

AP0500 Informed Consent to Care and Treatment

POLICY

Valid informed consent will be obtained before a health care treatment, procedure or operation is provided to a patient at Children's & Women's Health Centre of British Columbia (C&W). Valid informed consent will also be obtained in certain other circumstances identified later in this document.

There is no minimum age of consent. Health care providers are encouraged to involve children and adolescents in the discussions involving their health and treatment. Where it is clear that the child or youth is competent to consent to treatment and that the treatment is in his/her **best interest**, the health care provider will obtain consent from the patient.

Written consent is obtained for treatments of significant risk. Treatment that warrants documented consent includes but is not limited to:

- invasive medical, diagnostic or investigative procedures, such as surgery, and
- administration or refusal of blood products.

PROCEDURE

1. The **most responsible medical staff member** (physician, dentist or midwife) will obtain consent for the proposed treatment, including the medical/surgical procedure, the preparatory care leading up to the procedure and the care required following the procedure. The most responsible medical staff member may ask another medical staff member or a resident or fellow to conduct the consent discussion with the patient, parent, legal guardian or **substitute decision-maker** (SDM). The accountability for ensuring informed consent for treatment is obtained remains with the most responsible medical staff member.

Consent is for provision of a specific treatment by the specified medical staff member; no one else may provide the treatment, and no other type of treatment may be provided without first obtaining consent. Additional or alternative treatment may be provided without obtaining consent only if:

- the health care that was consented to is in progress, **AND**
- the previously capable patient is unconscious or semi-conscious, **AND**
- the additional or alternative health care is medically necessary to deal with conditions that were unforeseen when consent was given.

ALL three of these conditions must be met for additional/alternative treatment to be provided without obtaining consent.

2. In accordance with **consent rights** and **presumption of capability**, consent must be obtained from the appropriate person, specifically:

- the patient if they are a **capable adult** or a **capable minor**,
 - a parent or legal guardian in the case of a **minor who is not capable**, or
 - an SDM in the case of an **adult who is not capable**.
3. The **valid informed consent process** must be followed to ensure that the patient (or parent, legal guardian or SDM) is provided with a clear understanding of a proposed procedure or treatment and the options available, in the context of the clinical needs of the patient.
4. The **criteria for valid informed consent** must be met, as follows:
- consent must be specific to the proposed health care (a specific procedure, or course of treatment),
 - consent is given voluntarily without coercion or incentive,
 - consent is not obtained through misrepresentation or fraud,
 - the patient is capable of deciding whether to have or refuse the proposed health care (*NOTE: If a capable minor refuses health care that health care providers believe to be in the minor's best interest, additional steps described under **Minor – Refusal of Treatment – Capable Minor** may need to be taken.*), and
 - the health care provider provides the information a reasonable person requires to make the health care decision, including:
 - condition for which health care is proposed,
 - nature of proposed health care (i.e. methods),
 - risks and benefits of proposed health care that a reasonable person would expect to be told and that are material to the patient,
 - alternative courses of health care, and
 - the patient is given the opportunity to ask questions and receive answers about the proposed health care.
5. When appropriate, the patient (or parent, legal guardian or SDM) will give **written consent** by signing a **consent form** to indicate they have a clear understanding of the proposed procedure or treatment and the options available and are aware of and accept the associated risks. The patient's signature may be witnessed by the **most responsible medical staff member** (physician, midwife or dentist) or delegate (resident or fellow) obtaining informed consent or by another member of the health care team (i.e. nurse, physiotherapist). In the latter case, the witness will ascertain that the patient is satisfied with the information they have been given by the medical staff member or delegate and that all of their questions have been answered prior to having the patient sign the form. If this is not the case, the witness should notify the medical staff member or delegate to ensure the **criteria for valid informed consent** are met.

DOCUMENTATION

When written consent is required, the appropriate consent form should be used. The **most responsible medical staff member** and all other care providers are strongly encouraged to document in the patient's health record the discussions that take place as part of the informed consent process. This documentation should include the nature of the health care proposed, the risks, benefits and alternatives discussed with the patient, any specific additional issues or concerns that arose through the discussion and how they were addressed.

