

HEALTH CARE RIGHTS

in British Columbia provincial prisons

This booklet explains what health care rights you have as a provincial prisoner in British Columbia and how to make sure your rights to health care are protected.

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Right to health care

The warden of your institution must ensure that you are given reasonable access to health care.¹ Health care services must be available to all prisoners.²

Health care services are provided by qualified personnel who must be registered with a professional regulatory body, such as the College of Physicians and Surgeons of BC, the College of Psychologists of BC or the College of Registered Nurses of BC.³

The purpose of health care services is “to treat illness, injury and disease to restore or improve the health of the inmate, recognizing differences in gender, age and culture”.⁴

Health care includes around the clock emergency health care and primary care, including prescription medicine. Essential dental care and prosthetic devices (e.g. glasses, hearing aids or knee braces) are provided only if you are a long-term prisoner, it is required and you cannot afford to pay for it yourself.⁵

Dental services are provided only if there is evidence of serious disease or injury that is curable or can be mostly relieved and there would be a serious potential for harm if care is delayed or denied.⁶

Requests for health care

To access health care services, use the Health Service Request eService. A nurse receives and processes requests made on this system daily.

If you are not able to make a request using the eService system, you can make a request on a Health Care Request Form and put it in the health care request mailbox. Keep a copy of your request. Make sure you date your request so that you have a record of when you submitted it. Requests are picked up every day by a nurse and delivered confidentially to the health care department.⁷

Informed consent

Health care providers should inform you of the nature, consequences, risks of and alternatives to proposed treatment, examination or procedures. This is called “informed consent”. You have the right to refuse treatment, and if you do, you have the right to be informed of the consequences of your refusal.⁸

Continuity of care

BC Corrections Branch policy provides for the right of continuity of care. That means that your health care should not be interrupted when you enter prison, are transferred between prisons or when you are released from prison.

All prisoners are provided a private health care assessment within 24 hours of intake by a nurse or doctor. Your

corrections historical health care file will be reviewed and off site files may be retrieved.⁹

You should make the health care professional you meet with aware of any medication you are prescribed and any conditions you have, including any mental health problems you have been diagnosed with. You should also identify any allergies you suffer from or if you require a special diet for any reason.

Confidentiality

In general, health care information should remain private and confidential. But it can be shared with corrections staff in certain cases, including if health care staff believe it is necessary for the safe management of the patient and the security of staff.

Your health care information can also be disclosed in the investigation of complaints or to defend legal actions brought against health care providers.¹⁰

Medication

When you enter prison, your medicine is given to the intake nurse, recorded in the Primary Assessment and Care information system and returned to your personal effects.

If you sign an Information Access Consent form, health care staff can confirm the medication you are prescribed on PharmaNet. This allows the doctor in the institution to confirm that you have been prescribed the medication in

the community, which should ensure that you continue to receive your medication.

Prescribed medicine is reviewed by the institutional doctor who decides whether to start, continue or stop medication.¹¹

The BC Corrections Branch uses a “Drug Formulary”, which is a list of generic drugs that doctors are allowed to prescribe from. Doctors are able to prescribe drugs that are not on the list if there is a good reason and there is no acceptable alternative on the list.

Discontinuation of medication due to diversion

“Diversion” happens when a prisoner gives his or her prescribed medicine to another prisoner, or takes medicine that was not prescribed to him or her.

If you are diverting your medicine, the doctor might think you do not need your medicine and might cancel your prescription.¹²

Corrections Branch Policy requires “**documented proof** of diversion by the patient” to be established before your prescription can be cancelled.¹³

Only doctors are allowed to change or discontinue medication. If a doctor decides to discontinue your medication over the telephone, you have the right to see the doctor at the next doctor’s clinic to discuss your medication needs.¹⁴

Self-administered medication

BC Corrections allows you to take some medication on your own. It will be given to you in a blister pack. This is called “self-administered medication”.

