Supporting choices when there is a risk of harm: ethical approach to decision making

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OBJECTIVES

✓ Define/describe risk, harm, and benefit of choice
✓ Know principles and steps involved in Supporting Choices DST
✓ Understand how to apply ethical analysis to aid decision making
✓ Apply learning to case example
What is Risk?

The chance or probability of a negative outcome or consequence of an action, inaction, behavior or decision

The notion of risk heavily value-laden
What is harm?

Anything that has a negative effect on the persons’ welfare.

The nature of the harm may be social, behavioural, spiritual, psychological, physical or economic.
Principles to aid Decision-Making

- Everyone has the same rights.

- No one has the right to make decisions that put others at risk.

- We all have the responsibility to provide safe and ethical care.

Residents’ bill of rights

Commitment to care
1. An adult person in care has the right to a care plan developed
   (a) specifically for him or her and
   (b) on the basis of his or her unique abilities, physical, social and emotional needs, and cultural and spiritual preferences.

Rights to health, safety and dignity
2. An adult person in care has the right to the protection and promotion of his or her health, safety and dignity, including a right to all of the following:
   (a) to be treated in a manner and to live in an environment that promotes his or her health, safety and dignity;
   (b) to be protected from abuse and neglect;
   (c) to have his or her physical and mental health respected and supported, and to pursue social, cultural, religious, spiritual and other interests;
   (d) to have his or her personal privacy respected, including in relation to his or her records, bedroom, belongings and storage spaces;
   (e) to receive visitors and to communicate with visitors in private;
   (f) to keep and display personal possessions, pictures and furnishings in his or her bedroom.

Rights to participation and freedom of expression
3. An adult person in care has the right to participate in his or her own care and to freely express his or her views, including a right to all of the following:
   (a) to participate in the development and implementation of his or her care plan;
   (b) to establish and participate as a resident or family council to represent the interests of persons in care;
   (c) to have his or her family or representative participate as a resident or family council on his or her behalf;
   (d) to have access to a fair and effective process to express concerns, make complaints or resolve disputes within the facility;
   (e) to be informed as to how to make a complaint to an authority outside the facility;
   (f) to have his or her family or representative exercise the rights under this clause on his or her behalf.

Rights to transparency and accountability
4. An adult person in care has the right to transparency and accountability including a right to all of the following:
   (a) to have ready access to copies of all laws, rules and policies affecting a service provided to him or her;
   (b) to have ready access to a copy of the most recent routine inspection report made under the Act;
   (c) to be informed in advance of all charges, fees and other amounts that he or she must pay for accommodation and services received through the facility;
   (d) if any part of the cost of accommodation or services is prepaid, to receive at the time of prepayment a written statement setting out the terms and conditions under which a refund may be made;
   (e) to have his or her family or representative informed of the matters described in this clause.

Scope of rights
5. The rights set out in clauses 2, 3 and 4 are subject to
   (a) what is reasonably practical given the physical, mental and emotional circumstances of the person in care;
   (b) the need to protect and promote the health or safety of the person in care or another person in care;
   (c) the rights of other persons in care.

These rights are posed pursuant to section 7(1)(c)(ii) of the Community Care and Assisted Living Act.
Ethical Analysis of Risk

Involves asking the following questions:

• Which principles are in conflict?
• Who is at risk of harm?
• What are the benefits?
• Is the person capable?
• What is the nature of risk of harm?
• Can the risk be brought to an acceptable level?
Supporting choices through informed decision-making and collaboration

Formerly “Risk of Harm: Supporting choices through informed decision-making and collaboration in Long Term Care Homes.”

Exclusions: For medical procedures and medical decisions refer to Consent to Health Care Policy.
For vulnerable adults who may/are unable to seek support and assistance, refer to Adult Protection: Abuse, Neglect, or Self-neglect of Vulnerable Adults Policy.
Persons who are self-harming and meet the criteria for certification under the Mental Health Act.

Site Applicability

- All VCH Community Services
- All VCH and PHC Long-term Care Homes

This guidance document is intended for people age 19 and over. If your matter concerns an individual under the age of 19, immediately consult with Risk Management

VCH Guideline: Supporting choice through informed decision-making and collaboration
http://shop.healthcarebc.ca/PHCVCHDSTs/BD-00-07-40103.pdf
“Is there a risk of serious harm to self and/or others?”