DEFINITIONS & REFERENCE INFORMATION – GENERAL

Consent Form

The signed consent form provides documentary evidence that the process of consent has taken place. The form is not the same as the consent process.

Consent Form Changes

If the patient (or parent, legal guardian or SDM) changes the terms of the consent form in any way, the health care provider should:

- determine if the changes amount to refusal or withdrawal of consent, in which case treatment/care is not provided,
- inform the patient (or parent, legal guardian or SDM) of the risks of refusal or of the changes requested,
- if in agreement with changes, ask the patient (or parent, legal guardian or SDM) to initial and date changes in consent on the form and then add his/her own initials, and
- record the revised informed consent process in the health record.

Consent Rights

1. Every capable adult has the right to give, refuse, or withdraw consent to health care on any grounds, including moral or religious grounds, even if the refusal will result in death.
2. Every capable minor has the right to give consent to health care that is in his or her **best interest**.
3. Every patient has the right to be involved to the greatest degree possible in all case planning and decision making.

Criteria for Valid Informed Consent

The criteria for valid informed consent are:

- consent must be specific to the proposed health care (a specific procedure, or course of treatment),
- consent is given voluntarily without coercion or incentive,
- consent is not obtained through misrepresentation or fraud,
- the patient is capable of deciding whether to have or refuse the proposed health care (*Note: Further action is required if a capable minor refuses health care that the health care providers believe to be in the minor's best interest. Additional steps described under **Minor – Refusal of Treatment – Capable Minor**, may need to be taken.*), and
- the health care provider provides the information a reasonable person requires to make the health care decision, including:
 - condition for which health care is proposed,
 - nature of proposed health care (i.e. methods),
 - risks and benefits of proposed health care that a reasonable person would expect to be told and that are material to the patient,
 - alternative courses of health care, and
 - the patient is given the opportunity to ask questions and receive answers about the proposed health care.

Determining Capability

The health care provider is responsible for conducting an informal assessment of capability to consent to health care and/or securing formal assessments. Recommended guidelines for informally determining the adult's or minor's capability include that the patient:

- repeats and explains the health care in his/her own words or manner,
- provides clear, consistent and unambiguous answers to questions about the health care,

- provides consistent information,
- asks pertinent questions to indicate an understanding, and
- demonstrates he/she understands that the information being provided pertains to his/her own situation.

If the health care provider determines that the patient is not capable of consenting to the proposed health care, he/she should document the reasons for this determination in the patient's health record.

Formal assessments of competence ideally require repeated observations and ample time for reflection and consideration. Where there is a difficult judgment or dispute, a formal assessment should be undertaken.

Exceptions to Obtaining Consent (2 situations only)

1. Triage/ Preliminary Examination

The detailed rules regarding obtaining consent from the patient, parent, legal guardian or SDM do not apply to triage, preliminary examination, treatment or diagnosis as long as:

- the capable patient indicates he or she wants to be provided with health care, or
- in the absence of any indication by the patient, the adult's spouse, relative or friend or the minor's parent or legal guardian indicates that he/she wants the patient to be provided with health care.

2. Urgent/Emergency Health Care

Health care can be provided in an urgent/emergency situation without following the detailed rules regarding consent if:

- it is necessary to provide health care without delay in order to preserve the patient's life, prevent serious physical or mental harm or alleviate severe pain, **AND**
- the patient is incapable of giving or refusing consent (i.e. impaired by drugs or alcohol, unconscious or semi-conscious), **AND**
- the adult patient does not have a Committee of Person or Representative authorized to consent to health care, and who is capable of doing so and is available, **OR**
- the minor patient's parent or legal guardian is not present and every reasonable effort to contact them has been made (document efforts in the patient's health record), **AND**
- where practical, a second health care provider confirms the first health care provider's opinion about the need for health care and the patient's incapability.

ALL of the criteria described above must be met for health care to be provided without following the detailed rules of valid informed consent described on pages 1 and 2 of this policy. Where practical, it is recommended that the facts supporting the determination of an emergency situation be documented in the health record and checks for any medical alerts on the patient or in his/her possession are made.

