

EDUCATION



Legal Notes

By Donna Neff, B.A. (Hon.), LL.B., T.E.P. and Natalie Sanna, B.A. (Hon.), LL.B

How to cope successfully when mom or dad can't go home

Making the decision to move a mentally incapable parent into a long-term care facility is, without doubt, one of life's more trying experiences. Riding an emotional roller coaster makes navigating this difficult decision all the more difficult. One of the best ways of coping with this stressful situation is to ensure you have as much information as possible before you decide.

Consider the situation where your parent is in hospital and his or her doctors have stated that returning home is not an option. Your parent is incapable of making a decision regarding his or her long-term care and has appointed you, the adult child, as substitute decision maker.

Applications to long-term care facilities must go through a local Community Care Access Centre (CCAC), a provincial organization. The first step is a determination of eligibility. The law provides for a placement coordinator, who is an employee of the CCAC, to be assigned to each case. The placement coordinator is required by law to determine eligibility for long-term care and to authorize the admission if the person is found to be eligible. It is important to note that

the placement coordinator is not permitted to ask someone else to act in his or her place (or 'delegate') any of his or her duties and responsibilities.

The next, and most difficult, step is to determine which facilities will best meet the needs and wishes of your parent and apply for admission. You, on behalf of your parent, are allowed to choose up to five facilities and be placed on the waiting lists for those facilities. You may make changes or withdraw an application to a particular home at any point in the process up until an offer of a bed is made.

Many hospitals have developed policies regarding a patient's admission to a long-term care home. They have done so in an attempt to deal with the on-going issue of bed shortages, an all too common problem in our hospitals today. Generally, these policies outline restrictions and/or requirements with respect to a patient's choice of long-term care home.

Many patients may be told of a hospital's policy that says a patient must choose a home from a short list or that a patient must accept the first bed that becomes available in any facility. This is commonly referred to

as a hospital's 'first available bed' policy. Often, the patient or his or her substitute decision maker is asked to sign a document indicating his or her understanding and agreement with this policy. There is no legal requirement for the patient or a substitute decision maker to sign any such document.

In some instances, placement coordinators may refuse to take a person's application if the hospital's policies were not complied with, for example, if the 'first available bed' policy was not agreed to. If this happens, it is contrary to prevailing law, as the CCAC and its employee, the placement coordinator, are not required by law to consider the views of the hospital nor the hospital's policies. By law, a placement coordinator is not entitled to restrict a person's choice in any way.

When making the final decision as to which facility to accept, there is nothing in the law to restrict a patient's choice; in other words, a person's right to choose which facility is most appropriate for them is absolute. As substitute decision maker, it is your legal duty to act as per your parent's wishes, if you know what he or she would have wanted. If not, then you

must make a decision that you believe is in the best interests of your parent.

Successful coping requires making difficult decisions in the midst of emotional turmoil. Armed with information about the process for admittance to a long-term care facility and your parent's rights, you will be able to cope successfully and make the best possible decisions for your parent. For more information, we would refer you to articles by Jane E. Meadus, which can be found at www.advocacycentreelderly.org.

Donna Neff, B.A. (Hon.), LL.B., T.E.P., is a lawyer at Neff Law Office Professional Corporation practicing primarily in the areas of wills, estates, and trusts. Follow Donna on Twitter: www.twitter.com/donnaneff

Natalie Sanna, B.A. (Hon.), LL.B., is a once-practicing lawyer who works as a Law Clerk for Neff Law Office Professional Corporation. She works with Donna and her clients to implement estate plans and prepare wills and powers of attorney that address the client's goals in providing for children, elderly loved ones, persons with disabilities, and charitable causes.

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