It is your responsibility to request refills one week before your prescription runs out.¹⁵ It is also your responsibility to make sure that your self-administered medication is included with your personal effects if you are transferred to another prison.¹⁶

You will not be allowed to self-administer your medication if a health care professional decides there is evidence that you are not taking it properly or are abusing it. Corrections staff can stop you from taking your own medicine but this decision must be reviewed by a nurse.

If you are stopped from taking your medication by yourself, it will be given to you by health care.¹⁷

Methadone

If you are on a methadone program when you come to prison, there should be no interruption in your treatment.¹⁸ Health care should also arrange for your methadone treatment to continue when you are released.¹⁹

You can start on a methadone program in prison if you:

- meet the criteria under the College of Physicians and Surgeons of BC Methadone Maintenance Handbook (ask your doctor if you meet the criteria);

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- you are interested;
 - you sign an agreement;
 - you will be in prison long enough to be stable; and
 - a doctor in the community commits to care for you when you are released.²⁰

If you are on methadone, you should be provided addiction therapy and counseling.²¹

Access to specialists and recommended treatment

The institutional doctor decides if you should see a specialist (including a psychiatrist) and if you should get any treatment recommended by the specialist. If a specialist recommends treatment and the institutional doctor does not agree with it, the doctor must record the reason in the Primary Assessment and Care information system.²²

If you are denied treatment recommended by a specialist, ask for the institutional doctor's reasons for denying you the treatment and call Prisoners' Legal Services for assistance.

Prisoners in segregation or medical observation

Prisoners in segregation should be seen by health care professionals and have the right to speak with them at least once in every 24 hour period.²³

Prisoners in segregation or medical observation with acute or evolving medical conditions should be monitored at least every shift.²⁴

Mental health care

The BC Corrections Branch should provide you with mental health screening, crisis intervention, basic mental health care and treatment, psycho-diagnostic assessment when indicated, and planning for post-release mental health care.²⁵

If you require mental health care while in custody, you can submit a Health Care Request form, or ask to speak with the Mental Health Liaison Officer who should be able to direct your request. If your request is denied, you can call Prisoners' Legal Services.

Prisoners at risk of suicide

Prisoners at risk of suicide should be given an increased opportunity to communicate with staff. It is recognized that “increased surveillance may not solve the problem or prevent suicide” and is “not as effective as personal contact and professional care”.

Staff may consider placing a prisoner at risk of suicide “in a dormitory setting to increase contact with other inmates who might provide support”.²⁶

Contact Prisoners' Legal Services if you are at risk of self-harm or suicide and you are placed in segregation against your wishes.

Resolving health care complaints

You can call Prisoners' Legal Services for help with medical complaints at any stage in the process.

It is usually best to try to resolve problems with health care staff directly. For example, if you do not understand why your doctor made a decision about your care, ask him or her to explain your treatment and to answer your questions. This can be the fastest way to resolve the problem.

If this does not solve your problem, you can make a formal complaint.

Keep detailed notes of your encounters with the staff person or health care professional you are having difficulty with. Include the time and date of when things happen, and direct quotes of what the person said to you. Ask the staff person or health care professional for their name if you do not know it and write it down. Keep all documents related to your health care complaint.

Complaints about access to health care

If your complaint concerns access to health care, your initial complaint should be made to the warden of your institution. For example, if you made a written request to see health care and your request was denied or unanswered, your complaint concerns access to health care.

You can submit your complaint to any staff person who must give it to the warden without undue delay.²⁷

Make sure you get a carbon copy of your complaint form that shows you gave it to a staff person on the date you handed it in. If the staff person does not give you a carbon copy, copy the complaint out onto another form and ask the staff person to sign and date your copy of the form. Keep the extra copy of your complaint so you can prove you handed it in on that date.

The warden has 7 days to investigate your complaint. He or she must tell you, in writing, of the decision without undue delay.²⁸

If the problem is not resolved, you can make a complaint to the Investigation and Standards Office (ISO).²⁹

Staff must forward your complaint to ISO without delay.

ISO can make a recommendation to the warden about your complaint. There is no legal requirement that the warden follow the recommendation.

If the warden does not follow a recommendation of ISO, you can call Prisoners' Legal Services for assistance.