Interpreters

Where the most responsible health care provider obtaining consent is unable to communicate with the patient in his/her language, an interpreter must be arranged. The identified interpreter must be qualified to interpret at a level commensurate with the complexity and seriousness of the treatment being proposed. If a professional interpreter is used, the interpreter will witness the consent form in the "Statement by Interpreter" section, indicating that the consent process was interpreted to the patient, parent, legal guardian or SDM who acknowledges in the interpreter's presence that he/she has been informed about the nature and purpose of the procedure and that all questions have been answered in a satisfactory manner.

Interpreters are available 24 hours a day through Interpretation Services at local 3402. If an interpreter is needed for a deaf or hard of hearing patient, telephone the Medical Interpreting Service at 736-7012 (pre-booking) or 736-7039 for emergencies and/or from 1700 hours to 0900.

Major Health Care

Major health care, under the *Health Care (Consent) and Care Facility (Admission) Act*, is defined as:

- major surgery, including abortion,
- any treatment involving a general anesthetic,
- major diagnostic or investigative procedures, and
- any health care designated by the *Health Care Consent Regulations* as major health care, including:
 - radiation therapy,
 - antineoplastic therapy or drugs of similar toxicity,
 - kidney dialysis,
 - electroconvulsive therapy, and
 - laser surgery.

Most Responsible Medical Staff Member

Members of the Medical Staff are physicians, dentists and midwives (defined as “practitioners” under the *Hospital Act*). The most responsible medical staff member, usually the attending physician, is the individual who initiates treatment and is best able to provide information that will allow the patient to understand fully all the aspects of the treatment decision. In accordance with the C&W Medical Staff Rules, the attending physician, dentist or midwife is responsible for obtaining informed consent. This individual may obtain the patient’s consent for the course of treatment which will be provided by the medical staff member and the rest of the health care team involved in care of the patient. The most responsible medical staff member may delegate the consent process to another health care provider (physician, dentist, midwife, resident or fellow). The accountability for ensuring that the **valid informed consent process** is followed and that the **criteria for valid informed consent** are met remains with the most responsible medical staff member.

Telephone Consent

The **valid informed consent process** must be used when consent is obtained by telephone. If a consent form must be completed, two separate individuals will confirm with the patient, parent, legal guardian or SDM on the phone that consent is given and that all of the **criteria for valid informed consent** are met. The consent form itself must be read to the consenting person and the two individuals must sign the form.

Valid Informed Consent Process

Consent is a process by which a patient (or parent, legal guardian or SDM) is provided with a clear explanation of a proposed procedure or treatment and the options available, in the context of the clinical needs of the patient.

Verbal Consent

Where verbal consent is obtained, it is advisable that there be formal documentation of the informed consent process in the patient’s health record of the fact that the proposed treatment, risks, benefits and alternative treatments were discussed and the patient (or parent, legal guardian or SDM) provided consent to the proposed treatment. This process

and its documentation is the responsibility of the most responsible staff member. Every member of the health care team who provides any aspect of treatment and care to the patient should, as a standard of practice, identify themselves to the patient and confirm the patient consents to the specific aspect of treatment.

Written Consent

Written consent is required for all invasive, surgical, medical and diagnostic procedures and for the administration or refusal of blood products. When written consent is obtained, the form becomes a component of the patient's health record.

DEFINITIONS & REFERENCE INFORMATION – ADULTS

Adult

In the *Health Care (Consent) and Care Facility (Admission) Act*, an adult is defined as anyone 19 years of age and older.

Presumption of Capability

An adult is presumed to be capable of making his or her own health care decisions unless the most responsible medical staff member determines that the adult is not capable of making the particular decision or unless the adult is legally incapable (i.e. court has ordered a Committee of Person).

Obtaining Consent – Incapable Adult – Substitute Consent from A Committee of Person, Representative, Temporary Substitute Decision Maker or the Public Guardian and Trustee

If the adult is incapable of giving informed consent, the most responsible medical staff member documents the process taken to determine the adult is incapable. This information includes:

- information provided to the adult regarding his/her health, recommended health care, alternative health care options presented and the benefits and risks of the health care and benefits and risks of not accepting health care,
- any problems identified in communicating with the adult,
- steps taken to overcome communication problems,
- the extent of consultation with others (i.e. adult's spouse, any relative, friend or health care provider with appropriate expertise) in helping the adult to understand or to demonstrate an understanding of the information,
- the adult's expressed understanding of the information and that the information pertains to him/her, and
- problems encountered with the process.

