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## MEMORANDUM

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TO: Medical Staff and Leaders, Vancouver Coastal Health  
Regional Emergency Services Council

COPY: Senior Medical Directors  
Client Relations and Risk Management  
VCH / PHC Respecting Client Wishes Committee

FROM: Dr. Patrick O'Connor  
Vice President Medicine, Quality and Safety

DATE: August 26, 2011

SUBJECT: **New "Advance Directives" to have legal effect in British Columbia  
September 1<sup>st</sup> 2011**

### Summary:

Effective September 1, 2011, new legislation will come into force in BC, providing new opportunities for capable patients to make their wishes and instructions known. VCH policy, guidelines, and tools are being revised to reflect this change, and further education will be provided.

### Detail:

Effective September 1, 2011, legislation in British Columbia will enable capable adults to provide written **instructions directly to care providers**, in addition to the current ability to provide for their family or other substitute decision maker a verbal or written expression of their **wishes, which are to be followed by substitute decision makers**, in the event the adult is not capable of providing their own consent decision. Additional guidance and resources will be made available to VCH health care providers as it becomes available.

The adult's consent instructions found in the new document established in legislation, called an "Advance Directive" are to be followed by a health care provider if

1. the adult is not capable of making the decision, and
2. the document speaks directly to the health care decision at hand,
3. has two witnesses, and
4. does not appear to have been made when the adult has already become incapable of making the decision.

The primary difference between this document and other forms of advance care planning documents is that previously, providers were to rely on consent decisions made by *someone on behalf of the incapable adult* (known as a Temporary Substitute Decision Maker, or Representative). This new document – when applicable to the situation - removes the need for the 'temporary substitute decision maker' and enables the adult, through the document, to provide instruction directly to a health care provider. If the document does not apply to the situation, or is not duly executed, its content does remain guidance to a substitute decision maker, on whom the health care provider will rely for a decision. There are other changes taking place on September 1 also, notably that the statutory list from which a Health Care Provider may choose Temporary Substitute Decision Maker is broadened to clarify the status of grandparents and grandchildren, and to add close friend, and anyone immediately

related to the adult by marriage. Remaining as a last resort for those adults with no family or close friends is the Office of the Public Guardian and Trustee.

The Ministry of Health is creating a comprehensive guide for British Columbians describing advance care planning options, including Representation Agreements, Advance Directives and other less formal expressions of wishes (such as the Advance Care Plan directed for a Temporary Substitute Decision Maker (TSDM), which currently enables adults to provide guidance to their substitute decision maker). This guide will be available to the public in September, in both hardcopy and on line.

The Ministry of Health has also produced the attached *Health Care Providers' Guide to Consent to Health Care*, a copy of which will early next week be available on the VCH intranet along with some other educational resources. Current guidance concerning advance care planning is found at [http://www.vcha.ca/programs\\_services/client\\_relations/advancecareplanning/page\\_90651.htm](http://www.vcha.ca/programs_services/client_relations/advancecareplanning/page_90651.htm).

In the coming weeks you will see more announcements about Advance Care Planning from VCH, the Ministry of Health and other partners. BCMA has posted a blog with links to a BCMA information booklet describing the legislative changes: <http://www.bcmj.org/blog/advance-directives-health-care-consent-laws-are-changing>. This information booklet will be distributed with the September issue of *BCMJ*.

VCH policies, guidelines, and forms are being changed to reflect the change in legislation, and providers will be welcome to learn more about the changes in upcoming educational events. The first of these VCH events is on September 29, from 1000 to 1200h. "*Getting Our Acts Together: A legislative update on consent, guardianship and planning statutes*" will provide an overview of the legislative changes, live at VGH with videoconferences to various VCH and Providence sites. Please register through the VCH Course Catalogue Registration System at <https://ccrs.vch.ca/>

For questions on the Advance Care Planning implementation at Vancouver Coastal Health, please contact [advancecareplanning@vch.ca](mailto:advancecareplanning@vch.ca).