

FAQs on Consent to Treatment

Information for Patients, Caregivers, and the Sinai Health Community

The following information is for patients cared for in Ontario.

Prepared by the Department of Bioethics

■ What is consent in health care?

Consent is agreement to a treatment and/or a plan of care. You may be asked to sign a form, but most often consent is verbal.

■ What is informed consent?

Informed consent requires having all the information you need to make a decision.

The health care professional who proposes the treatment must give you the information a reasonable person would need to make the decision and answer any questions you have. If the health care professional determines that you are not capable of making a treatment decision, your substitute decision maker(s) (SDM) will be asked to consent.

■ When must consent be obtained?

Consent must be obtained whenever treatment is proposed by a health care professional.

■ What is treatment?

Treatment means anything done for any of these reasons:

- **Therapeutic:** to make you better when you are sick or injured (e.g., medication or surgery)
- **Preventive:** to keep you from getting sick (e.g., the flu shot)
- **Palliative:** to keep you comfortable if you are dying (e.g., pain medication)
- **Diagnostic:** to understand the illness or injury (e.g., an x-ray or blood test)
- **Cosmetic:** to change your looks (e.g., teeth whitening treatment).

■ Treatment can include:

- **Course of treatment:** a series of similar treatments given over a period of time (e.g., dialysis, wound therapy)

- **Plan of treatment:** developed by one or more health professionals to deal with one or more of the health problems that you have now, and are likely to have in the future; and that provides for not starting or stopping of treatment (e.g., post-surgery treatment, treatment for stroke)
- **Community treatment plan:** developed with mental health patients, their team and substitute decision maker (SDM) to provide care in the community.

■ What are the 4 components of consent?

1. Consent must relate to the proposed treatment (consent for one treatment does not necessarily mean consent for another treatment);
2. Consent must be informed (the information that must be provided is described below);
3. Consent must be given voluntarily (no one should feel pressured into making the decision); and
4. Consent must not be obtained through misrepresentation or fraud (the information given must be accurate and unbiased).

■ What information should be provided?

By law, the health-care professional should explain:

1. The type of treatment and what it involves;
2. The expected benefits of the treatment;
3. The risks of the treatment (including those that are common, as well as those that are less common but serious);
4. The side effects of the treatment (including those that are common, as well as those that are less common but serious);
5. Alternative (different) courses of action; and
6. The likely consequences (results) of not having the treatment.

■ How is decision making capacity involved?

To give consent, you need to be capable. This means you are able to:

- Understand the information relevant to the decision and
- Appreciate what might happen as a result of making or not making the decision.

■ Who gives consent?

Consent should be obtained from you, the patient, if you are capable. If you are incapable, consent will be obtained from your substitute decision maker.

■ When is consent not necessary?

In an emergency, health-care professionals may treat without consent if:

- You are not able to provide consent
- Your substitute decision maker(s) is not able to provide consent
- There is no reason to believe that you do not want the treatment (e.g. Do Not Resuscitate Order); and
- Waiting to provide the treatment until consent is given would cause you to suffer or be at risk of serious harm.

You and/or your substitute decision maker(s) will be informed of any emergency treatments that were provided.

■ Can I refuse treatment?

Yes. If you are capable you may refuse a proposed treatment, even if this decision does not appear to be in your best interests. When a capable patient refuses consent to treatment, even if the treatment is life-sustaining, treatment will not be provided.

Before withholding the proposed treatment, health care professionals will make every effort to ensure that you have been fully informed, understand the nature of the treatment decision, and are aware of the results of your decision.

■ Does refusing treatment mean the patient is incapable?

No. Patients have the legal right to refuse treatment. Health care professionals cannot assume the patient is incapable because they disagree with the patient's decision.

Some refusals do cause health care professionals to wonder whether the patient has decision-making capacity. A professional who thinks the patient does not truly understand the consequences of refusing treatment will need to carefully check the patient's capacity.

■ Types of consent:

Consent to treatment may be implied (understood) or expressed, either verbally or in writing.

- **Implied consent:** Many treatments are carried out with implied consent. For example, it is common for a patient to make an appointment with a doctor, keep the appointment, tell the doctor about a health problem, answer questions about the health problem, and agree to physical exam. In these circumstances, the patient has given implied consent for the exam.
- **Expressed consent:** Expressed consent may be spoken or written. Health care professionals often ask for expressed consent when the treatment is likely to be painful or when it carries risk (for example, surgery or invasive tests). Written consent is also common when medication (for example, anaesthesia) will significantly alter the patient's level of consciousness during the treatment.

Glossary

Consent and Capacity Board: An independent body that ensures fair access to consent and capacity issues.

Capable: A person is capable if able to understand the information relevant to the decision and appreciate what might happen as a result of making or not making the decision.

Decision Making Capacity: The ability to make an informed choice regarding a decision.

Substitute decision maker: A person given the authority to give or refuse consent on behalf of an incapable person.

Treatment: Anything that is done for a therapeutic, preventive, palliative, diagnostic, cosmetic or other health-related purpose, and includes a course of treatment, plan of treatment or community treatment plan.

Resources

Information about informed consent can be found on the following websites:

Health Care Consent Act

<https://www.ontario.ca/laws> (search Health Care Consent Act)

Consent and Capacity Board

www.ccboard.on.ca/

References

Health Care Consent Act. 1996

Provincial Advocate for Children and Youth. The Ultimate Health Rights Survival Guide: A step-by-step guide for young people. Making your own health decisions and what to do when you can't make your own decisions. 2014.

http://provincialadvocate.on.ca/documents/en/IDC_SurvivalGuide_EN.pdf

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