

# CONSENT TO NUTRITION CARE

*The CDBC thanks the College of Physical Therapists of BC for their generous permission to quote and adapt, in whole or in part, from their “Consent to Treatment” 2019 publication.*

***“Of course, I get informed consent from my clients before I assess their needs and discuss their nutrition plan. My clients always sign a consent form in the waiting room on their first visit – before they even see me.”***

Sound familiar?

As with most professional situations involving health care, there is no substitute for common sense, sound professional judgment, practice standards, and what the law requires.

This resource should not be used as a stand-alone document and is complemented by the [Health Care Consent and Facilities Admissions Act \(The “Act”\)](#), [Health Care Providers' Guide to Consent to Health Care](#), CDBC's [Code of Ethics](#) Standard 1, and [Standards of Practice](#) Standard 6.

## Defining Consent<sup>1</sup>

**Consent:** noun

**1.** Compliance in or approval of what is done or proposed by another **2. agreement as to action or opinion.**

## Remember...

Consent is a process that results in a voluntary agreement to permit delivery of nutrition care.

Consent to nutrition care is about **communication** with your client to ensure that they have **enough information** about the proposed nutritional care plan, in order to make an informed decision about how to proceed: to **consent or refuse**. Informed consent ensures your clients' wishes are **respected and followed**.

*In British Columbia, dietitians are required to obtain informed consent before providing nutrition care.*

## Ask yourself

How will you know if you are getting client consent properly if you don't know what the *Act* requires?

This resource contains several excerpts from the *Act* that will guide you.

### Consent Rights<sup>2</sup> (Section 4 of the *Act*)

Every adult who is capable of giving or refusing consent to health care has:

- the right to give or to refuse consent on any grounds, including moral or religious grounds, even if the refusal will result in death;
- the right to select a particular form of available health care on any grounds, including moral or religious grounds;
- the right to revoke consent;
- the right to expect that a decision to give, refuse or revoke consent will be respected;
- the right to be involved to the greatest degree possible in all case planning and decision making.

Always respect a client's decision about how to proceed. In some cases, this means respecting a client's decision not to proceed with the proposed nutrition care or respecting their right to revoke consent.

## Did you know?

In order to get informed consent from your client, certain conditions must be met. According to the *Act*, there are core elements of informed consent.

### Elements of Consent<sup>2</sup> (Section 6 of the *Act*)

An adult consents to health care if:

- the consent relates to the proposed health care;
- the consent is given voluntarily;
- the consent is not obtained by fraud or misrepresentation;



- the adult is capable of making decisions about giving or refusing consent to the proposed nutrition care;
- the health care provider gives the adult the information a reasonable person would require to understand the proposed health care. To make a decision, include information about:
  - the condition for which the health care is proposed;
  - the nature of the proposed health care;
  - the risks and benefits of the proposed health care that a reasonable person would expect to be told about and alternative courses of health care;
  - an opportunity to ask questions and receive answers about the proposed health care.

### Remember...

Consent must be specific to the nutrition care you propose. Don't assume that 'blanket' consent is enough – when in doubt, re-establish client consent.

### A useful guide:

What information would a reasonable person in that position need in order to make a decision?

**How Incapability is Determined<sup>2</sup> (Section 7 of the Act)**

**“Some days I'm not sure if my client is capable of giving consent.”**

The *Act* presumes that a person is capable of giving, refusing, or revoking consent. The questions to consider are:

- Does my client understand the nutrition care information I'm explaining?
- If so, is my client capable of giving consent?

If you suspect that a client is not capable of providing or refusing consent, you should refer

to a healthcare professional who can determine capacity. If a client is deemed incapable of giving consent, a substitute decision maker will have to give consent before you can provide dietetic services.

For more information about substitute decision makers see section 7 of the Act.

When deciding whether an adult is incapable of giving, refusing, revoking consent to health care, a health care provider must base the decision on whether or not the adult states that he or she understands:

- a) the information given by the health care provider and,
- b) that the information applies to the situation of the adult for whom the health care is proposed.

**Duty to Communicate Appropriately<sup>2</sup> (Section 8 of the Act)**

When seeking an adult's consent to health care, you must communicate with the adult in a manner appropriate to the adult's skills and abilities. You may allow the adult's spouse, or any relatives or friends, who accompany the adult and offer their assistance, to help the adult to understand.

**How Consent is Given and Scope of Consent<sup>2</sup> (Section 9 of the Act)**

- Consent to health care may be expressed orally or in writing or may be inferred from conduct.
- Consent to health care applies only to the specific health care that an adult has consented to.

## Keep in mind...

Consent is an ongoing process. While a client may consent to an initial treatment plan; you'll need to re-establish consent if you make changes to that plan.

Cooperation should not be confused with consent. In a client who has not been provided with information about a health care treatment, behaviour cannot be assumed to imply consent (CDBC [Consent Q&A](#))  
Consent must be recorded in the client's record.

Examples:

- For the Nutrition Care Process, document in "intervention"
- For SOAP notes, include under "plan"
- Document refusal in the health record's Notes section

## Things to Consider if Your Client is a Minor

If your client is a minor (under the age of 19), consent must be given by the minor's legal guardian. In some cases, a minor is allowed to provide consent. Section 17 of the *Infants Act*<sup>3</sup> is commonly referred to as the 'mature minor' clause, which allows a minor to provide consent if certain conditions are met. Section 17 reads:

A request for consent, agreement or acquiescence to health care by a mature minor does not constitute consent to the health care for the purposes of subsection (2) unless the health care provider providing the health care:

(a) has explained to the mature minor and has been satisfied that the mature minor understands the nature and consequences and the reasonably foreseeable benefits and risks of the health care;

(b) has made reasonable efforts to determine and has concluded that the health care is in the mature minor's best interests.

