



Elder Abuse Response: Things you **NEED** to know for Effective Intervention

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Focus of Presentation

- Primarily focused to service providers of any type and friends and family – people other than the older person themselves
- We also encourage education programmes to and for older adults themselves as to what to do if they believe they are at risk, or are a victim of abuse and where to seek assistance if needed



Advocacy Centre for the Elderly

- Community legal clinic
- Opened in 1984 – Funded by Legal Aid Ontario
- Range of Legal Services including
 - Legal advice and representation
 - Public legal education programmes and materials
 - Community Development and Law Reform work
 - NEWSLETTER available through Email by gillardt@lao.on.ca



Disclaimer

- This presentation and any material provided for this presentation is not legal advice but is only legal information for educational purposes
- Many of these legal issues are FACT SPECIFIC and therefore require one on one legal advice if you are looking for specific legal advice to resolve an issue/ problem/ to determine your rights/ to determine your obligations
- If you require legal advice, please consult your own lawyer or legal advisor



Things you need to know for effective Intervention - OVERVIEW

- Top 7 Things You need to know about for effective intervention
- Duty (or Not) to report Abuse
- Privacy
- Why people refuse help



Things you need to know for Effective Intervention

- How to discuss the suspected or actual abuse with the older adult

TALK TO THE SENIOR!!!!!!



Things you need to know

- Capacity and Decision making

- Capacity
 - what this means – rights of a capable person to make own decisions and to risk
 - If person not capable, who is the SDM and why
 - If SDM is alleged abuser – how to have them removed as decision maker- what can you do or what can someone else do



Capacity and Substitute Decision-Making

- Most older adults are capable of making their own decisions
- Capacity can change from decision to decision, and from time to time
- There is not a single test that determines capacity for all times and all purposes



Important Tips on Capacity Issues

- Do not automatically assume that frail elderly people are incapable
- Speak with the older person, not around him/her
- Help to empower the older person
- We all do “assessments” to some degree—assessments are NOT just the responsibility of a physician or formal capacity assessor



Presumption of Capacity

- **Substitute Decisions Act s.2.**

- (1) A person who is eighteen years of age or more is presumed to be capable of entering into a contract.
- (2) A person who is sixteen years of age or more is presumed to be capable of giving or refusing consent in connection with his or her own personal care.
- (3) A person is entitled to rely upon the presumption of capacity with respect to another person **unless he or she has reasonable grounds to believe that the other person is incapable of entering into the contract or of giving or refusing consent, as the case may be.**



BUT ...

- Presumption of Capacity does NOT MEAN that if a person says NO to something that then they are capable

Effect of preparing a POA Property



- Just because a person has granted someone a POA Property that IS in effect (as it comes into effect on signature NOT incapacity) the senior still has the same rights to manage his or her own property if capable



Scope of Authority of a SDM

- Understand when the attorney in a POA HAS power and what power they have and when they don't have power
- Understand the Authorities (or lack thereof of) of an SDM
 - Recognize potential conflicts of interest & opportunities for elder abuse by a substitute decision-maker



Things you need to know

- How to get ACCESS to the Senior

- No specific comprehensive legislation dealing the issue of access to seniors/adults whether capable or incapable
- Look to
 - The *Substitute Decisions Act*
 - The principles of substitute decision-making
 - The duties of attorneys and guardians of the person
 - The *Criminal Code*
 - The availability of guardianship applications for someone to get authority/ control



Right to Refuse Access

- Other people – family/ friends- may want to have access to the senior but its the senior refusing the contact
- Every capable adult has the legal right to choose whether he or she wishes to communicate with family members and friends
- A capable adult has no legal obligation to have any form of communication, and is legally entitled to refuse all communication
- Perplexing quandary is to know whether refusal is *capable and voluntary*



Capacity to Receive Visitors

- Capacity is situational to the decision in question
- A older adult is “capable” if able to
 - Understand information; and,
 - Appreciate the reasonably foreseeable consequences of receiving visitors or having communication
- Very low level of capacity
- A cognitively-impaired older adult may be capable of this, even if incapable of property management or of personal-care decisions

