Public Guardian and Trustee of BC: Making Decisions About the Use of Restraints

Presentation at
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Our Vision:
Rights, choices and security for all British Columbians.

Our Mission:
The Public Guardian and Trustee is appointed to safeguard and uphold the legal and financial interests of children; manage the legal, financial and personal care interests of adults needing assistance in decision making; and administer the estates of deceased and missing persons.
Agenda

• What is a Restraint?
• The Law
• Substitute Decision Making

Photo: Kyle Bailey
What is a Restraint?
“Restraint” means any chemical, electronic, mechanical, physical or other means of controlling or restricting a person in care’s freedom of movement in a community care facility, including accommodating the person in care in a secure unit.

Simply: A restraint is a device or medication that is used to restrict a patient’s voluntary movement.

(Agens JE; BJMP 2010; 3(1):302)
What are the laws guiding the use of restraints in BC?

- Health Care (Consent) and Care Facility (Admission) Act
- Community Care and Assisted Living Act
  - Residential Care Regulation
Adult Guardianship Guiding Principles

- Right to Self Determination
- Court as a Last Resort
- Just Enough Support
- Presumption of Capability
Who are substitute decision makers?

• A court-appointed **Committee of Person** under the *Patients Property Act*
• A **Representative** made under the *Representation Agreement Act*
• A **Temporary Substitute Decision Maker** (TSDM) chosen according to *Health Care (Consent)* Act
Temporary Substitute Decision Maker

- Spouse
- Child
- Parent
- Sibling
- Grandparent
- Grandchild
- Anyone related by birth or adoption
- Close friend
- Person immediately related by marriage
Clarifying Decision Making

Consent  Agreement
## Authority of Decision Maker

<table>
<thead>
<tr>
<th>Authority</th>
<th>Purpose</th>
<th>Decision</th>
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</thead>
<tbody>
<tr>
<td>COP and RA9*</td>
<td>Health Care</td>
<td>Consent</td>
</tr>
<tr>
<td>COP and RA9*</td>
<td>Behavioural</td>
<td>Agree</td>
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<tr>
<td>TSDM and RA7</td>
<td>Health Care</td>
<td>Consent</td>
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<tr>
<td>TSDM and RA7</td>
<td>Behavioural</td>
<td>No authority</td>
</tr>
</tbody>
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* Only if authorized by adult in RA
Values and Principles to consider..

- Agreement/Consent
- Purpose
- Least Restrictive
- Re-assessment
- Agreement/Consent
- Least Resort
- Staff Training
- Alternatives?
Case Study

Photo: Dries van Assen