Holland Bloorview Kids Rehabilitation Hospital	Manual Corporate	Cluster Medical Administration
	Theme Admissions Processes	Number 00576

Consent to Treatment Policy

Preamble

Ontario law and respect for the person, together with health profession regulatory standards, provide that persons who have the ability to make informed decisions have the right to do so based on their capacity, rather than their age. As such, all capable persons have the right to self-determination in decision-making regarding their health care. They must be fully informed and receive relevant information about any proposed treatment so that they can voluntarily and meaningfully participate in decisions that affect their health. The mechanism which protects a person's self-determination with respect to a proposed treatment and procedure is the obtaining of an informed consent.

Policy Statement

It is Holland Bloorview Kids Rehabilitation Hospital (Holland Bloorview) policy that client consent is informed and that a standard process is implemented for obtaining consent with respect to capable clients (and if found incapable, from their substitute decision-maker(s)). Guided by the goals of the Health Care Consent Act for autonomy, individual authority and communication; and in conjunction with the values of respect, information-sharing, safety, and partnership; this policy defines the standard for capable clients (or if found incapable, their substitute decision- maker(s)), for consent to treatment at Holland Bloorview.

It is Holland Bloorview policy that prior to providing any treatment, the health practitioner proposing the treatment will provide the client (or substitute decision- maker, if any) with the information required to obtain informed consent. Consistent with continuity of care and the Holland Bloorview commitment to patient safety, consent will be informed and obtained in accordance with the Health Care Consent Act, 1996; the guidelines and standards of the governing body of the health practitioner proposing the treatment and this policy.

Procedure:

This policy is addressed to all health practitioners who propose treatment, participate in the planning of client treatments or procedures and/ or who administer treatment (including any proposed procedures).

Treatment is anything that is done for the therapeutic, preventive, palliative, diagnostic, cosmetic, or other health-related purpose, and can include a course or "plan of treatment".

"plan of treatment" means a plan that,

(a) is developed by one or more health practitioners,

(b) deals with one or more of the health problems that a person has and may, in addition, deal with one or more of the health problems that the person is likely to have in the future given the person's current health condition, and

(c) provides for the administration to the person of various treatments or courses of treatment and may, in addition, provide for the withholding or withdrawal of treatment in light of the person's current health condition

The legislation does <u>not</u> include the following activities in the definition of treatment:

- Assessing the person's capacity to make decisions about treatment, admission to a care facility or personal assistance services
- Assessing the person's capacity to manage property
- Taking a health history
- Assessing or examining a person to determine the general nature of the person's condition
- Communicating an assessment or diagnosis
- Admitting a person to a hospital or other facility
- Providing a treatment that in the circumstance poses little or no risk of harm

Consent is required for all treatment except in emergency situations. The consent MUST:

- Relate to the treatment being proposed
- Be informed
- Be voluntary (not have been obtained through misrepresentation or fraud)
- Precede the treatment or procedure

1. Consent will be obtained by the health practitioner who proposes the treatment or plan/course of treatment. Legislation states that one health practitioner can propose a plan of treatment and obtain consent to a plan on behalf of all the health practitioners involved in the same plan of care, however, at Holland Bloorview health practitioners are expected to obtain consent for the treatment they propose.)

   Consent can be refused or withdrawn at any time by a capable client or if incapable, by their substitute decision-maker. A health practitioner may stop in the middle of a procedure as long as the health practitioner is satisfied the consent giver is capable of withdrawing consent and is fully aware of the implications. However, treatment could continue where the medical evidence suggests that to terminate the process would be either life-threatening or pose immediate problems to the health of the client.

2. A client is presumed capable; however, if there is any question as to the client's capacity, it is the health practitioner proposing the treatment who determines whether the client giving consent is capable. Similarly, in cases where the client is incapable and a substitute decision-maker is making the decision, it is the responsibility of the health practitioner to be sure that the substitute decision-maker meets the test to be a substitute decision-maker (is 16 or over; is capable theirself to consent to the treatment; is willing; is available; and is not prohibited by court order from acting in the role of substitute decision-maker).