The medical staff member tells the adult and any accompanying support person the result of the test of incapability. This may include explaining the reasons for the determination and answering the adult's questions.

The medical staff member then follows a specified hierarchy of **substitute decision makers** in order to choose an SDM for the adult. The hierarchy of SDM's is:

1. a Committee of Person or a Representative,
2. a Temporary SDM,
3. the Public Guardian and Trustee.

If a Temporary SDM is required, then the hierarchy described in Appendix 1 must be followed in the order it is written.

Substitute Decision Makers

Except in the cases of triage or emergency/urgent health care, consent must be received from someone on behalf of an adult who is incapable of providing consent for treatment or a procedure. There are two types of SDM's: formal (or prior authorized) and temporary. If neither of these is possible, there is the Public Guardian and Trustee.

1. Formal Substitute Decision Makers

Formal SDM's are legal appointments and are either Committees of Person or Representatives.

- **Committees of Person** are appointed under a Court Order.

When a substitute decision is being obtained from a Committee of Person, the Committee is asked to provide a copy of the Court Order naming him/her as the Committee of Person, and the Order is reviewed to determine the extent of the authority given to the Committee by the Court. An Advice of Substitute Decision Form and a Consent Form are signed by the Committee of Person.

- **Representatives** are appointed through a Representation Agreement.

A Representative is appointed by the patient under the *Representation Agreement Act*. A Representative has the power to make health care consent decisions consistent with the authorization set out in the Representation Agreement appointing him/her as the Representative. There are two levels of Representation Agreements:

- **Standard Agreements** (or Section 7 Representation Agreements).
Standard Agreements generally cover daily living and most health care decisions. They do not include decision-making powers regarding a decision to refuse life-supporting care or treatment.
- **Enhanced Agreements** (or Section 9 Representation Agreements).
Enhanced Agreements can include everything in a Standard Agreement and more. They can include decision making powers regarding specific health care decisions such as refusing consent to life-supporting care and treatment. An Enhanced Agreement is only valid if the adult consults with a lawyer and the lawyer completes a prescribed certificate form. As such, it is important to view the Representation Agreement before relying on consent from the Representative.

When a substitute decision is being obtained from a Representative, the Representative is asked to provide a copy of the Representation Agreement that identifies him/her as the Representative. Clarification is sought regarding whether the agreement is a Standard or Enhanced Agreement, and the agreement is reviewed to determine the extent of the authority given by the adult to the Representative. An Advice of Substitute Decision Form and a Consent Form are signed by the Representative.

2. Temporary Substitute Decision Makers

A Temporary SDM is an individual chosen by the health care provider when an adult is found to be incapable of making a specific major or minor health care consent decision and there is not a prior authorized and available formal SDM (Committee of Person or Representative). The individual must be chosen from a specified hierarchy of individuals and meet specific criteria (Appendix 1). An Advice of Substitute Decision Form and a Consent Form are signed by the Temporary SDM. The Temporary SDM has the power to make decisions on behalf of the adult within the scope given to them (Appendix A) for 21 days, and may agree to a care plan that extends beyond the 21 day restriction.

3. Public Guardian and Trustee

If there is no SDM, the matter will be referred to the Public Guardian and Trustee (775-0775 or fax 775-0777).

Obtaining Consent – Incapable Adult - Procedure on the Restricted List

- **Abortion**

Temporary SDM's do not have authority to give consent to an abortion unless the procedure is recommended in writing by the treating physician and at least one other medical practitioner who has examined the adult for whom the procedure is proposed. The treating physician must inform the Community Legal Assistance Society (CLAS) immediately if the abortion is recommended and a temporary SDM has given consent to the procedure. The treating physician will only provide CLAS with the adult's name, diagnosis and treatment offered (see Appendix A for CLAS contact information). The abortion cannot be provided in the 72 hr. appeal period after CLAS has been informed of the physician's recommendations.

- **Non-Therapeutic Sterilization**

From a decision of the Supreme Court of Canada, substitute SDM's are prohibited from giving substitute consent for an incapable adult to have a non-therapeutic sterilization causing permanent inability to reproduce that is not medically necessary to preserve the adult's health.

