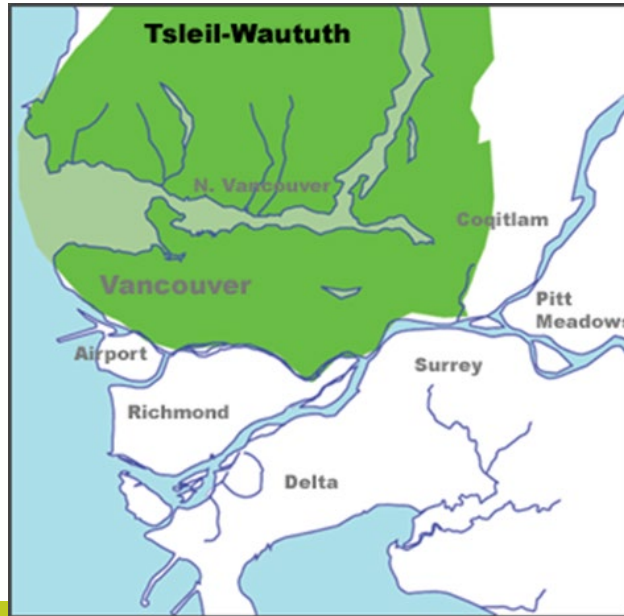


We would like to acknowledge that we are gathered today on the traditional territories of the Musqueam, Squamish and Tsleil-Waututh peoples.

Source: www.ihomaps.net/na/canada/bc/vancouver/firstnations/firstnations.html



Adult protection in a health care setting- the doctor's role

Dr. Heather D'Oyley

Geriatric Psychiatrist, STAT Centre

Amanda Brown

Director, ReAct Adult Protection Program

Learning objectives

- Define adult protection and what makes an adult vulnerable
- Outline BC's legislative framework
- Articulate your statutory obligations within VCH
- Explain when to consult/refer with your Designated Responder (DR) or Designated Responder Coordinator (DRC)
- Identify the legal tools available under the Adult Guardianship Act (AGA)

What is Adult Protection?

- "adult in need of protective intervention" – Adult Protection Act, Newfoundland and Labrador
- “social services provided to abused, neglected, or exploited older adults and adults with significant disabilities” – USA

Not just older adults

NEWS Rights + Justice Housing

BC Government Grilled on Killing of CLBC Client

Opposition and advocate call for independent review after Tyee report.



[Andrew MacLeod](#) / 3 Jun 2022 / [TheTyee.ca](#)

Andrew MacLeod is The Tyee's Legislative Bureau Chief in Victoria and the author of *All Together Healthy* (Douglas & McIntyre, 2018). Find him on [Twitter](#) or reach him at amacleod@thetyee.ca.

Nurse facing 8 murder charges now accused of trying to harm 6 more patients

Charges of attempted murder and aggravated assault against Elizabeth Wettlaufer announced Friday

Questions abound after dead hoarder found buried in debris

It's very strange. The police are here on scene and they're investigating as well'

By Rafferty Baker, [CBC News](#) Posted: Feb 04, 2016 9:06 AM PT | Last Updated: Feb 04, 2016 10:53 PM PT

'Vulnerable' B.C. senior loses home, hundreds of thousands in equity after city sold house over unpaid taxes

Sexual abuse of disabled adults revealed

By Jane Bradley
BBC Victoria Derbyshire programme



Woman had the money to cover

🕒 18 May 2015 | UK

🔗 Share

[Rhianna Schmunk](#) · CBC News · Posted: D



Thousands of disabled adults across England have been sexually abused, figures obtained by the BBC's [Victoria Derbyshire](#) programme suggest.

There were 4,748 reports of sexual abuse against adults with disabilities over the past two years, information from 106 councils in England found.