- **YES**
  - Identify all options to reduce risk to a level the care team can support and choose the option for intervention that best meets the **Five Ethical Considerations**
  - **Is the person/SDM agreeable to the intervention?**
    - **YES**
      - Team supports choice and implementation in partnership with the person/DSM
    - **NO**
      - Support choice, monitor, reassess as required and document

- **NO**
  - **Is there risk of Harm to Others?**
    - **YES**
      - Team implements those interventions that reduce the Risk of Harm and best meet the **Five Ethical Considerations**
    - **NO**
      - Does the person have capacity in respect the risk of activity to self?
        - **YES**
          - Person decides and team supports choice. Teams are obligated to offer advice to the person about how to reduce harm
        - **NO**
          - Team and SDM decide on interventions to reduce harm to tolerable level or not to support and try to find substitute activity

**On-going Evaluation:** A plan for on-going evaluation must be part of the interventions

**Documentation:** The team must document in the person’s record/chart following the documentation guidelines in the DST. This documentation must be shared with the person/DSC as a “shared plan.”
When determining whether an activity/behavior can be supported, the nature and likelihood of the risk of harm needs to be balanced with a consideration of benefits of the activity and how the person's wishes can be met.

“Is there a realistic risk of serious harm to self and/or others?”
## Risk of Harm Assessment Matrix

<table>
<thead>
<tr>
<th>Value</th>
<th>Description</th>
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<tbody>
<tr>
<td>5</td>
<td>Catastrophic</td>
</tr>
<tr>
<td>4</td>
<td>Serious</td>
</tr>
<tr>
<td>3</td>
<td>Moderate</td>
</tr>
<tr>
<td>2</td>
<td>Minor</td>
</tr>
<tr>
<td>1</td>
<td>Insignificant</td>
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<table>
<thead>
<tr>
<th>Likelihood</th>
<th>Description</th>
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<tbody>
<tr>
<td>1</td>
<td>Rare</td>
</tr>
<tr>
<td>2</td>
<td>Unlikely</td>
</tr>
<tr>
<td>3</td>
<td>Moderate</td>
</tr>
<tr>
<td>4</td>
<td>Likely</td>
</tr>
<tr>
<td>5</td>
<td>Certain</td>
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### Increasing Likelihood of Harm
- Consider what can be done now as an alternative that would meet the person's immediate needs

### Proceed with Caution
- Consider alternatives

### Risk of Harm is Tolerable
- Consider harm to others and whether the person is capable

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### Appendix C: Benefit/Risk Worksheet

Complete this worksheet with the person/SDM. Use reverse as guide for asking questions to explore person's wishes, strengths and options (See Appendix D for tips).

Using the Risk Assessment Matrix in Appendix B, what is the Likelihood and the Degree of Severity of harm? Likelihood ________ Severity/Consequence

<table>
<thead>
<tr>
<th>I value this activity</th>
<th>The benefits I get from this activity are:</th>
<th>The risks to me when I do this activity or can be:</th>
<th>How I can enhance my quality of life (strengths)</th>
<th>How I will manage the risk / set up for success</th>
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Page 12 of 13
5 Ethical Criteria

Intervene *only* if it will be
- Effective
- Benefits > harm
- Non-discriminatory
- Least intrusive
- If at all possible, thought justified by person upon whom it is imposed
Make & Document Decision

The process and reasoning for coming to a decision should be documented in the chart.
Case Scenario

• Hans is an 80 year old man living in a LTC home for 3 years. He was diagnosed with Parkinson’s disease (PD) 5 years ago.

• He loves all food, especially regular textured foods. However, he is at risk of choking due to swallowing difficulties related to PD.

• Hans is capable of making his own feeding decisions. Staff have spoken with him about the risks and recommend a thickened fluid diet.

• He continues to want to be able to eat the foods he loves as eating brings him comfort. His daughter wants him to follow the recommended diet.

• He has had several choking events that have been very distressing for other residents and staff.

• Staff are also worried that they might be liable if something happens to Hans.
Small Group Discussion

What is the key ethical issue(s) in this scenario?

What should the team do?

Are there possible ways to reduce risks and honor choice?
Recap

- Everyone has a right to make a choice as long as it does not cause harm to others

- There is an ethical framework to follow a thorough benefit/risk assessment and support choices whenever possible

- Reach out to VCH Ethics Services anytime for education opportunities and ethics consults
  - Learning Hub
  - SHOP

- Reach out to LTC Education Coordinators for further educational support
THANK YOU!!

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