WHAT ARE THE PREREQUISITES TO INFORMED CONSENT?

A person must be capable of providing informed consent. Unless one has reasonable grounds to believe that an individual is incapable, there is a presumption of capacity.

According to the Health Care Consent Act, 1996, a person is capable with respect to a treatment if the person is:

(a) Able to understand the information that is relevant to making a decision about the treatment; and

(b) Able to appreciate the reasonably foreseeable consequences of a decision or lack of decision.

Decision-making capacity may vary according to the complexity and seriousness of the proposed treatment. Capacity may also vary across time due to the individual's underlying physical and psychological condition (e.g., dementia, depression) or treatment that he/she is receiving (e.g., sedation).

There is no minimum age of consent in Ontario. If the individual is capable as described above, they can consent (or refuse to consent) to a treatment or plan of care.

CAN AN INDIVIDUAL REFUSE TO CONSENT TO TREATMENT?

Individuals may refuse to consent to a proposed treatment or plan of care, 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 treatment, every effort should be made to ensure that the individual understands the nature of the treatment decision and appreciates the consequences of the decision.

ONLINE RESOURCES INCLUDE:

Consent and Capacity Board
http://www.ccboard.on.ca/
Health Care Consent Act
https://www.ontario.ca/laws/statute/96h02

*This guide provides general information about the current law in this subject area. However, legal information is not the same as legal advice, where legal advice is the application of law to an individual's specific circumstances. Although we have tried to ensure that the information in this guide is accurate and useful, we recommend that you consult a lawyer if you want professional legal advice in this subject area that is appropriate to your particular situation.

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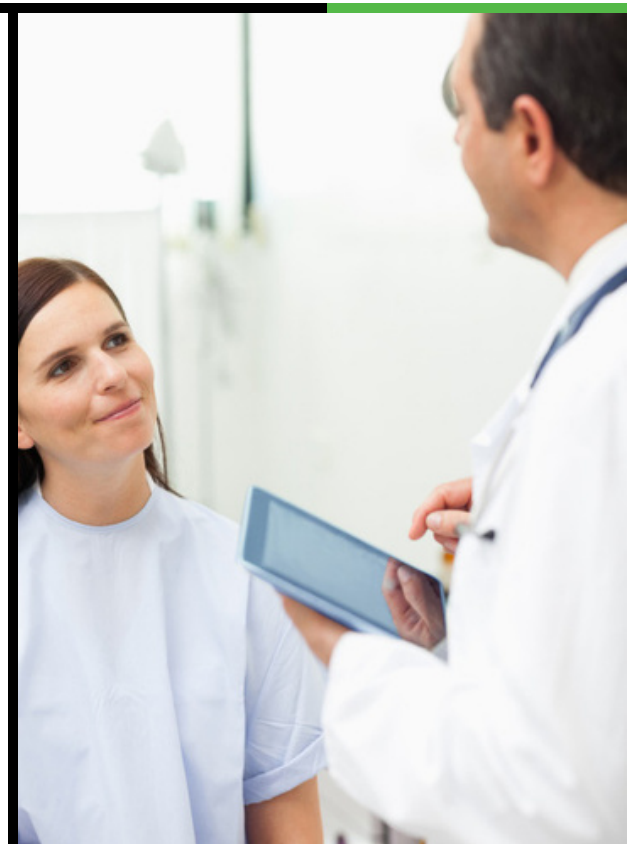

Informed Consent to Treatment

A quick guide for healthcare consumers & healthcare providers

RUNNYMEDE HEALTHCARE CENTRE

Informed Consent to Treatment

INFORMED CONSENT

John Smith'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 Alice Santos as a treatment option for her chronic back pain and discomfort.

Although twice-daily dressing changes have been ordered for Peter Jones, he consistently refuses his evening dressing change.

In each of the above situations, before a treatment has begun, the informed consent or permission of the individual is needed to carry out the prescribed or recommended treatment or plan of care.

But what does "informed consent" really mean? When is informed consent necessary? What kind of information must be provided?

The purpose of this document is to provide some information for healthcare consumers and providers by addressing these questions and providing suggestions for additional resources.

The Health Care Consent Act 1996 outlines the legal requirements related to consent to treatment, and these have been included where appropriate.

WHAT IS INFORMED CONSENT?

Providing consent means that an individual agrees with the proposed treatment or plan of care. According to the Health Care Consent Act, 1996, a consent to treatment is informed if, before giving it,

(a) the person received the information about that matter that a reasonable person in the same circumstances would require in order to make a decision about the treatment;

(b) the person received responses to his or her requests for additional information about those matters.

WHAT ARE THE ELEMENTS OF CONSENT TO TREATMENT?

According to the Health Care Consent Act 1996, the following elements are required for consent to treatment.

1. The consent must relate to the treatment (consent for one particular treatment does not necessarily imply consent for any other treatment)

2. Consent must be informed (required information is described in the next section)

3. The consent must be given voluntarily (an individual should not feel coerced or pressured into making a particular decision)

4. The consent must not be obtained through misrepresentation or fraud (information given should be accurate and unbiased)

WHAT INFORMATION NEEDS TO BE PROVIDED?

The Health Care Consent Act 1996 outlines the type of information that needs to be provided as follows:

1. The nature of the treatment
2. The expected benefits of the treatment
3. The material risks of the treatment
4. The material side effects of the treatment
5. Alternative courses of action
6. The likely consequences of not having the treatment

WHEN MUST CONSENT BE OBTAINED?

According to the Health Care Consent Act, 1996, consent is required for:

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.

WHEN IS CONSENT NOT REQUIRED?

There are certain emergency situations where consent is not required for treatment. In the Health Care Consent Act, 1996, an emergency is defined as a situation in which the person is experiencing severe suffering or is at risk of sustaining serious bodily harm. Health care practitioners should follow up with patients and substitute decision-makers when treatment is administered in an emergency situation.