Duties of Formal SDMs - Attorneys and Guardians of the Person (under SDA)



- Encourage the incapable person, to the best of his or her abilities, to participate in the attorney's or guardian's personal-care decisions
- Foster regular personal contact between the incapable person and his or her supportive family and friends
- Consult with supportive family members and friends who are in regular personal contact with the incapable person
- Foster the incapable person's independence
- Take the least restrictive or intrusive action



Denial of Access by SDM

- A denial of access between an incapable older adult and his or her supportive family and friends is harmful, and contrary to the duties of an attorney for personal-care or of a guardian of the person
- Access should be denied only in the most clear circumstances
- Denial of access can be harmful, intrusive, and expensive to the older adult, friends and family



Things you need to know - Seniors Housing

- How to determine what type of housing it is and what law applies
- Need to understand the rights of seniors in different types of housing



Things you need to know

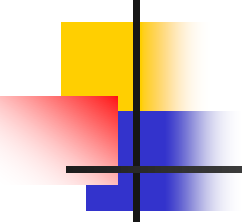
- Abuse Reporting requirements and limitations

- Reporting of Abuse is NOT the only answer to elder abuse and NOT the only intervention or response
- Reporting doesn't necessarily stop the abuse
- You need to understand what mandatory reporting is, when is it required by law, to whom are the reports made, and THEN what happens (or is supposed to happen)
- You need to understand what you should do AFTER you make that report
- MORE on this later



Things you need to know -Privacy

- You need to understand what privacy is, and how it works
- MANY MANY MANY misunderstandings about privacy
- More on this later



Duty or Not to Report Abuse – what does this really mean??



Reporting Legislation is NOT a Solution to Abuse but a Tool

- There are many different forms of elder abuse. There is NO ONE appropriate response to every incident of elder abuse. There are many different ways of assisting people with elder abuse issues depending on the facts of the particular case.
- Reporting of abuse is NOT the only answer to abuse
- The fact that there is no general law in Ontario requiring mandatory reporting of elder abuse wherever it happens is not a deterrent to response to abuse
- There are other options to response depending on the facts of the particular situation - in this presentation we will provide an overview of types of responses both when the victim is mentally capable or may be mentally incapable to make choices/give directions



Reporting of Abuse

- ▶ **Even if reporting is required, reporting in and of itself does not necessarily stop the abuse or solve the problems that lead to the abuse**
- ▶ Reporting is not a guarantee that the abuse will be confirmed, resolved, stopped
- ▶ The obligations of the person making the report do not necessarily end when the report is made. The reporter may have other obligations after making a report, such as giving assistance to the alleged victim



Even if there is no legislated duty, should/ may a person report abuse somewhere?

- May be in a contract for services (agreement to inform a third party)
- May be a policy that is part of your employment (for example, to report to a supervisor/to person internal to employer)
- May be a professional responsibility or in a code of ethics (for example – regulated health professionals required to report to professional College, sexual abuse by another regulated health professional; lawyers may breach confidentiality duty owed to client in limited circumstances if a crime has occurred or may occur)



What is Mandatory Reporting of Elder Abuse?

- In general, mandatory reporting of abuse is a requirement, **in particular legislation**, to report any incident of abuse (as defined in that legislation) that you believe **has occurred or may occur** to an individual.
- That report is made to a particular third party (person, agency, organization) as specified in that legislation, to investigate the allegations/suspicious of abuse
- The particular legislation may also put other obligations on the reporter and/or on the operator/administrator of the “institution” to also assist the senior (alleged victim) directly, at the same time the report is made



What is Mandatory Reporting of Elder Abuse?

- May be penalties for failure to report when so obligated
- May include whistle blowing protection to protect those that do report in accordance with the legislated obligation
- Where there is a requirement for reporting, there is no breach of privacy legislation if the reports are made as required



What is Mandatory Reporting of Elder Abuse?