Purpose of Adult Protection Laws

- To provide supports and assistance to adults who may not be able to keep themselves safe from harm
- To ensure that adults receive just the right amount of support while respecting autonomy, rights, personhood
- To ensure society does not abandon people who are less able to take actions to be safe from harm

Adult Guardianship Act

Part 3

- Age 19 or over, except for those in correctional facilities
- Abused, neglected and self-neglected **and** unable to seek support and assistance due to:
 - Physical restraint
 - A physical handicap that limits their ability to seek help
 - An illness, disease, injury or other condition that affects their ability to make decisions about the abuse and neglect

Designated Agencies MUST

- Look into the situation
- Involve that adult as much as possible
- Provide most effective, least intrusive forms of support and assistance
- Keep the identity of the person who made the report confidential
- Report criminal offences
- Use court as last resort

Abuse

- Deliberate mistreatment resulting in:
 - Physical, mental or emotional harm
 - Damage to or loss of assets

May include: intimidation, humiliation, physical or sexual assault, overmedication, withholding of medications, censoring of mail, denial of access to visitors, denial of privacy

Neglect

- Any failure to provide necessary care, assistance, guidance or attention that causes (or is likely to cause) serious physical, mental or emotional harm OR substantial damage to or loss of assets
....within a short period of time

Self-Neglect

- ❑ Failure of an adult to take care of themselves that causes (or is likely to cause) serious physical or mental harm OR substantial damage to or loss of assets ***within a short period of time***
- ❑ *May include:*
 - ❑ *Grossly unsanitary conditions*
 - ❑ *Suffering from an untreated health condition, malnutrition to extent that physical or mental health is severely impaired*
 - ❑ *creating a hazardous situation that will likely cause harm to themselves or others or damage assets*
 - ❑ *dealing with assets in a manner likely to cause damage or loss of assets*

Legislative Framework for Adult Protection

- Mental Health Act
- Adult Guardianship Act
- Representation Agreement Act
- Health Care (Consent) and Care Facility (Admission) Act
- Patients Property Act
- Power of Attorney Act
- Criminal Code of Canada
- Community Care and Assisted Living Act
- Public Health Act

Why are we doing this work?



Patient Story:

- 74 year old woman has delusions about personal and financial affairs
- Delusions led to not paying taxes or strata fees, and forced sale of apartment
- Referrals were made to home health and older adult mental health, but adult declined service and file closed
- Physicians and teams reluctant to get involved

What was the problem?

- An adult protection lens was not appropriately applied

Happy Ending!

- An escalation to leadership resulted in obtaining necessary assessments to save her from homelessness

Material included in this deck is privileged and confidential under s. 51 of the Evidence Act. Not for disclosure outside of the quality structure.

What question are you trying to answer?

- Is this adult safe?
- Is this adult capable:
 - To make health care treatment decisions?
 - To make financial decisions?
 - To make personal decisions?
 - To get married?
 - To refuse life-sustaining interventions?
 - To make decisions to be with a person who abuses?
 - To take care of their ADLs and IADLS?
 - To find their way in the community without supervision?
 - To refuse psychiatric treatment?
 - To sign an AMA form?

Committee of Person and Estate

- *Patients Property Act* – the Committee has all the rights and privileges and powers that the adult would have if of sound mind
- The adult or “patient” has been declared legally incapable
- Overrides/Suspends Power of Attorney and Representation Agreements
- In other jurisdictions this is known as a Guardian or Conservator



John was in a MVA when he was 22 and suffered a traumatic brain injury that affects his executive functioning. He is disinhibited, has angry outbursts, lacks insight and judgment into his own safety and frequently has been picked up by the police. His parents applied to the court to become his Committee of Person and Estate and make all of his personal care, health care, financial, and legal decisions.

Representation Agreements

- Have different authorities for different purposes
- Do not override a capable adult's decisions and rights
- Representatives need to follow the duties in the RAA
- Always ask for a copy to review scope of authority
- RA7 and RA9 have different capability criteria.

Jenni has bipolar disorder and FAS. Jenni trusts her brother Dan and gave him a Representation Agreement (Sec.7). Sometimes when Jenni is off her medications, her boyfriend convinces her to give him money. Dan has used his RA7 to set limits on cash withdrawals at the bank and he makes sure that her rent is paid.