Complaints about health care providers

If your problem relates to the conduct of a health care provider, your initial complaint can be made to ISO.

Mark your complaint to ISO as a "Health Care Complaint". If your problem is urgent, mark it as such. ISO will forward your complaint to the medical director or the director of mental health services of the Corrections Branch. ISO will

likely address your issue quickly if it is an urgent health care issue.

If the problem is not resolved, or ISO concluded that the health care provider acted inappropriately, you may wish to pursue a complaint with the professional regulatory body that the health care provider is registered with.

You can make a complaint directly to the professional regulatory body if you do not want to complain to the Investigation and Standards Office first. But it can take a long time for complaints to be resolved through professional regulatory bodies.

Doctors (including psychiatrists), nurses and psychologists are regulated by professional regulatory bodies. The purpose of professional regulatory bodies is to ensure that the public is protected by requiring health care professionals to act professionally and ethically in accordance with specific codes of conduct.

A regulatory body may recommend that a physician change aspects of his or her practice, issue remedial advice or reprimands or restrict a physician's ability to practice medicine. They do not usually give a successful complainant monetary compensation.

You can call Prisoners' Legal Services for advice or assistance in making a complaint about a medical professional.

Getting legal help

You can contact Prisoners' Legal Services for advice or assistance in making a health care complaint. For assistance from Prisoners' Legal Services, you must have a referral from the Legal Services Society. Contact their call centre

at 604-681-9736. Once you have a referral, you can call Prisoners' Legal Services directly at 604-636-0464.

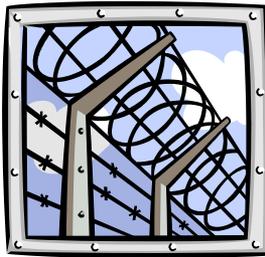
Prisoners' Legal Services phones are open Monday to Friday from 9:00 a.m. to 11:00 a.m. and from 1:00 p.m. to 3:00 p.m.

Endnotes

- ¹ *Correction Act Regulation*, s. 2.
- ² BC Corrections Branch – Adult Custody Division, Health Care Services Manual (Health Care Services Manual), s. 1.
- ³ Health Care Services Manual, s. 1.7.4.
- ⁴ Health Care Services Manual, s. 1.1.
- ⁵ Health Care Services Manual, s. 1-5.
- ⁶ Health Care Services Manual, s. 4.1.
- ⁷ Health Care Services Manual, s. 1.15.1 and BC Corrections Branch – Adult Custody Division, Adult Custody Policy Manual, s. 9.1.16.
- ⁸ Health Care Services Manual, s. 1.14.
- ⁹ Health Care Services Manual, s. 1.11.
- ¹⁰ Health Care Services Manual, s. 1.10.
- ¹¹ Health Care Services Manual, s. 7.
- ¹² Health Care Services Manual, s. 7.18.2.
- ¹³ Health Care Services Manual, s. 7.18.3.
- ¹⁴ Health Care Services Manual, s. 7.18.4-5.
- ¹⁵ Health Care Services Manual, s. 8.8.
- ¹⁶ Health Care Services Manual, s. 8.10.
- ¹⁷ Health Care Services Manual, s. 8.4.
- ¹⁸ Health Care Services Manual, s. 10.1.
- ¹⁹ Health Care Services Manual, s. 10.9.
- ²⁰ Health Care Services Manual, s. 10.4.

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- ²¹ Health Care Services Manual, s. 10.6.
- ²² Health Care Services Manual, s. 1.16.
- ²³ Health Care Services Manual, s. 1.20.
- ²⁴ Health Care Services Manual, s. 1.20.
- ²⁵ Health Care Services Manual, ss. 2.3.
- ²⁶ Health Care Services Manual, s. 3.7.
- ²⁷ *Correction Act Regulation*, s. 37(1).
- ²⁸ *Correction Act Regulation*, s. 37(2).
- ²⁹ *Correction Act*, s. 28(2)(d).

**This publication contains general information only.
Each situation is unique. Law and policy can also
change. If you have a legal problem, contact
Prisoners' Legal Services or a lawyer.**



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