

New AGTA provides more support and protection for physicians

Specific Decision Making

Under the new *Adult Guardianship and Trusteeship Act* (AGTA), physicians can now use specific decision-making when a patient cannot provide informed consent for health care treatment or temporary admission to or discharge from a residential facility. This decision making option enables doctors to gain consent on the patient's behalf from a nearest relative on a ranked list.

Specific decision-making may be used when there is no guardian or personal directive in place and a time sensitive decision related to health care or temporary admission to or discharge from a residential facility is required and the patient lacks capacity to make this decision. The specific decision-making option is only used after the patient has been assessed as being incapable of providing informed consent for a specific decision and the health care provider has identified that a treatment or placement decision is needed. Specific decision making provides liability protection to physicians with concise and regulated forms.

The AGTA definition of health care allows specific decision making to include the concept of a treatment plan, which could be used in settings where the patient may require multiple interventions. It is not necessary to obtain separate consents for every "routine" ICU intervention. A new consent only needs to be sought if the patient's condition changes significantly enough to warrant revisiting the situation. There is also no time limit set on the duration of consent for health care decisions—the time frame may be set by the physician depending on clinical need.

If there is no nearest relative, the Office of the Public Guardian (OPG) may act as a specific decision maker as a last resort. The OPG provides decision making services during regular business hours and offers a 24/7 service for situations that are urgent in nature by calling 1-877-427-4525.

Emergency Decision Making

The emergency decision-making provision under AGTA is designed to allow physicians to make treatment decisions to preserve life, to alleviate severe pain or prevent serious physical or mental harm when no one, including the patient, can provide consent. The physician shall, if practicable, obtain the written opinion of a second physician or registered nurse before providing the emergency health care to the patient to confirm the health care is necessary.

The definition of health care under the AGTA was deliberately kept as broad as possible in order to allow maximum flexibility. Similarly, the AGTA does not define what clinical conditions constitute an emergency, but outlines broad categories pertaining to preserving life, preventing physical or mental harm, alleviating pain, etc. The expectation is physicians will use their clinical skills and expertise to determine what constitutes an emergency situation versus 'semi-urgent' or 'non-urgent, but necessary' care.

If the patient is unable to provide informed consent, ascertain whether the situation fulfills the criteria for emergency health care. If it does, and if there is no decision-maker available (e.g., guardian, agent, or family member who could be selected as a specific decision maker), proceed with the two physicians or one physician and one nurse as per the consent process.

Visit www.seniors.alberta.ca/opg for more information or to contact the Office of the Public Guardian.

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