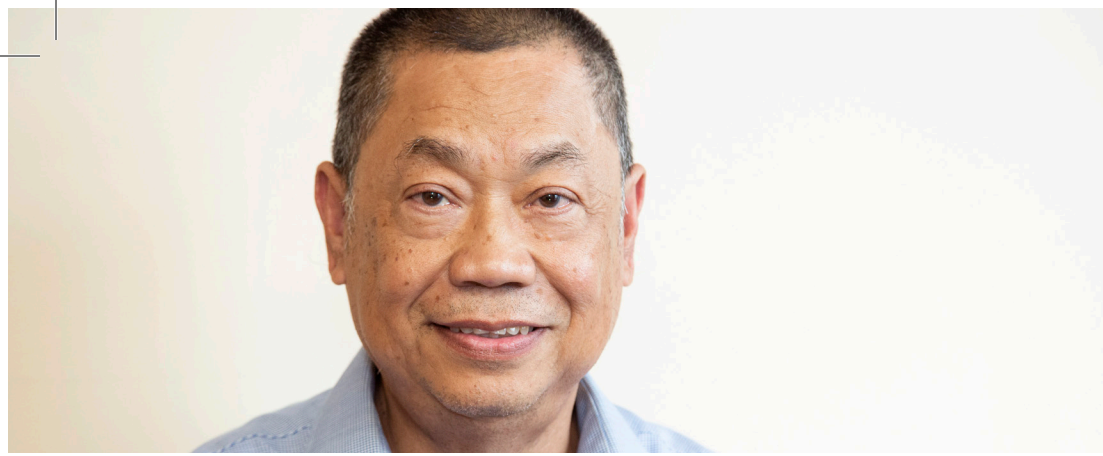




CANADIAN CENTRE FOR
ELDER LAW

HEALTH CARE DECISION-MAKING: Legal Rights of People Living with Dementia





Under British Columbia law, every adult is presumed to be capable of making their own health care decisions.

Health care consent in British Columbia

You have the right to make your own decisions if you can:

- Understand information given by health care providers about your condition and the proposed treatment;
- Understand that the information applies to you; and
- Communicate your consent or refusal.

Health care professionals recommend treatment, but they cannot consent to treatment—except in some emergency situations.

Even if someone else made the decision for you to move to a care facility, you may still have the right to make some or all of your health care treatment decisions.

Your health care decision-making rights include the right to:

- Agree to treatment;
- Refuse treatment;
- Stop treatment that has already started; and
- Choose whether to participate in research.

You can say no to health care recommended by your doctor.

You are entitled to information that will help you make a decision.

The Canadian Centre for Elder Law created this booklet in consultation with the Alzheimer Society of B.C. to help people living with dementia to understand their health care decision-making rights.

A diagnosis of dementia does not remove your right to make your own health care decisions.

You, your family, and your health care team can work together to coordinate your health care decision-making at the times that work best for you.

The impact of dementia on decision-making

Many people living with dementia can make all of their own health care decisions. The decision-making abilities of people living with dementia vary.

Some people can make some decisions. For example, they might be able to make a decision about pain medication, but not surgery.

Decision-making abilities can be impacted by:

- time of day
- medication
- lack of support
- stress
- grief or depression
- progression of dementia

Help with decision-making

Most people make big decisions with the help of people they trust.

You have a legal right to receive help from family and close friends when health care decisions are required. They can help you to:

- Understand information; or
- Communicate to health care providers that you understand relevant information.

Decision-making support enables many people living with dementia to make their own decisions, or participate in decision-making.

You can appoint a person you trust to help you with health care decisions by creating a legal document called a representation agreement.

Assistance with communication

Strategies that might support you with communication include:

- Giving you more time to talk about your health care needs and wishes;
- Speaking with you in a quiet room that is free of distractions;
- Using simple and clear language;
- Working with a language interpreter;
- Meeting at times when you are feeling most capable of understanding information;
- Being patient with you when you need more time to consider information, ask questions, and express your views; and
- Getting options in writing.



You, your friends, and your family may be able to identify other strategies that help you to understand information or communicate.

Each time a health care decision is required, health care providers must consider whether you are capable of making the decision. If you cannot make the decision on your own, you may be able to make the decision with help.

Health care providers are legally required to communicate with you in a way that is appropriate to your skills and abilities.

You have a right to ask the health care provider to include family or close friends you trust in conversations about your health care treatment.

Substitute decision-makers

If the health care provider determines that you do not understand information relevant to a decision, they must get consent from a substitute decision-maker.

A substitute decision-maker is a person with the legal authority to make decisions for another person. Depending on the circumstances, your substitute decision-maker could be:

- A person you chose in advance through a representation agreement (known as a representative);
- A personal guardian appointed by the court; or
- A family member or close friend chosen by a health care provider (known as a temporary substitute decision-maker).

A power of attorney does not grant a person the authority to make health care decisions.

Your substitute decision-maker must speak with you about what health care treatment you want if you are able to participate in decision-making.



Legal help

An advocate or lawyer may be able to assist you if:

- A health care provider or family member is not respecting your decision-making rights;
- A substitute decision-maker consents to treatment you disagree with;
- A health care provider chooses a temporary substitute decision-maker you don't trust;
- A health care provider decides you do not have capacity for a decision, and you disagree; or
- A health care provider is discriminating against you because you have dementia.



If you have questions about dementia, planning for your future, or navigating the system, call the Alzheimer Society of B.C.'s First Link® Dementia Helpline: 1-800-936-6033 (English), 1-833-674-5007 (Cantonese or Mandarin) or 1-833-674-5003 (Punjabi).

Where to get legal help

Adults age 55 and over

Contact **Seniors First BC**: 1-866-437-1940.

You may ask someone you trust to help you explain what has happened.

If you are being kept in a hospital or facility against your will, your rights may be different.

Contact the **Community Legal Assistance Society**:
1-888-685-6222

or

Access Pro-Bono: 1-877-762-6664 and dial 1500

To learn more about health care decision-making, and planning tools such as representation agreements:

Contact **Nidus Personal Planning Resource Centre and Registry**: www.nidus.ca.

ABOUT THE CCEL

The CCEL conducts research, and develops reports and educational tools about the legal and policy issues related to aging. The CCEL is part of the BC Law Institute, BC's non-profit independent law reform agency.



www.bcli.org/ccel

ABOUT THE ALZHEIMER SOCIETY OF B.C.

The Society's vision is a world without Alzheimer's disease and other dementias. The Society works in communities throughout BC to support, educate, and advocate for people living with dementia. The Society advocates for dementia-friendly communities in which people affected by dementia are acknowledged, supported, and included.

Alzheimer Society
BRITISH COLUMBIA

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