- Where there is reporting required, there may be no requirement for the third party who received the report and who does the investigation to give details to the reporter about what happened as a result of the report having been given



Is there a legislated DUTY to report abuse in Ontario or Federal Law?

- Duty to report
 - *Child and Family Services Act* - if victim is a child in need of protection
 - *Long-Term Care Homes Act* - **if victim is a resident** and potential or suspected abuse/neglect as defined by that act
 - *Retirement Homes Act* - **if the victim is a tenant/resident** and potential abuse/neglect as defined by that act
 - *Criminal Code* - **no specific duty to report** however may **voluntarily** report crime/suspicion of crime
 - *Substitute Decisions Act* - **voluntary reporting** options exist in particular circumstances if victim is an adult that is not mentally capable



Things to Take Note about when there is a Legislated Duty to Report

- When does this duty apply ?
- What must be reported?
- Who has duty to report?
- To whom must the report be made?
- What else must be done besides making the report?
- What is the party reported to required to do?
- What are the protections for the person reporting?



Retirement Homes Act “RHA”

To access full text of the legislation go to

<http://www.e-laws.gov.on.ca>



Retirement Homes – A Snapshot

- Retirement Homes are Residential Accommodation and are NOT regulated health care facilities and are NOT “private” nursing homes
- **Retirement Homes are TENANCIES, NOT HEALTH FACILITIES**
- Retirement Homes are regulated under BOTH the *Residential Tenancies Act* and the *Retirement Homes Act*



Retirement Homes- A Snapshot

- Retirement homes require a **license** to operate, are subject to inspection (**NOT ANNUALLY**), and are required to meet the care standards and other requirements of the Retirement Homes Act
- The licensing and regulatory **oversight** of retirement homes is by the **Retirement Home Regulatory Authority (RHRA)**, **NOT** an **Ontario Government Ministry**



Retirement Homes – Significance of fact these are TENANCIES

- Landlord/ Retirement Home operator cannot block access to tenant/ resident – this is a tenancy not a regulated health facility
- Tenant/ resident has a right to have visitors/ guests – IT IS THEIR HOME – Tenants also have the right to have their own external service providers
- Retirement Home Landlord can't use Trespass notice to block access by friends and family to the senior as senior is an "occupant" just as the landlord is an "occupant" under the Trespass to Property Act



Retirement Homes – Significance of fact these are TENANCIES

- Landlord/ Retirement Home Operator cannot block a senior from returning to their unit (room or apartment) post a health crisis because this is a TENANCY
- Landlords of Retirement Homes have no authority to have locked units or detain the tenants from leaving the retirement home if they wish – provision in legislation about locked units have not come into force



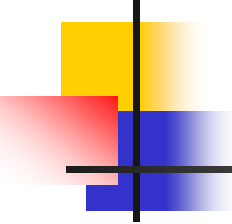
What is a Retirement Home?

- **What is a Retirement home?**

S. 1 “retirement home” means a **residential complex or the part of a residential complex,**

- (a) that is occupied primarily by persons who are 65 years of age or older,
- (b) that is occupied or intended to be occupied by at least the prescribed number of persons who are not related to the operator of the home, and
- (c) where the operator of the home makes at least two care services available, directly or indirectly, to the residents, but does not include:..

Prescribed number in (b) is SIX



How do you know if a place is a retirement home?

- There is a Registry for retirement homes maintained by the RHRA (see website) but it may not be complete as some retirement homes may not have applied to be licensed although obligated to do so.
- Need to look at the definition of retirement home and also at what places are NOT included (such as supportive housing and Domiciliary hostels) and determine if the particular place meets the definition



What if someone is denied entry?

