

CONSENT TO TREATMENT/PROCEDURE(S) Frequently Asked Questions

Disclaimer

These FAQs are intended to be a guide and is not to replace the content of the AHS policy Consent to Treatment/Procedure(s) and its related procedures or Legal advice. Examples herein are for illustrative purposes only; the application of the AHS policy/procedure and legislation may vary depending on circumstances unique to each situation. Readers are encouraged to view the policy/procedure documents and legislation directly and should consult Policy Services policy@albertahealthservices.ca if need of clarification.

The Consent to Treatment/Procedure(s) policy, procedures and forms are required in order to standardize the process for obtaining consent in all sites/settings across Alberta Health Services. The change is also required in order to be compliant with the *Adult Guardianship and Trusteeship Act* as well as the *Human Tissue and Organ Donation Act* and the *Mental Health Act*.

What does “Patient” mean in the AHS Consent to Treatment/Procedure(s) policy and procedures?

Patient means all individuals who receive or have requested health care or services from Alberta Health Services and its healthcare providers, or, if applicable:

- a) a Co-Decision-Maker with the individual
- b) an Alternate Decision-Maker on behalf of the individual

What does “Most Responsible Health Practitioner” mean in the AHS Consent to Treatment/Procedure(s) policy and procedures?

Most Responsible Health Practitioner means the Health Practitioner who has responsibility and accountability for the specific Treatment/Procedure provided to a Patient and who is authorized by Alberta Health Services to perform the duties required to fulfill the delivery of such a Treatment/Procedure within the scope of their practice.

What is the purpose of the Consent Process?

- To facilitate a Consent Process within Alberta Health Services that reflects good practice, contributes to patient safety, and enhances the patient experience.
- To facilitate a fair, respectful and informed consent process that is achieved consistently.
- To facilitate compliance with applicable legislation.

When does the Consent Process begin?

The Consent Process is ongoing and interactive. The Consent Process involves much more than just obtaining a signature. The process might begin in the physician's office; involve several practitioners; and occur over time rather than occur as a one-time information session prior to procedure. It is expected that all Treatment/Procedure decisions will be made only after a fully informed decision-making discussion between the Patient and the Most Responsible Health Practitioner.

What is implied consent? What is expressed consent? How and when do I know which one is required?

Implied consent is inferred from the patient's actions and surrounding circumstances. For example, a patient presents voluntarily for an examination, investigation, minor or less invasive treatment/procedure.

Expressed Consent is direct, explicit agreement to undergo a specific Treatment/Procedure(s), given either verbally or in writing. Expressed Consent in written form should be obtained for surgical operations and invasive investigative procedures. It is prudent to obtain written consent also when analgesics, narcotics or anesthetic agents will significantly affect the patient's level of consciousness during the Treatment/Procedure.

The clinical situation determines the approach required. When there is doubt, it is preferable the consent be expressed, either verbally or in writing.

Can we use our existing forms?

The consent form currently on site is intended to replace the existing(legacy) consent forms for treatment/procedure(s) and general consent forms in all former health regions and entities. Additional consent forms will be developed on the basis of demonstrating an unmet need. This does not include, for example, putting individual program information on the consent form. Requests for new forms may be submitted to the Forms Management department; the request will be analyzed by the Forms Management department and if necessary, reviewed by the policy co-sponsors and the clinical policy team prior to being approved for development.

Who is responsible to obtain consent when the treatment proposed will be done by a Health Practitioner other than a physician?

The responsibility for obtaining informed consent rests with the Health Practitioner who has the responsibility and accountability for the specific treatment or procedure being provided to a patient, assuming he/she is authorized by AHS to deliver the treatment/procedure within his/her scope of practice. In most circumstances, the Most Responsible Health Practitioner is a physician but may be another Health Practitioner (therapist, nurse or technician) who is providing treatment within their scope of practice.

How do you verify understanding of information?

