PRACTICE ADVICE

CHANGES TO THE HEALTH CARE CONSENT ACT IMPACTING AUDIOLOGISTS AND SPEECH-LANGUAGE PATHOLOGISTS

EFFECTIVE: FEBRUARY 2019

CHANGES TO THE *HEALTH CARE CONSENT ACT* IMPACTING AUDIOLOGISTS AND SPEECH-LANGUAGE PATHOLOGISTS.

The Government of Ontario made changes to the *Health Care Consent Act 1996* (HCCA) in April 2018 regarding the confining of individuals in a care facility.

HCCA CHANGES:

Capacity

4 (1) A person is capable with respect to a treatment, admission to or confining in a care facility or a personal assistance service if the person is able to understand the information that is relevant to making a decision about the treatment, admission, confining or personal assistance service, as the case may be, and able to appreciate the reasonably foreseeable consequences of a decision or lack of decision. 2017, c. 25, Sched. 5, s. 56.

WHAT DOES THIS MEAN FOR AUDIOLOGISTS AND SPEECH-LANGUAGE PATHOLOGISTS?

- Audiologists and SLPs are in the group of regulated professionals who can evaluate capacity to consent to treatment, admission to a care facility and personal assistant service. Now audiologists and SLPs can evaluate whether an individual has the capacity to consent to confining in a care facility.
- A care facility refers to a Long-Term Care facility. The HCCA does not include confining in hospitals, complex continuing care units or retirement homes.
- *The Long-Term Care Homes Act 2007 (LTCHA)* outlines "confining" in section 30.1

(2) The confining of a resident may be included in a resident's plan of care only if all of the following are satisfied:

1. There is a significant risk that the resident or another person would suffer serious bodily harm if the resident were not confined.

2. Alternatives to confining the resident have been considered, and tried where appropriate, but would not be, or have not been, effective to address the risk referred to in paragraph 1.

3. The method and degree of confining are reasonable, in light of the resident's physical and mental condition and personal history, and the method and degree are the least restrictive of the

reasonable methods and degrees that would be effective to address the risk referred to in paragraph 1.

4. A physician, registered nurse or other person provided for in the regulations has recommended the confining.

5. The confining of the resident has been consented to by the resident or, if the resident is incapable, by a substitute decision-maker of the resident with authority to give that consent.

6. The plan of care provides for everything required under subsection (3). 2017, c. 25, Sched. 5, s. 6.

- If an audiologist or SLP finds an individual incapable to consent to confining, then this process must be followed:

Consent on incapable person's behalf

54.5 (1) If a person is found by an evaluator to be incapable with respect to confining in a care facility,

(a) consent to confining may be given or refused on the person's behalf by his or her substitute decision-maker in accordance with this Act; and

(b) the licensee shall take reasonable steps to ensure that the person is not confined in the care facility unless the licensee is of the opinion that the person's substitute decision-maker has given consent on the person's behalf in accordance with this Act. 2017, c. 25, Sched. 5, s. 60.

QUESTIONS?:

If you have any further questions regarding the HCCA or LTCHA, please contact the Practice Advice Team http://www.caslpo.com/members/resources/practice-advice