

**COMPARISON CHART FOR CONSENT TO HEALTH CARE AND CONSENT TO ADMISSION TO A CARE FACILITY – A MISMATCH!**

This page outlines a ‘simpler’ version of the decision making scheme for **health care consent** as outlined in BC legislation (Part 2 *Health Care Consent and Care Facility Admission Act*) COMPARED TO **consent to care facility admission** as proposed by amendments in Bill 26, 2007 (part 3 *Health Care Consent and Care Facility Admission Act*). See page two for more details on the scheme.

WHO CONSENTS TO HEALTH CARE IF ADULT CANNOT	WHO CONSENTS TO FACILITY ADMISSION IF ADULT CANNOT
<p>Health care provider who is offering health care treatment gets consent from other authority as shown below</p>	<p>Manager of care facility where adult may need to reside gets consent from other authority as shown below.</p>
<p>1. Check if a judge appointed a decision maker for the adult and if authority is in court order? (Adult guardianship is the last resort in BC and this should be rare.) If none,</p> <p>2. Check if a <b>representative</b> with authority named in adult’s Representation Agreement? if none,</p> <p><i>If no Representation Agreement, check if there is a stand-alone Advance Directive written when adult was capable and it gives or refuses consent to the specific health care decision. An AD cannot deal with unexpected events. It does not cover personal care such as facility admission.</i></p> <p>3. Select someone from the following ranked <b>default list</b> and determine if they qualify to be the adult’s Temporary Substitute Decision Maker for health care.</p> <ul style="list-style-type: none"> <li>(1) Spouse of adult – see <a href="#">Ask Joanne post re definition</a></li> <li>(2) A child (19+) of the adult</li> <li>(3) A parent of the adult</li> <li>(4) A sibling of the adult</li> <li>(5) A grandparent of the adult</li> <li>(6) A grandchild of the adult</li> <li>(7) Any other relative by birth or adoption</li> <li>(8) Close friend (as defined in the legislation)</li> <li>(9) An in-law (someone immediately related by marriage)</li> </ul> <p>If no one above is available or qualified, select a staff person who works for the Public Guardian and Trustee.</p>	<p>1. Check if a judge appointed a decision maker for the adult and if authority is in court order? (Adult guardianship is the last resort in BC and this should be rare.) If none ,</p> <p>2. Select someone from the following ranked <b>default list</b> and determine if they qualify to be the adult’s Substitute Decision Maker for care facility admission.</p> <ul style="list-style-type: none"> <li>(1) <b>Representative</b> with authority named in adult’s Representation Agreement</li> <li>(2) Spouse of adult – see <a href="#">Ask Joanne post re definition</a></li> <li>(3) A child (19+) of the adult</li> <li>(4) A parent of the adult</li> <li>(5) A sibling of the adult</li> <li>(6) A grandparent of the adult</li> <li>(7) A grandchild of the adult</li> <li>(8) Any other relative by birth or adoption</li> <li>(9) Close friend (as defined in the legislation)</li> <li>(10) An in-law (someone immediately related by marriage)</li> </ul> <p>If no one above is available or qualified, select a staff person who works for the Public Guardian and Trustee.</p>

**Why isn’t a representative listed here as #2 to recognize PLANNING by the adult as it is for health care? Why is a representative lumped under the default scheme?**

**The Representation Agreement Act covers PLANNING for care facility admission. Is this a legal contradiction?**



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Who decides who will help the adult?	Who can CONSENT TO HEALTH CARE if an adult is incapable? (Part 2 HCC&CFA Act.)	Who will CONSENT TO CARE FACILITY ADMISSION if an adult is incapable? (Pending Part 3 HCC&CFA Act.)
<p><b>A judge of the BC Supreme Court imposes decision maker on adult.</b></p> <p>This is the last resort in BC. It is difficult to reverse and the adult loses their civil rights and personhood. It takes 3-4 months and costs ~\$5,000.</p> <p>Duties and authority are set out in the court order and <i>Patients Property Act</i>.</p>	<p><i>This column outlines the decision making scheme that is in effect for health care.</i></p> <p>A court-appointed decision maker if there is one and they have authority. (The term used is committee of person or personal guardian.)</p>	<p><i>This column outlines the decision making scheme based on pending amendments from Bill 26, 2007 that government announced will be coming into effect.</i></p> <p>A court-appointed decision maker if there is one and they have authority. (The term used is committee of person or personal guardian.)</p>
<p><b>Adult Chooses</b></p> <p>A Representation Agreement (RA) is BC’s legal planning document for health and personal care matters.</p> <p>Duties and authority of a representative are set out in the <i>Representation Agreement Act</i>.</p>	<p>If no court-appointed decision maker, ask the adult’s <b>Representative</b></p> <ul style="list-style-type: none"> <li>– named by the adult in a Representation Agreement</li> <li>– has duties under the <i>Representation Agreement Act</i></li> </ul> <p><i>If no Representation Agreement, check if there is a stand-alone Advance Directive written when adult was capable and it gives or refuses consent to the specific health care decision. An AD cannot deal with unexpected events. It does not cover personal care such as facility admission.</i></p>	<p><i>This box is blank according to the amendments in Bill 26, 2007. Yet a representative should be listed here – like for health care consent. Instead they are ‘lumped in’ with the ranked default list below.</i></p> <p><i>How can one law NOT recognize a Representation Agreement as a legal planning tool for care facility admission – while the Representation Agreement Act says a Representation Agreement is the LEGAL WAY for an adult in BC to name a decision maker of their choice for care facility admission and other matters as needed?</i></p>
<p><b>Legislated default scheme imposes decision maker on adult.</b></p> <p>Duties and authority of those on the default list are set out in the specific sections of the legislation.</p> <p>Someone on the ranked list does not have as much authority as a representative, because they are a ‘default,’ not the adult’s choice – EXCEPT in the pending amendments for care facility admission where the adult’s choice is not recognized – a representative is treated as if the adult did not make a plan (an RA).</p>	<p>Lastly, a health care provider selects from this ranked <b>default list</b> and decides if person qualifies to be a Temporary Substitute Decision Maker for Health Care:</p> <ol style="list-style-type: none"> <li>(1) Spouse of adult – see Ask Joanne post re definition</li> <li>(2) A child (19+) of the adult</li> <li>(3) A parent of the adult</li> <li>(4) A sibling of the adult</li> <li>(5) A grandparent of the adult</li> <li>(6) A grandchild of the adult</li> <li>(7) Any other relative by birth or adoption</li> <li>(8) Close friend (as defined in the legislation)</li> <li>(9) An in-law (someone immediately related by marriage)</li> </ol> <p>If no one, staff person (bureaucrat) who works for the Public Guardian and Trustee is asked for consent.</p>	<p>Lastly, a facility manager selects from this ranked <b>default list</b> and decides if person qualifies to be a Substitute Decision Maker for Consent to Care Facility Admission:</p> <ol style="list-style-type: none"> <li>(1) <b>Representative</b> – has duties under RA Act</li> <li>(2) Spouse of adult – see Ask Joanne post re definition</li> <li>(3) A child (19+) of the adult</li> <li>(4) A parent of the adult</li> <li>(5) A sibling of the adult</li> <li>(6) A grandparent of the adult</li> <li>(7) A grandchild of the adult</li> <li>(8) Any other relative by birth or adoption</li> <li>(9) Close friend (as defined in the legislation)</li> <li>(10) An in-law (someone immediately related by marriage)</li> </ol> <p>If no one, staff person (bureaucrat) who works for the Public Guardian and Trustee is asked for consent.</p>