

Elder Care in Long-Term Facilities: The Powers of an Attorney for Personal Care in a Covid-19 Pandemic

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Residents of long-term care facilities are testing positive for the virus and are disproportionately experiencing extreme complications, often requiring hospitalization and ventilation. Loved ones are too often being kept in the dark. But a power of attorney for personal care changes the situation. If the ill person is no longer able to give their own help instructions or consent (because of dementia,, or incapacity) to health procedures, consent for the treatment is to be discussed and approved by the power of attorney for personal care.

This pandemic has made for many sensible changes and practices. For example, a doctor's appointment is now routinely a phone call. There is no reason why communication could not be by Facetime or Skype, which would allow for visual connection. The court system, which has rules about the possibility of video conference events rarely put this into effect until the crisis. Now they are able to schedule these events by video in an efficient and effective manner. Why can't the medical profession do the same?

There is no logical reason why a power of attorney for personal care cannot have some communication, even visual, with their loved one and the treating medical personnel. However, this requires "getting through" to the health providers. Even though this pandemic makes everything more challenging for health care providers, and riskier for them, the legal obligation for the medical profession to seek permission and consent from a power of attorney for personal care is still in effect.

The situation explains why having documents such as wills and powers of attorney in place for whatever crisis might arise is best.

To complete these documents in this crisis, the Ontario Government has passed emergency legislation that allows for the completion of wills, "living wills", and powers of attorney for property by video conference. However, a lawyer must be a witness to a will done in this manner. The person does not have to leave their home or facility.

If you wish to explore the options that are available, please contact us for further evaluation of your situation. You can send an email to contact@dershalawfirm.com and we will get in touch with you and explore options to get the best possible results!