During the consent process, the patient must be given the opportunity to ask questions and receive understandable answers. The type of questions a patient asks may demonstrate their understanding. The Most Responsible Health Practitioner can also verify understanding by asking the patient what their concerns are (if any), or have the patient repeat back his/her understanding of the procedure and ask if they require any further information. The Most Responsible Health Practitioner may allow, at the patient's request, the patient's spouse, or any relatives or friends that accompany the patient, to help the patient to understand or demonstrate an understanding of the information. That individual may not be the witness to the consent form.

How can I determine if there is a language barrier between the patient and the Most Responsible Health Practitioner? If there is, how can I access an interpreter?

Ask the patient if he/she speaks English at home. If the patient does not speak English at home, all AHS staff across Alberta have access to over-the-phone interpretation services in 170 languages, 24 hours a day, seven days a week. *Telephone interpretation services must be set up in order to access their services.* For more information regarding Interpretation and Translation Services, please contact Louise Behiel at (403)955-1181 or louise.behiel@albertahealthservices.ca

Who is responsible to document the consent process?

The Most Responsible Health Practitioner obtaining consent shall ensure that the consent process has been followed and that the consent process and outcome are documented appropriately in the patient's health record.

Who is able to give consent for minors if the parents lack capacity (e.g. intoxication)?

If the Minor requires Emergency Health Care and the Minor's Legal Representative has lost the capacity to consent to treatment/procedure(s) for the Minor, then treatment may proceed without consent – refer to Consent to Treatment/Procedure(s) Minors/Mature Minors section 4.1 Emergency Health Care. If the Minor does not require Emergency Health Care and the treatment can wait until the parents regain capacity, wait until the capacity is regained and then seek consent from the parents. If the parents' capacity is unlikely to be regained, then the Most Responsible Health Practitioner shall report this to the Director of Child Youth & Family Enhancement and consent to the treatment/procedure(s) may be obtained from the Director Child Youth & Family Enhancement or other authorized individual according to the *Child, Youth and Family Enhancement Act*.

What happens if consent for a minor is required and the parents disagree?

Where Alberta Health Services is aware that two Legal Representatives disagree regarding the consent to a Minor's treatment/procedure(s), the Legal Representatives should be encouraged to come to a consensus; otherwise the treatment/procedure(s) cannot proceed without a court order. If one legal representative is unwilling to permit the Minor to receive essential medical, surgical or other remedial treatment that is necessary for the health or well-being of the Minor, then the Most

Responsible Health Practitioner shall report this to the Director of Child Youth & Family Enhancement. The Director of Child Youth & Family Enhancement may seek a court order authorizing treatment or permitting the Director to make decisions on behalf of the minor.

What do I do if the Specific Decision-Maker refuses consent? Or if they are not acting in the best interest of the patient?

It is important for the Most Responsible Health Practitioner to explain the risks and consequences of the refusal to the Specific Decision-Maker. It is prudent to have a second Health Practitioner witness the explanation and to document the refusal on the patient's health record. If the Most Responsible Health Practitioner is concerned that the decision being made (i.e. refusal) is not in the best interests of the patient, the Office of the Public Guardian should be contacted.

Are there limits to the types of decision that can be made by a Specific DecisionMaker?

Specific decision-making does not apply to decisions regarding: treatment of mental health decisions for formal patients or individuals subject to a Community Treatment Order under the *Mental Health Act*, psychosurgery, sterilization, removal of tissue for implantation or experimental activities, and end of life decisions.

Where can I find more information?

- Clinical Policy website <http://insite.albertahealthservices.ca/2270.asp>
- Talk to your manager.
- AHS Legal Services - Provincial Clinical Legal Intake Line: 1-888-943-0904
- Office of the Public Guardian: 1-877-427-4525 Monday to Friday (8:15 a.m. - 4:30 p.m.). After hours Crisis Line: 1-866-262-9731 Evenings (after 4:30 p.m.) and Weekends www.seniors.alberta.ca/opg