- It depends ... on reason for refusal, authority of person refusing, circumstances of the incident, who is seeking access, whether person seeking access has power or duty by statute or common law or some other “authority” ...
 - Contact Manager
 - If part of chain, contact Chain management/ lawyer
 - Contact Retirement Home Regulatory Authority
 - Authority of another SDM (or person who could apply to be an SDM that trumps authority of existing SDM)



RHA – Mandatory Reporting of Abuse

RHAs.75(1) A person who has reasonable grounds to suspect that any of the following has occurred or may occur shall immediately report the suspicion and the information upon which it is based to the Registrar:

1. **Improper or incompetent treatment or care of a resident** that resulted in harm or a risk of harm to the resident.
2. **Abuse of a resident by anyone or neglect of a resident by the licensee or the staff of the retirement home** of the resident if it results in harm or a risk of harm to the resident.
3. **Unlawful conduct** that resulted in harm or a risk of harm to a resident.
4. **Misuse or misappropriation of a resident's money.**



RHA – When Does this Duty Apply?

- **When victims/ potential victims are residents/tenants in a “Retirement Home”**



Who has a Duty to Report?

Everyone except Tenants/ residents including medical practitioners and others

- (3) **Even if the information on which a report may be based is confidential or privileged**, subsection (1) applies to a person mentioned in paragraph 1, 2 or 3 and no action or other proceeding for making the report shall be commenced against a person who acts in accordance with subsection (1) unless that person acts maliciously or without reasonable grounds for the suspicion:
1. A legally qualified medical practitioner or any other person who is a member of a College as defined in subsection 1 (1) of the *Regulated Health Professions Act, 1991*.
 2. A person who is registered as a drugless practitioner under the *Drugless Practitioners Act*.
 3. A member of the Ontario College of Social Workers and Social Service Workers. 2010, c. 11, s. 75 (3)



Duty to report also applies when Retirement home resident/tenant is outside the retirement home

FOR EXAMPLE - Applies if resident/tenant of Retirement home has gone to hospital/ physician/ is attending a programme at a seniors centre and the persons interacting with retirement home resident/tenant have reasonable grounds to believe he / she is a victim of abuse/ neglect at the retirement home then duty to report applies

RHA – To Whom Must this Report be Made?



- RHA s. 75(1) A person who has reasonable grounds to suspect that any of the following has occurred or may occur shall immediately report the suspicion and the information upon which it is based to the **Registrar**
- **The Registrar is a person at the Retirement Home Regulatory Authority**
- **RHA could request police involvement in investigations if they believe that alleged abuse may be a Criminal offense**



Retirement Home Employment Agreements/ Policies Cannot Override this Obligation

- Retirement home employment agreements/policies **cannot override these requirements** by requiring reporting only internally to management or suppress or limit the reporting by a person, including staff, directly to the Registrar
- Retirement home employment agreements/policies **should include and support and reflect these requirements** to directly report under the circumstances as set out in the legislation

What Else Must be Done Besides Making a Report?

RH Licensee have a duty to protect residents from abuse and must ensure residents are not neglected by staff or the licensee

RH Licensees are required to have **policies** about Zero Tolerance of abuse that includes

- **a program, that complies with the regulations, for preventing abuse and neglect;**
- **procedures for investigating and responding to alleged, suspected or witnessed abuse and neglect of residents;**

Therefore internal to each RH home there must be plans/ procedures to guide staff (and others) as to what to do if abuse/ neglect as defined in this act occurs or is suspected in addition to making the mandatory report to the Registrar

AFTER REPORTING still a requirement to respond and do something



Policy of zero tolerance of abuse and neglect O. Reg 166/11 s. 15

Policy of zero tolerance of abuse and neglect

15.

(2) The procedures for investigating and responding to alleged, suspected or witnessed abuse and neglect of residents described in clause 67 (5) (e) of the Act shall include details outlining who will undertake the investigation and who will be informed of the investigation.

(3) The policy to promote zero tolerance of abuse and neglect of residents described in subsection 67 (4) of the Act shall ...

(c) identify measures and strategies to prevent abuse and neglect;...

(f) provide that the licensee of the retirement home shall ensure that the appropriate police force is immediately notified of any alleged, suspected or witnessed incident of abuse or neglect of a resident that the licensee suspects may constitute a criminal offence



Long Term Care Homes Act "LTCHA"

To access full text of legislation go to
<http://www.e-laws.gov.on.ca>



LTC Homes - A Snapshot

- LTC homes are licensed by MOHLTC to provide long term care services to persons eligible for LT care
- LTC homes are operated both for profit and non profit
- LTC homes are a type of health care facility
- LTC homes are regulated under *LTC Homes Act* and are required to comply with provisions of legislation and regulations
- LTC homes are subject to annual inspection and requirements for compliance by MOHLTC



Is a LTC Home the “home” of the Resident?