See Appendix B for the **Protocol for Resolution of Objections by SDM with Authority to Make Decisions.**

DEFINITIONS & REFERENCE INFORMATION – MINORS

Minor

In the *Infants Act*, an infant or minor is defined as anyone under 19 years of age.

Presumption of Minor's Capability

A minor is considered to be capable if he or she demonstrates an understanding of the nature, consequences and foreseeable risks and benefits of the proposed health care. The *Infants Act* does not identify a minimum age to give health care consent. Each case must be assessed on the basis of the minor's ability to understand.

Best Interest of a Minor

The *Infants Act* (section 17) specifically provides that minors may ONLY consent to treatment that is in their best interest. Generally speaking, "best interest" means that the health care must be given in the expectation that it will improve (or prevent deterioration or impairment of) physical or psychological health. If a health care provider has doubts about whether proposed health care would be in the minor's best interest, a second opinion should be obtained. If the minor refuses health care thought to be in his/her best interest, additional steps must be taken to resolve the issue (see **Refusal of Treatment – Capable Minor**).

Obtaining Consent from Capable Minor

When obtaining consent from a capable minor, the health care provider must act in accordance with the *Infants Act*, which states that a person under the age of 19 years (a minor) may consent to health care if the following conditions are met:

Consent can be obtained from the minor only if the person providing the health care:

- (a) has explained to the minor and has been satisfied that the minor understands the nature and consequences and the reasonably foreseeable benefits and risks of the health care, and
- (b) has made reasonable efforts to determine and has concluded that the health care is in the minor's best interests.

In general, the younger the patient, the more likely parental consent will be required. Minors should be assessed for capability by the health care provider and, if capable, must then be given the opportunity to consent to health care in accordance with the conditions listed above. If the minor provides consent, it is not necessary to obtain consent from the minor's parent or legal guardian and in fact, may represent a breach in patient confidentiality (see **Minor – Obtaining Consent for Release of Information**). In some cases, with the minor's consent, health care providers may wish to obtain agreement and understanding from the parent or legal guardian in addition to the minor's consent. In these cases the parent or legal guardian is not giving consent, however, as consent is provided by the minor.

In summary, if a minor is considered mature and capable of giving consent, consent must be obtained from the minor regardless of the minor's age. Agreement from the parent/legal guardian may also be sought, particularly when the minor is very young (under 12 years of age). At C&W, the health care provider must obtain consent to provide health care to minors as follows:

1. minor is capable: obtain written consent from minor, or
2. minor is incapable: obtain written consent from parent or legal guardian.

Obtaining Consent from Parent / Legal Guardian – Incapable Minor

If the minor is incapable of providing consent, the health care provider must obtain consent from the minor's parent or legal guardian. In determining the most appropriate person to give consent on behalf of the minor, the following sections of the *Family Relations Act* apply:

1. If the mother and father live together, they are joint guardians (unless a Court Order or agreement declares otherwise). In this case, either parent may consent (although desirable, it is not necessary that both parents agree). In the event of a disagreement, attempts should be made by the health care provider to help the parents resolve the issue. If the health care provider feels the best interests of the minor may be at risk, the Ministry for Children and Family Development (MCFD) should be contacted.
2. If the parents are separated, the parent who usually has care and control of the minor is the sole guardian and is the only one who can give consent, unless a written agreement between the parents or a Court Order stipulates otherwise.
3. If the parents are divorced, guardianship is as determined through the Court Order of Divorce.
4. If the parents have not been married to each other during the life of the minor and are living separate and apart, the mother is the sole guardian and is the only one who can consent, unless a written agreement between the parents or a court order stipulates otherwise.
5. If a sole guardian dies, the surviving parent who is not a guardian at the time of the guardian's death does not become a guardian unless so appointed by a Will or Court Order.
6. If a minor has no guardian or if the guardian is found to be incompetent, the MCFD should be contacted.

Efforts made to ascertain the nature of the legal arrangement between the consenting guardian and the minor should be noted on the patient's health record.

Obtaining Consent from Parent / Legal Guardian for Care of the Newborn

The informed consent to care provided by the mother on admission is sufficient consent to cover all routine treatment and care of the newborn. If the need for specific procedures is required, valid informed consent should be obtained (see ***Obtaining Consent from Parent/Legal Guardian***).