3. A person may be capable of giving consent to a specific treatment and not to another and/or at one time or not another. (For more information on capacity please review – Capacity evaluation for treatment policy)

4. A person is capable under the *Health Care Consent Act, 1996* with respect to a treatment if the person is **ABLE** to:

   - Understand the information that is relevant to making a decision about the treatment; **and**
   - Appreciate the reasonably foreseeable consequences of a decision or lack of decision

   For example, a person who is capable must be able to understand:

   - Their condition
   - The nature of the proposed treatment
   - The alternatives to the proposed treatment and their risks and benefits
   - The consequences of accepting or rejecting the proposed treatment

Persons who are capable must be able to appreciate any anticipated consequences of making or not making a decision. This may include:

- Acknowledging that their condition affects themselves
- The ability to assess how various options would affect them
- The ability to reach a decision and to adhere to it
- The ability to make a choice that is not based primarily on delusional belief

5. Informed consent should be obtained prior to administering medications that may alter the client's ability to provide consent. In exceptional circumstances in which a client has taken medications that may alter their mental or conscious status prior to giving consent, they should be evaluated for capacity by the health practitioner who has proposed the treatment. Therefore, if a client is under the influence of other medications/substances such that the health practitioner should not presume consent, capacity should be evaluated, and if the person is found to be incapable, the highest-ranked substitute decision-maker will make the decision.

6. Assessment of capacity under the *Health Care Consent Act, 1996* is done by the health practitioner who proposes the treatment; it does not require formal testing by experts. However, if a health practitioner is uncertain about a patient's capacity, they should seek a second opinion.

7. If a client regains capacity, there is no further role for the substitute decision-maker and the client may make his/her own decisions.

8. Substitute decision-makers must act in accordance with the client's prior capable wishes made once the client reached the age of 16; if there are no known prior capable wishes, the substitute decision-maker must act in accordance with the best interest criteria outlined in s. 21(2) of the *Health Care Consent Act, 1996*. If the health practitioner proposing a treatment has any concern that the substitute decision-maker is not acting in accordance with the Act, or the wish is unclear or it is unclear whether the client was capable when the wish was made, they may apply to the Consent and Capacity Board for a review.

9. There is no minimum age for consent to treatment in Ontario. The validity of consent is determined by whether the client who gave the consent was "capable" at the relevant time, according to the test for capacity set out above

10. The health practitioner who is proposing treatment provides the following

information:

- Nature of the treatment
- Expected benefits of the treatment
- Material risks and side effects of the treatment
- Alternative courses of action
- Likely consequences of not having the treatment
- Limits of confidentiality
- Financial obligations
- Right to withdraw consent to treatment at anytime
- Additional information in response to questions and requests for further information.

11. Health practitioners will note in the client's health record that consent has been obtained and include documentation of the discussion that went into the decision- making process (including a decision not to consent to the proposed treatment).

12. Unless it is not reasonable to do so in the circumstances, a health practitioner is entitled to presume that consent to a treatment includes:
    - Consent to variations or adjustments in the treatment, if the nature, expected benefits, material risks and material side effects of the changed treatment are not significantly different from the nature, expected benefits, material risks and material side effects of the original treatment;
    - Consent to the continuation of the same treatment by the same health practitioner in a different setting, (i.e. client room vs. therapy area), if there is no significant change in the expected benefits, material risks or material side effects of the treatment as a result of the change in the setting in which it is administered. (Health Care Consent Act, 1996, c. 2, Sched. A, s. 12.)

13. In certain circumstances a signed consent form is required (as indicated in this policy in 19) by the health practitioner proposing the treatment, and the original MUST be placed in the client's health record prior to treatment. In circumstances in which the consent form is a copy or fax, the health practitioner obtaining the consent will request that the original signed form be sent by mail. Where the consent form has been faxed from the external provider and the original is obtained it may replace the copy or fax in the health record.

14. If the health practitioner proposing treatment is having difficulty communicating with the client related to a language barrier or hearing

impairment, an interpreter will be accessed. The health practitioner will document in the client health record the actions taken. In circumstance where a signed consent is indicated, the client will sign the consent and indication of interpreter use will be noted on the consent form.

15. A Holland Bloorview Consent Form requires signatures of:

- The health practitioner who is proposing the treatment; and
- The client (or if the client is incapable, the substitute decision-maker)

16. There are generally no time limits on consent or consent forms provided, however, there are some consent forms that are time-bounded: (exception Release of Information (ROI) consent form)

- There are no changes to the treatment or the procedure
- There are no indications that the client wishes to withdraw consent, or did not understand, or was incapable at the time he/she gave the informed consent; or that the client is now capable and wishes to make a different decision than that of his former substitute decision-maker.
- Any updates in information pertaining to the treatment have been provided (e.g., changes in the material risks, likely benefits, alternative courses of treatment or side effects).
- There have been no changes in the patient's risk factors.

Special Circumstances

17. Patients admitted to Respite Services

Since health practitioners at Holland Bloorview will follow an existing plan of care rather than initiating a new plan, a new consent discussion and request for consent to treatment is not required. If the existing plan of care is altered, a consent discussion must take place and request for consent must be made to the capable patient (or substitute decision-maker).

