

RELEASE OF PERSONS IN CARE FROM A RESIDENTIAL CARE FACILITY



COMMUNITY CARE FACILITIES LICENSING PROGRAM

This information is being provided to assist licensees in the development of an appropriate policy for their facility regarding the release of a person in care from a licensed facility.

Section 58 of the Residential Care Regulation states:

- (1) A licensee must ensure that a person in care is not
 - (a) Released from the community care facility to, or
 - (b) Removed from the community care facility by any person except the person in care's parent or representative, or a person authorized in writing by that person.
- (2) Subsection (1) does not apply to the release or removal of a person in care in accordance with the care plan of the person in care or another pre-existing arrangement.

Section 78(3)(b) of the Residential Care Regulation states that a licensee must have and keep with each person in care's record, consent in writing from the person in care or a parent or representative of the person in care:

- (b) in the case of a child, to release the child to someone other than the child's parent.

Section 85(2)(f) of the Residential Care Regulation states that a licensee must have written policies and procedures in respect of the release of children, youths and vulnerable adults from the community care facility including:

- (i) If a person who is authorized to remove the person in care from the community care facility appears to be incapable of providing safe care to the person in care, and
- (ii) If a person who is not authorized to remove the person in care from the community care facility requests the release of the person in care.

BACKGROUND:

The intent of these sections of the regulation is to ensure the safety of children, youths and vulnerable persons in care by establishing that only those persons who have been authorized in writing by a person in care, a parent, or a representative, are to be permitted to remove a person in care from a facility. Authorized persons can change from time to time in accordance with changes in living arrangements, custody orders, etc.

This requirement aims to provide additional safeguards to children, youths and vulnerable persons in care and to facility staff by ensuring that the licensee and staff are prepared to handle situations that may arise when someone other than the parent or authorized person arrives to pick up a person in care.

GUIDELINES:

- In developing written policies as per Section 85(2)(f) of the Residential Care Regulation, the licensee may wish to consult with his/her solicitor.
- If a licensee is concerned about releasing a person in care to a person under a certain age, the licensee could develop a written policy that restricts the minimum age of the persons authorized by the parents, or representatives, to remove a person in care from the facility.

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- In situations when an individual who appears to be incapable of providing safe care, or is “not permitted access to a person in care”, attempts to remove a person in care from the facility, the licensee/staff member is obliged to consider the health and safety of all involved, including other persons in care, staff, and himself/herself. For the situation where an individual who appears to be incapable of providing safe care the policy could include offering to call a friend or relative to pick up the individual and the person in care.
- Policy should also address when staff will contact the police. If the licensee/staff member believes a person in care will be at risk, a report should be made to the police. If an individual chooses to drive a vehicle while impaired, staff should report this to the police.
- The licensee/staff should document the occurrence in the facility’s daily logbook.

REFERENCES:

Section 1 of the Residential Care Regulation refers to Section 1 of the Child Care Licensing Regulation, which defines “parent” as a person who in the case of a child or youth is:

- (a) the child’s guardian;
- (b) the person legally entitled to custody of the child; or
- (c) the person who usually has the care and control of the child.

Section 1 of the Residential Care Regulation defines a “representative” to mean a person who in the case of an adult, has authority:

- (i) under the *Health Care (Consent) and Care Facility Admission Act* or the *Patients Property Act* or
- (ii) under an agreement under the *Representation Agreement Act*

to make health or personal care decisions on behalf of the adult, but nothing in this regulation confers on the person any greater authority to make health or personal care decisions than the person has under those Acts or an agreement under the *Representation Agreement Act*.