Obtaining Consent from Prospective Adoptive Parent – Incapable Minor

Prospective adoptive parents may provide consent for minors in their care after providing C&W with a copy of the appropriate documentation from the MCFD or other adoption agency. Confirmation should also be obtained from MCFD or other agency that the birth parents no longer have any role in consent to health care.

Obtaining Consent from Minor Parents – Incapable Minor

If the minor parent is capable to consent to his/her own health care, he/she can consent to treatment of the minor.

If the minor parent is not capable to consent to his/her own health care, consent should be sought from another, capable parent or legal guardian, or the MCFD should be contacted.

Obtaining Consent from Foster Parents – Incapable Minor

Foster parents are not considered legal guardians and cannot provide consent unless authorized to do so for emergency purposes by the MCFD or specifically allowed through a Court Order.

Obtaining Consent from Ministry for Children & Family Development – Incapable Minor

When a minor is taken into care under the *Child, Family and Community Service Act*, the Director has the “physical care and control of the child”. The Director may authorize urgent/emergent health care unless the minor is capable of providing consent. Once the emergency care is provided, the normal rules of the *Infants Act* apply.

Obtaining Consent from Temporary Caregiver – Incapable Minor

If a minor who is unable to consent is in the temporary custody of a teacher, babysitter, friend or other temporary caregiver, all reasonable efforts should be made by the health care provider to contact and obtain parent or guardian consent.

If the temporary caregiver has written authorization from the parent or guardian to give consent, they may then give consent on behalf of the parent or guardian. However, care must be taken not to exceed written authorization unless the situation is urgent or an emergency.

Obtaining Consent – Non-Health Care (Outings, Passes, etc.)

Section 17 of the *Infants Act* allows those under the age of 19 years to make decisions about their health care ONLY. Consent for all non-health care activities must be sought from the minor’s parent or legal guardian. When practical, it is suggested that arrangements be made with the parent or legal guardian in advance for day passes and participation in outings.

Refusal of Treatment – Capable Minor

If a capable minor refuses to consent to health care that is believed by the health care provider to be in the minor's best interest, steps should be taken to ensure the minor's best interests are protected. Actions may include involvement of the parent or legal guardian in decision making, or involvement of the MCFD under the *Child, Family & Community Service Act* (section 29). Section 29 qualifies the rights the minor has under section 17 of the *Infants Act*. It applies to situations where a capable minor refuses to consent to health care that, in the opinion of two medical practitioners, is necessary to preserve the minor's life or to prevent serious or permanent impairment of the minor's health. Under section 29, a minor need not be in the care of the Ministry in order for the Ministry to obtain a Court Order authorizing the required care. It should always be determined before seeking a Court Order that the medical practitioner will, in fact, perform the ordered treatment in the face of continued refusal from the minor.

Refusal of Treatment – Incapable Minor

If the parent or legal guardian of an incapable minor refuses to consent to essential treatment (necessary to preserve the minor's life or prevent serious or permanent impairment of the minor's health), or if the health care provider believes the parent or legal guardian is preventing the minor from receiving necessary health care, the health care provider must contact the MCFD. The Director will decide if the minor should be removed to the care of the MCFD or if a Court Order should be sought to authorize the health care without having the MCFD assume guardianship of the minor. Treatment should not be given until legal authorization is obtained, unless the situation becomes urgent or an emergency.

SPECIFIC CONSENT REQUIREMENTS

Autopsy – Consent

Written consent for or refusal of autopsy is required on the Consent for Autopsy form (see C&W Administrative Policy AP0540 – Informed Consent – Autopsy).

Blood/Blood Products – Consent

Written consent is required for the administration of blood products on the Consent for Transfusion of Blood and/or Blood Products or the Consent for Rhesus Immune Globulin in Pregnancy form, as appropriate (see C&W Administrative Policy AP0520 – Informed Consent for Administration of Blood Products).

