidelines document – link
- PGT website – link
- PGT brochures?
- Health Authority – standard operating procedures
- Training modules (to be developed)

Appendix B – Participants in Assessment Process

Appendix C – Assessment Form

Note: This form may not be the current version or the version in use at a specific health authority. Always check with your health authority for the most recent version.

Insert form here

Appendix D – Financial Assessment Criteria – The Legal Test

For reasons of confidentiality regulation sections 7 (1) & (2) will be added to this section at a later point in time.

Appendix E – Overview of Assessment