

# A Guide to Informed Consent to Treatment

***A patient's kidneys are failing and a decision about whether or not to begin dialysis needs to be made soon.***

***Breast reduction surgery has been offered to a patient as a treatment option for her chronic back pain and discomfort.***

***Although twice daily dressing changes have been ordered for a patient, he consistently refuses his evening dressing change.***

## What is informed consent?

Before treatment can be started in each of these cases, the patient's consent or agreement to do so must be obtained. If the patient is not capable of making the treatment decision, consent is sought from their substitute decision-maker(s).

By law, the healthcare professional proposing treatment is required to give the information that a reasonable person would require in order to make a decision about the treatment. The healthcare professional is also required to answer any questions the patient or substitute decision-maker(s) might have regarding the treatment.

By having this information, the patient or the substitute decision-maker(s) can make an informed decision to consent or refuse to consent to the treatment.

## When must consent be obtained?

Consent is required for anything 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.

## What are the elements of consent?

1. It must relate to the treatment (consent for one treatment does not necessarily imply consent for another treatment);
2. It must be informed (the kind of information to be provided is described below);
3. It must be given voluntarily (a person should not feel pressured or forced into making a particular decision); and
4. It must not be obtained through misrepresentation or fraud (the information given should be accurate and unbiased).

## What information should be provided?

By law, the healthcare professional should provide the following information:

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 are serious);
4. The side effects of the treatment (including those that are common, as well as those that are less common but are serious);
5. Alternative courses of action; and
6. The likely consequences of not having the treatment.

## Who can provide consent?

In order to provide consent, the person must be able to understand the information and appreciate the consequences of the treatment decision. This is referred to as capacity.

It is the responsibility of the healthcare professional proposing the treatment to determine if the person has capacity to consent to the treatment. A person's capacity to make decisions may vary depending on the complexity and risks associated with the treatment. Capacity may also vary over time due to the person's physical and psychological condition.

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If the healthcare professional finds that a patient does not have the capacity to make a decision, consent will be sought from a substitute decision maker(s). The substitute decision maker(s), often a family member, will receive the same information as a patient. For more information on substitute decision-making see the Regional Ethics Program Brochure: "A Guide to Substitute Decision-Making."

In Ontario you do not have to be a certain age to be allowed to consent to treatment. If a person is able to understand the information related to the treatment and appreciate the consequences of the treatment decision then the person can consent to the treatment.

## When is consent not required?

In an emergency situation, treatment can proceed without consent if:

- The patient is unable to provide consent;
- The patient's substitute decision-maker(s) is not able to provide consent;
- There is no reason to believe the patient does not want the treatment; and
- Waiting to provide the treatment until consent is obtained would cause the patient to suffer or be at risk of serious harm.

The patient or substitute decision-maker(s) will be informed about any emergency treatments that were provided.

## Can an individual refuse to consent to treatment?

Individuals who are capable may refuse to consent to a proposed treatment, even if this decision does not appear to be in their best interests. If a capable individual refuses to consent to treatment, even if it is life-sustaining, it should not be provided.

Prior to withholding the proposed treatment, every effort should be made to ensure that the individual has been fully informed and that he/she understands the nature of the treatment decision, and is aware of the consequences of the decision.

## Additional Resources

More information about informed consent can be found on the following websites:

**Consent and Capacity Board of Ontario**  
[www.ccboard.on.ca](http://www.ccboard.on.ca)

**Health Care Consent Act**  
<https://www.ontario.ca/laws/statute/96h02>