Blood/Blood Products – Refusal to Accept Transfusion

Patients who refuse to receive blood or blood products are required to sign the Refusal to Consent for Transfusion of Blood and/or Blood Products form (see C&W Administrative Policy AP0520 – Informed Consent for Administration of Blood Products). A parent or legal guardian who refuses to allow their child to receive blood/blood products must also sign this form. In this case, further action may be necessary to ensure treatment given is in the patient's best interest (see ***Refusal of Treatment – Incapable Minor***).

Certificate of Need for Urgent/Emergency Health Care (reverse side of Consent to Care and Treatment form)

Where urgent/emergency health care is required, the health care provider making this determination should sign the certificate of need for urgent/emergency health care. Where practical, a second health care provider should co-sign the document.

Foreign Residents Agreement – Consent

When a foreign resident requests treatment at C&W they will be asked to sign the Foreign Resident's Agreement/Consent form. This form stipulates that any legal disputes that may arise between the foreign resident and C&W and/or C&W medical staff, will be addressed in the BC law courts and in accordance with BC laws. Urgent/emergent care can not be denied if the foreign resident cannot or refuses to sign the Agreement.

Innovative Treatment or Procedure – Consent

Written consent is required for innovative treatments or procedures, which are those procedures or treatments that are different from usual and routine hospital practice. Both the Consent to Procedure or Treatment form and the Consent to Innovative Procedure or Treatment form must be completed.

***Mental Health Act* – Treatment of Patients Involuntarily Admitted – Consent**

To obtain consent from adults who are involuntarily admitted to a mental health facility for health care not related to their mental health treatment, follow the same process and procedures as those used for other adults. Patients under 16 years of age admitted under the *Mental Health Act* are admitted involuntarily with the consent of their parent or legal guardian. In this case, the parent or legal guardian is the person able to give consent.

Photographs & Other Recordings – Consent

Written consent must be obtained from capable adults, SDM's or the parents or legal guardians of minors for all photographs or other recordings that will be used for education or research (form # GR 335n) or public relations purposes. If a photograph will be taken solely for the purpose of becoming a component of the health record to document the patient's condition and track their progress with treatment (i.e. photographing a rash), the patient or other decision maker should be informed but specific written consent is not necessary.

Release of Information – Consent

▪ Minor - Release of Information – Consent

In the case of a capable minor where the necessary conditions to obtain consent are met, it is not necessary to obtain consent for health care from the minor's parent or guardian, although agreement for the parent or legal guardian may be desirable in some cases. In those situations, it may be a breach of confidentiality to advise or involve the parent or legal guardian unless the minor agrees to that disclosure. The minor's parent or legal guardian may exercise the right to access the minor's health record only if the minor is incapable of exercising those rights or with the consent of the minor. However, the MCFD are permitted under s.96 of the Child, Family and Community Service Act to access any information they deem necessary in order to fulfil their role related to children in care, children in need of protection, etc.

Health records may be accessed in accordance with the Freedom of Information and Protection of Privacy Act (FOIPPA) through the Health Records Department. Written consent to release information is required from capable minors age 12 years and over.

Adult – Release of Information – Consent

See C&W Administrative Policy AL2100 - Guidelines for Release of Patient Information, which outlines the procedure for releasing patient information for adults.

Ongoing Access to Chart While in Hospital – Consent

Ongoing access to the health record while the patient is in hospital may be given to the capable patient or the parent, legal guardian or SDM of an incapable patient upon request (see C&W Administrative Policy AL2350 – Request for Regular Ongoing Access to a C&W Record by Patient and/or Legal Guardian While Admitted to Hospital). The Chart Access Information Form must be signed by the patient, parent, legal guardian or SDM. Some restrictions do apply.

REFERENCES

- Cemetery and Funeral Services Act*
Child, Family & Community Service Act
Children's & Women's Health Centre of BC Medical Staff Rules
Coroners Act
Family Relations Act
Freedom of Information & Protection of Privacy Act
Health Care (Consent) and Care Facility (Admission) Act
Health Association of British Columbia's Policy Template for Health Care Consent
Hospital Act & Regulations
Human Tissue Gift Act
Infants Act
Mental Health Act
Ministry of Health and Ministry Responsible for Seniors. A Primer to British Columbia's New Health Care (Consent) and Care Facility (Admission) Act, 2000
Patients Property Act
Registered Nurses Association of British Columbia Publication. September 2000. Publication No. 359.
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