Home: the fundamental principle

LTCHA s. 1. The fundamental principle to be applied in the interpretation of this Act and anything required or permitted under this Act is that a long-term care home is primarily the home of its residents and is to be operated so that it is a place where they may live with dignity and in security, safety and comfort and have their physical, psychological, social, spiritual and cultural needs adequately met.



Residents' Bill of Rights LTCHA s. 3

3. (1) Every licensee of a long-term care home shall ensure that the following rights of residents are fully respected and promoted:
 2. **Every resident has the right to be protected from abuse.**
 9. Every resident has the right to have his or her participation in decision-making respected.
 14. **Every resident has the right to communicate in confidence, receive visitors of his or her choice and consult in private with any person without interference**
 27. **Every resident has the right to have any friend, family member, or other person of importance to the resident attend any meeting with the licensee or the staff of the home.**



LTC Homes

- Are private property BUT are described as “homes” of the residents in legislation BUT Residents don’t have same degree of control over premises as in a tenancy
- Right to have visitors in s. 3 LTCHA
- Licensee can’t use Trespass notice to block visitors to residents if residents want the visitors as the resident is also an “occupant” as defined under Trespass to Property Act
- SDMs cannot limit access to resident except in LIMITED circumstances



What if someone is denied entry?

- It depends ... on reason for refusal, authority of person refusing , circumstances of the incident, who is seeking access, whether person seeking access has power or duty by statute or common law or some other “authority” ...
 - Contact Administrator
 - If part of chain, contact Chain management/lawyer
 - Contact MOHLTC
 - Authority of another SDM (or person who could apply to be an SDM that trumps authority of existing SDM)



Mandatory Reporting of Abuse in LTC Homes

24. (1) A person who has reasonable grounds to suspect that any of the following has occurred or may occur shall immediately report the suspicion and the information upon which it is based **to the Director**:

1. Improper or incompetent treatment or care of a resident that resulted in harm or a risk of harm to the resident.
2. Abuse of a resident by anyone or neglect of a resident by the licensee or staff that resulted in harm or a risk of harm to the resident.
3. Unlawful conduct that resulted in harm or a risk of harm to a resident.
4. Misuse or misappropriation of a resident's money.
5. Misuse or misappropriation of funding provided to a licensee under this Act or the *Local Health System Integration Act, 2006*.



LTCHA – When does this Duty Apply?

- When victims/ potential victims are residents in a LTC Home licensed by MOHLTC. See list of LTC Homes in Ministry of Health and LTC Homes Website at <http://publicreporting.ltchomes.net/>
- Also when there is actual or potential misuse or misappropriation of funding provided to a long term care home licensee under this Act or the Local Health System Integration Act. For this reporting this may not involve a particular resident of the home but may be an action of the administration/licensee, whatever activity by whomever that is at the root of the actual or potential misuse or misappropriation of funding etc. that is being reported
- NOT only apply when residents are physically in the LTC home
- FOR EXAMPLE - Applies if resident of LTC home has gone to hospital for treatment and the persons providing care at hospital have reasonable grounds to believe patient was victim of abuse/ neglect at LTC home

LTCHA – Who has Duty to Report?

EVERYONE except residents including medical practitioners and others

- **(4) Even if the information on which a report may be based is confidential or privileged**, subsection (1) also applies to a person mentioned in paragraph 1, 2 or 3, and no action or other proceeding for making the report shall be commenced against a person who acts in accordance with subsection (1) unless that person acts maliciously or without reasonable grounds for the suspicion:
 1. **A physician or any other person who is a member of a College** as defined in subsection 1 (1) of the *Regulated Health Professions Act, 1991*.
 2. A person who is registered as a drugless practitioner under the *Drugless Practitioners Act*.
 3. **A member of the Ontario College of Social Workers and Social Service Workers.**



LTCHA- To Whom must this Report be made?