EXAMPLE

Temporary Substitute Decision Maker (TSDM)

- Health Care (Consent) and Care Facility (Admission) Act
- Provides for criteria, conditions, hierarchy, and responsibilities for someone to provide consent for health care when an adult is not capable of providing consent



Greg is 21 and lives with schizophrenia. He jumped off a moving train and sustained multiple fractures in his spine, pelvis, hip, and leg that would require multiple surgeries. Once he was stabilized on pain medicine and given the information about the proposed treatment he declined it because “God is telling me not to; he will help me to walk again”.

Other Tools for Helping Adults to be Safe

- Mental Health Act
- Substitute Decision Maker (Health Care/Care Facility Admission)
- Power of Attorney
- Advance Directive
- Statutory Property Guardianship



[Capability and Consent Tool - BC Edition](#)

- Available at www.vchreact.ca

Tools MHA

- Mandate & criteria
- Voluntary Admission
- Involuntary Admission
- Emergency Procedures (Sec. 28)
- Warrant
- Consent scheme for treatment
- Rights notifications
- Extended Leave
- Review Panel

vs Tools AGA

- Mandate & criteria
- Power to Investigate
- Access order
- Warrant to enter/interview
- Restraining Order
- Emergency Provisions (Sec. 59)
- Support and Assistance Plan
- Support and Assistance Order

Emergency Provisions under AGA – Section 59

- The designated agency may
 - 1) enter any premises where the adult may be located
 - 2) remove the adult and convey to a **safe place**
 - 3) provide the adult with emergency health care
 - 4) inform the PGT that the adults finances need immediate protection
 - 5) take any other emergency measure that is necessary to protect the adult from harm

*****Section 59 requires a signature by a DR/DRC*****

MHA

vs

AGA?

1. Does the person have a mental disorder?
2. Is psychiatric treatment required in/through a designated facility?
3. Is it required to prevent substantial mental/physical deterioration or to protect self/others?
4. Is voluntary admission suitable?

Two Pivotal Questions:

1. Is there abuse, neglect, self neglect?
2. Is the adult unable to seek support and assistance?
3. Emergency Assistance only:
 - A. Do we have to act without delay to preserve life or to prevent serious harm?
 - B. And, is the adult incapable to consent?

Some of the benefits of AGA compared to MHA

- Provides authority to investigate – this includes the right to information – strong concerns must be reported to DR
- Mandates a response to abuse, not just self-neglect
- May take an adult to a “safe place” not only a designated psychiatric facility
- Includes provisions to provide emergency health care, not only psychiatric treatment
- Not reliant on assessment by physician in past 14 days
- Presumption of capability and principles allow for least intrusive interventions
- Protection of assets is an important aspect of AGA

Statutory Property Guardianship (AGA 2.1)

- Provides for criteria, conditions, standards, rights notifications of an adult to be certified as incapable of managing finances for when the Public Guardian and Trustee (PGT) will taking over the financial affairs



Alice is a 63 year old woman who lives alone in a self owned condominium. The PGT was notified by the strata's lawyer that they were applying for a court order to sell the property for non-payment of fees. Upon investigation, it was determined that she believes that everything has been paid and she refuses to participate in an assessment. She functions well in most other aspects of her life, she was not committable under MHA nor followed by MH.

VCH Adult Protection Policy



re:act
Adult Protection Program

**act on
adult abuse
and
neglect**

**it's your
duty!**

re:port

At VCH every employee has a responsibility to act.

Call your unit social worker, mental health therapist, continuing care case manager, program manager/ practice consultant, or licensing officer.

Please visit our intranet website to learn more or submit a report using React SLS:
www.vchreact.ca

or call:
1-877-REACT-99
(1-877-732-2899)

- Every VCH/PHC employee has a responsibility to act in situations of suspected abuse, neglect or self-neglect
- Recognize the risk factors, indicators, safety issues
- Report to the Social Worker, Designated Responder, Designated Responder Coordinator, or ReAct

Social Worker's Role...