18. Emergency Treatment

Treatment may be provided in an emergency (i.e., where the client is experiencing severe suffering or is at risk, if the treatment is not administered promptly, of sustaining serious bodily harm) to a person who is apparently capable, if in the opinion of health practitioner proposing the treatment:

- There is no way to communicate with the client (e.g. due to disability or language barrier and despite having made efforts to overcome these); and
- There is no reason to believe the person does not want the treatment.

In an emergency situation where, in the opinion of the health practitioner proposing the treatment, the client is incapable of giving consent and no substitute decision- maker is available, the proposed treatment may be initiated if the delay would otherwise prolong the suffering that the client is apparently experiencing or would put them at risk of serious bodily harm. This can occur unless the health practitioner proposing the treatment has evidence that the client expressed a prior capable wish (made at age 16 or older) not to have the proposed treatment.
(See Health Care Consent Act, 1996, Section 25, 26)

Following initiation of emergency treatment reasonable efforts must continue to locate the substitute decision-maker. Once located, the decision of the SDM with respect any further treatment will be followed.

The health practitioner proposing treatment in an emergency must document in the health record their reason for having proceeded with the treatment on an emergency basis.

19. Use of the Official Holland Bloorview signed consent form

An official Holland Bloorview signed consent form is required when obtaining consent for a capable client (or substitute decision-maker) by the health practitioner proposing any invasive treatments or procedures:

See link for treatments and procedures requiring an official consent form:

See Consent Forms

Group : Consents (32)

	Consents	Access request form-connect2care-Client	May 7, 2018
	Consents	Access request form-connect2care-Legal Guardian	January 8, 2019
	Consents	Amendment of health information request form	May 7, 2018
	Consents	Authorization for release of body	May 7, 2018
✓	Consents	Botox treatment consent form	May 7, 2018
	Consents	Cannabis agreement and release of liability	June 15
	Consents	Client recording (audio, video, photo)	July 25, 2018
	Consents	Complementary or alternative therapy-Waiver of liability	May 7, 2018
	Consents	Consent to collect-disclose PHI	May 7, 2018
	Consents	Consent to collect-disclose PHI_Psychology	May 7, 2018
	Consents	Deactivation request form-connect2care	May 7, 2018
	Consents	Discharge release form	May 7, 2018
	Consents	Family medication administration consent form	May 7, 2018
	Consents	Family medication administration consent form-Sleep study	May 7, 2018
	Consents	Funeral director release form	May 7, 2018
	Consents	Influenza vaccination consent form	May 7, 2018
	Consents	Investigational drugs from another institution-Consent waiver and release	May 7, 2018
	Consents	IP! change form	May 27, 2018
	Consents	Jusrisdiction consent form	May 7, 2018
	Consents	Lending of equipment agreement form	May 7, 2018
	Consents	One side rail down consent form	May 7, 2018

All other consents for proposed treatment not listed above will be documented in the health record in accordance with the discussion relevant to step 11 in the procedure section of this policy.

Telephone consent

In the event the consent is obtained by telephone for a non-invasive procedure, the health practitioner proposing the treatment must document in the health record the nature of the course of action and likely consequences of not having the treatment. The official Holland Bloorview form is to be used for invasive procedures listed above and signed by the health practitioner who had the telephone discussion and includes the date, time of the call, and the name of the client and substitute decision-maker.

Special caution about non-routine tests

In cases where the testing is not routine or has potentially significant implications for the client (e.g., HIV, pregnancy, DNA or other genetic testing) the health practitioner should first inform the client of the implications of such a test and ensure a consent discussion prior to taking the test. The health practitioner who is proposing the testing provides the following information:

- Nature of the testing
- Expected benefits of the testing
- Material risks and side effects of the testing
- Alternative courses of action
- Likely consequences of not having the testing
- Additional information in response to questions and requests for further information

Virtual Consent

Virtual care is subject to the same college standards and government legislation concerning consent, confidentiality and privacy as are all other types of care. Informed consent is required prior to any assessment and treatment delivered by virtual care. You are required to discuss the required elements of information with clients, as with any consent conversation including concerning benefits, risks, side effects and alternatives that are specific to the session. The clinician is responsible for obtaining verbal consent to use audio and visual communication technologies for each virtual session. This consent must be documented in the medical record and is in addition to all other relevant legal requirements.

Virtual Care Guidelines provide the process to obtain the client's/SDM's written or verbal consent. Review guidelines for more information.

Miscellaneous

- Information that is shared with a health practitioners at Holland Bloorview will be documented in the client's electronic health record if it is relevant to the care of the child.
- Only those within the child's circle of care have access to this health record.

External Link(s) - Click on the title(s) below to open the link.
Virtual Care Guidelines
Managing Decision-Making When the Client's Parent/Substitute Decision Maker (SDM) is Unavailable to Make Personal Care/Treatment Decisions
Documentation Policy

Related Policies and Procedures
Documentation Policy

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