- **24 (1)** A person who has reasonable grounds to suspect that any of the following has occurred or may occur shall immediately report the suspicion and the information upon which it is based **to the Director**
- **DIRECTOR is a person at the MOHLTC not the “director” or administrator of the LTCH**



LTCH Employment Agreements and Policies cannot override Legislation

- Facility/ employment policies **cannot override** these requirements by requiring reporting only internally to management or cannot suppress or limit the reporting by a person, including staff, directly to the MOHLTC
- **Facility/ employment policies should be developed** and should include and support and reflect these requirements to directly report under the circumstances as set out in the legislation

What Else must be done besides making the Report?



Licensee of LTCH have a duty to protect residents from abuse and must ensure residents are not neglected by staff or the licensee

Licensees must have **policies** about Zero Tolerance of abuse that includes

- **a program, that complies with the regulations, for preventing abuse and neglect;**
- **procedures for investigating and responding to alleged, suspected or witnessed abuse and neglect of residents;**

Therefore internal to each LTC home there must be plans/ procedures to guide staff (and others) as to what to do if abuse/ neglect as defined in this act occurs or is suspected in addition to making the mandatory report to the MOHLTC



Police Notification

LTCHA Regulation S.98

Every licensee of a long-term care home shall ensure that the **appropriate police force is immediately notified of any alleged, suspected or witnessed incident of abuse or neglect** of a resident that the licensee suspects may constitute a criminal offence.

Substitute Decisions Act

"SDA"



To access full text of the legislation, go to
<http://www.e-laws.gov.on.ca>



SDA- Includes Voluntary Reporting to OPGT

- Substitute Decision Act is one of two acts (Health Care Consent Act being the other) that details the law on mental capacity, Powers of Attorney, guardianship and substitute decision making
- **SDA includes voluntary reporting to the OPGT that a person who is believed to be mentally incapable and is experiencing or at risk of serious harm, either to their property or their person.**
- OPGT then may investigate and may take steps to become that person's guardian or take other steps to assist the person



SDA – Voluntary Reporting re: “serious adverse effects” to property

27 (1) Loss of a significant part of a person's property, or a person's failure to provide necessities of life for himself or herself or for dependents, are serious adverse effects for the purposes of this section.

Duty to investigate

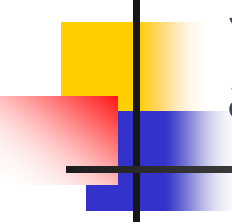
(2) The Public Guardian and Trustee shall investigate any allegation that a person is incapable of managing property and that serious adverse effects are occurring or may occur as a result.

Extent of investigation

(3) In conducting an investigation under subsection (2), the Public Guardian and Trustee is not required to take any steps that, in his or her opinion, are unnecessary for the purpose of determining whether an application to the court is required under subsection (3.1).

Application for temporary guardianship

(3.1) If, as a result of the investigation, the Public Guardian and Trustee has reasonable grounds to believe that a person is incapable of managing property and that the prompt appointment of a temporary guardian of property is required to prevent serious adverse effects, the Public Guardian and Trustee shall apply to the court for an order appointing him or her as temporary guardian of property.



SDA – Voluntary Reporting re: “serious adverse effects” to the person

62 (1) Serious illness or injury, or deprivation of liberty or personal security, are serious adverse effects for the purposes of this section.

Duty to investigate

(2) The Public Guardian and Trustee shall investigate any allegation that a person is incapable of personal care and that serious adverse effects are occurring or may occur as a result.

Extent of investigation

(3) In conducting an investigation under subsection (2), the Public Guardian and Trustee is not required to take any steps that, in his or her opinion, are unnecessary for the purpose of determining whether an application to the court is required under subsection (3.1).