The *Infants Act* does not make mention of an age range where section 17 might apply (i.e., over 12 or over 16). This means it is up to the dietitian to use common sense and professional judgment to determine whether or not a client meets the criteria of a mature minor or not.

Consider the risk involved of the proposed care plan, and how confident you would feel if you had to justify your decision to provide services to a client as a mature minor. Remember to document your decision and rationale.

## Key Points to Remember

1. As a dietitian, you must have informed consent to provide nutrition care, with the exception of screening, or an emergency situation.
2. Consent is about **ongoing communication** with your client to ensure they understand the information about the proposed nutrition care, in order to make an informed decision about how they want to proceed.
3. Always ensure that your client is given a **chance to ask questions** and receive answers.
4. **Re-visit client consent** if you are ever in doubt as to the client's wishes or when the nutrition care plan changes. Even if there is no change, re-visit consent at least once a year.
5. Be sure to document accurately and completely in the record when a client gives, refuses or revokes consent and action performed.



## Adult as Client

If you plan to draft a 'consent to nutrition care' template for your clients, here are some things to consider:

- Does the form indicate that the person giving consent understands the proposed nutrition care and the associated risks and benefits?
- Does the form indicate that the person giving consent had the opportunity to ask questions?
- Does the form include the client's name?
- Does the form set out any limits on the nature of the consent or the nature of the nutritional care plan?
- When does the consent agreement 'expire'?
- Can the form be 'added on to' if the nutrition care plan changes and consent is established?
- Is the form properly dated and signed?
- Where will the form be filed? It should be with the client's clinical record.

## If your client is a minor, or an adult not capable of giving consent:

- Does the form indicate that the person giving consent has the authority to do so?
- Does the form indicate the legal relationship between the person giving consent and the client?
- Does the form identify the person for whom consent is being given?

## In addition, if your client is giving consent as a 'mature minor':

- Does the form document the process you went through to satisfactorily ensure that the minor understands the nature and consequences of the proposed nutrition care plan, and the benefits and risks of the proposed nutrition care?
- Does the form document that you have made reasonable efforts to determine that the nutrition care is in the best interest of the minor?

## Substitute Consent

In the event a client is unconscious, mentally incapable, or otherwise unable to give consent, you must make reasonable efforts to determine whether there is a substitute decision maker or an advance directive relevant to the proposed nutrition care.

## Advance Directives

As of September 1, 2011, Advance Directives are recognized as legal documents which allow an adult to provide advance consent to or refusal of treatment to a health care provider. If the Advance Directive is valid and relevant to the decision, you:

- may provide nutrition care to an adult if the adult has given consent to that care in the adult's Advance Directive;
- must not provide nutrition care to an adult if the adult has not consent to that care in the adult's Advance Directive; and
- must stop and withdraw nutrition care if after having provided the care the dietitian becomes aware of an Advance Directive which refuses consent to the care.

### Consent is not required when:

- urgent or emergency health care is required and the adult is incapable of making a decision;
- involuntary psychiatric treatment is needed;
- preliminary examinations such as triage are needed; and
- communicable diseases are involved.

### Glossary of Terms

**The Act:** The *Health Care Consent and Facility Admission Act*

**Advance Directive:** A legal document written by a capable adult that:

- gives or refuses consent to health care for the adult in the event that the adult is not capable of giving the instruction at the time the health care is required; and
- complies with the requirements of Part 2.1 of the *Act*.

**Health Care:** Anything that is done for a therapeutic, preventive, palliative diagnostic, cosmetic or other purpose related to health, and includes:

- a series or sequences of similar treatments or care administered to an adult over a period of time for a particular health problem;
- a plan for minor health care that is developed by one or more health care providers, deals with one or more of the health problems that an adult is likely to have in the future given the adult's current health condition;

- expires no later than 12 months from the date consent for the plan was given; and
- participation in a medical research program approved by an ethics committee designated by regulation.

**Clients:** Patients and residents.

**Health Care Provider:** A person who is licensed, certified, or registered under the *Health Professions Act*, and/or other prescribed Acts to provide health care in the province of BC (e.g., social workers).

**Nutrition Care:** Includes assessment, treatment, and interventions

**Substitute Decision Maker<sup>5</sup>:** A person who helps make or makes decisions on behalf of another adult when the adult is unable to make them.

- personal guardians, also called Committees of the Person, appointed by the court under *Patients' Property Act*;
- representatives appointed under the *Representative Agreement Act*; and
- temporary Substitute Decision Makers appointed under the *Act*.



## Resources

[CDBC Consent Q&A](#)

## References

1. [Merriam-Webster Dictionary](#) [Online]; [cited April 29, 2020]
2. [Health Care Consent and Facility Admission Act](#), RSBC 1996, c. 181, s. 6. [Online]; [cited April 29, 2020]
3. [Infants Act](#), RSBC 1996, c.223, s. 17. [Online]; [cited April 29, 2020]
4. [Health Care Providers' Guide to Consent to Health Care](#). Ministry of Health July 2011. [Online]; [Cited April 29, 2020]
5. [Duties of a Substitute Decision Maker](#). [Online]; [Cited Dec 20, 2021]