Social Work Role:

- Understand and communicate psychosocial situation
 - Speaking with the adult & psychosocial assessment
- Exploration of identified concerns
 - Understanding of capacity specific to decision and legislation
 - Two pivotal questions
- Consultation
 - Role of Social Work versus Designated Responder
 - Discuss with Social Work Practice/ReAcT if further investigation is required

Designated Responder's Role...

Designated Responders

- Identified by leadership, onboarded and trained by ReAct
- Usually (but not all):
 - Hospital and LTC Social Workers
 - Community Mental Health Clinicians
 - Home Health Case Managers
 - Licensing Officers * investigate complaints under CCAL Act works with DR for other adult protection issues
 - Care Home Consultants
 - Assisted Living Case Managers
- VGH, North Shore, and PHC have Adult Protection Leads

Designated Responders

- Interview the adult
- Conduct the investigation
- Assess urgency
- Intervene using adult protection tools
- Develop a support and assistance plan



Two pivotal questions

Is the adult abused,
neglected, or self-
neglected?

Can the adult seek support
and assistance?

Physician Role....

Your role is key

Physician Responsibilities

- Screen for abuse, neglect and self-neglect
- Refer/Liaise with Designated Responder or Designated Responder Coordinator (list on www.vchreact.ca)
- Assess ability to seek support and assistance specific to the suspected A/N/SN (*Note: the final determination is by the Designated Responder*)
- Consider which legislation best applies (MHA vs AGA, POA vs RA vs SPG)
- Diagnose and treat conditions that impact capacity
- Complete medical component of SPG assessment (when requested by PGT)
- Offer support and assistance

3 Physician Roles under AGA

1. Incidental finding of serious abuse, neglect, or self neglect (PART 3)

Contact Designated Responder/PGT

Section 59 vs MHA, if imminent

2. Patient referred for assessment by Designated Responder (under abuse/neglect) or referral from PGT or ReAct (PART 3)

Variable MD role / Liaise with Designated Responder

3. Completion of the Medical Component is requested by the PGT (PART 2.1)

Complete Medical Component

3 Physician Roles Under AGA

- Statutory Obligation to Respond
 - ***...NOT Sufficient to Say “Not Certifiable Under Mental Health Act” if there are significant protection issues***
 - ***...either for 1st contact VCH mental health staff or MD***
 - ***...if concerned, contact your Designated Responder***

Please don'ts...

- Do not disclose the identity of the reporter of abuse/neglect
- Do not write global opinions of capability/incapability that are not related to a specific decision or function
 - Instead, ask the referral source the purpose of the assessment and what is the legal intervention anticipated
- Do not refer all financially incapable adults to the PGT as a first option – there is a process for exploring lesser intrusive means of supporting adults first
- Do not hesitate to contact us, we are in this together!

ReAct Intranet Site

The screenshot shows the ReAct Intranet Site interface. At the top, there is a navigation bar with the following items: Policies and Manuals, Programs and Services (highlighted), Sites, Employee Engagement, Learning and Development, and About VCH. Below this is a breadcrumb trail: VCH Connect > Programs and Services > ReAct Adult Protection Program > Designated Responder Coordinators and Designated Responders. The main heading is "ReAct Adult Protection Program". On the left is a sidebar with a menu including: ReAct Adult Protection Program, What is Abuse and Neglect and Self-Neglect, Report & Respond to Abuse & Neglect, Designated Responder Coordinators and Designated Responders (highlighted), Assess and Act on Abuse and Neglect of Vulnerable Adults, Statutory Property Guardianship, AGA Policies Protocols Practice Guidelines and Manuals, Education Training Conferences and Events, ReAct Coordinating Teams, ReAct News, First Nations ReAct, ReAct Materials, ReAct Community Partners, Research and Additional Reading, and Contact Us. The main content area has a sub-heading "Designated Responder Coordinators and Designated Responders" and a blue box with the re:act logo and the text "designated responder coordinators and designated responders". Below this is a section titled "DESIGNATED RESPONDER COORDINATORS APRIL 2015" with a paragraph of text.

Contact Us:

1-877-ReAct-99

www.vchreact.ca

ReAct@vch.ca





Questions?