Application for temporary guardianship

(3.1) If, as a result of the investigation, the Public Guardian and Trustee has reasonable grounds to believe that a person is incapable of personal care and that the prompt appointment of a temporary guardian of the person is required to prevent serious adverse effects, the Public Guardian and Trustee shall apply to the court for an order appointing him or her as the incapable person’s temporary guardian of the person.



What YOU need to give information about for the OPGT to investigate

The Public Guardian and Trustee shall investigate any allegation that a person is incapable of managing property (or personal care) and that serious adverse effects are occurring or may occur as a result.

1. Evidence that the victim is incapable of managing property or personal care.

NOTE : This evidence **does not need** to be a capacity assessment by a capacity assessor or other detailed assessments. May be observations of behaviours, from your interaction with person. May be observations and evidence of other people.



What YOU need to give information about for the OPGT to investigate

2. Evidence that “ serious adverse effects” **are occurring or may occur** as a result.

What are “ serious adverse effects” ?

27. (1) Loss of a significant part of a person's property, or a person's failure to provide necessities of life for himself or herself or for dependents, are serious adverse effects for the purposes of this section.

62. (1) Serious illness or injury, or deprivation of liberty or personal security, are serious adverse effects for the purposes of this section

So Think of what evidence / information you can provide to the OPGT orally, in writing to show this? Note that the losses/ harms may be POTENTIAL as well as actually occurring



Privacy

- There are **MANY** misunderstandings about privacy law
- YOU need to understand the requirements for privacy both from legislation and from professional codes of practice



Privacy

- **A full discussion of privacy law is beyond this presentation however the basic principles are that**
 - **you must get consent for the collection, use and disclosure of private information,**
 - **a person may give or refuse consent about their own information,**
 - **if a person is not capable the SDM as defined in the particular applicable privacy legislation may give or refuse consent and**
 - **the legislation may provide for exceptions to consent when consent is not required to release of information**



Privacy Legislation – Examples of sections that permit disclosure

Personal Health Information Protection Act 2004

43 (1)A health information custodian may disclose personal health information about an individual,

- (a) for the purpose of determining, assessing or confirming capacity under the *Health Care Consent Act, 1996*, the *Substitute Decisions Act, 1992* or this Act;....
- (e) to the Public Guardian and Trustee, ..so that they can carry out their statutory functions;



Privacy Legislation – Examples of sections that permit disclosure

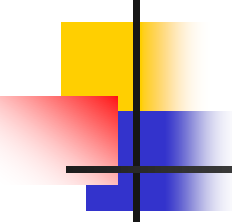
Personal Health Information Protection Act 2004

40. (1) A health information custodian may disclose personal health information about an individual if the custodian believes on reasonable grounds that the disclosure is necessary for the purpose of eliminating or reducing a significant risk of serious bodily harm to a person or group of persons.



Other reasons (other than capacity) why people fail to seek help or refuse help?

1. They may not understand the options available to them.
2. They may think that they are no other options except to put up with the abuse.
3. They may not trust the person who is seeking to help them.
4. The person seeking to help may not know all the options or may be trying to impose a particular option on them that they don't want to pursue



Other reasons (other than capacity) why people fail to seek help or refuse help?

5. The person seeking to help may be setting up barriers unknowingly that prevents the person from agreeing to the help offered.
6. The person may need time to consider the options and may be willing to take help but at their own pace, a pace that is different than the person offering the help.
7. The person offering the help may have done things that cause the person needing help to distrust them i.e.. taking direction from an abusing caregiver instead of the victim or disclosing information to the abuser that the victim did not want to be disclosed.

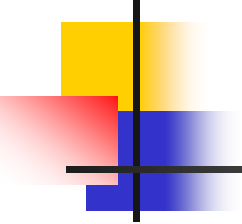


Other reasons (other than capacity) why people fail to seek help or refuse help?

- Shame, guilt, fear of reprisal
- fear of police and court system
- fear of not being believed
- don't realize they are being abused
- don't know their rights in a system
- cannot see an alternative to the situation
- are not aware of support services that could help
- fear of being “placed” in an institution



■ So now what...???????

- 
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- Thank you!
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