



College of

**HEALTH AND CARE
PROFESSIONALS OF BC**

Consent to Treatment

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“Of course I get informed client consent for my treatment. My clients always sign a consent form in the waiting room on their first visit—before they even see me.”

Sound familiar? ...read on.

As with most professional situations involving client care, there is no substitute for common sense, sound professional judgment, College Practice Standards, and what the law requires. This resource is to be used in conjunction with the Health Care Consent and Facilities Admissions Act and College Standards of Practice, and should not be used as a stand alone document.





Defining Consent¹

Consent. n 1 permission for something: acceptance of or agreement to something proposed or desired by another 2
consensus: agreement on an opinion or course of action

Remember...

Getting client consent to treatment means having ongoing communication between you and your client, so that the client has enough information about the proposed treatment to make an informed decision about how they want to proceed. Informed consent ensures that the client shares in the decision-making process.

In British Columbia, **health and care professionals are required to obtain informed client consent from clients, in order to provide care.** The Health Care Consent and Facilities Admissions Act (the Act) outlines the requirements for obtaining informed consent to health 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 Rights²

(Section 4 of the Act)

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

- The right to give consent 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, and
- 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 treatment, or respecting a client's right to revoke consent.

Elements of Consent²

(Section 6 of the Act)

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.

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 a decision about whether to give or refuse consent to the proposed health care,
- The health care provider gives the adult the information a reasonable person would require to understand the proposed health care and to make a decision, including information about:
 - i. The condition for which the health care is proposed,
 - ii. The nature of the proposed health care,
 - iii. The risks and benefits of the proposed health care that a reasonable person would expect to be told about, and
 - iv. Alternative courses of health care, and
- The adult has an opportunity to ask questions and receive answers about the proposed health care.

Remember...

Client consent must be specific to the service or treatment you propose. Don't assume that 'blanket' consent is enough—if in doubt, re-establish client consent.

"Some days I'm not sure my adult 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 demonstrate understanding of the information I have given them and the treatment I am proposing for them? If so, that client is capable of giving consent, on that day.

If you determine that a client is not capable of providing consent, a substitute decision maker will have to give consent before you can provide treatment. For more information about substitute decision makers, see section 7 of the *Health Care (Consent) and Care Facility (Admission) Act*.

How incapability is determined²

(Section 7 of the Act)

When deciding whether an adult is incapable of giving, refusing, or revoking consent to health care, a health care provider must base the decision on whether or not the adult demonstrates 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 in Appropriate Manner²

(Section 6 of the Act)

When seeking an adult's consent to health care or deciding whether an adult is incapable of giving, refusing, or revoking consent, a health care provider:

- (a) Must communicate with the adult in a manner appropriate to the adult's skills and abilities, and
- (b) May allow the adult's spouse, or any relatives or friends, who accompany the adult and offer assistance, to help the adult to understand...



How Consent is Given and Scope of Consent²

(Section 6 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.

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*³ 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 an infant 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 infant and has been satisfied that the infant 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 infant'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 health and care professional 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 treatment, and how confident you would feel if you had to justify your decision to treat a client as a mature minor. As always, be sure your entry in the clinical record documents your decision and rationale.



Key points to remember

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As a health and care provider, you must have **informed consent** to provide treatment.

Consent is about **ongoing communication** with your client to ensure that they have the information about the proposed treatment that a reasonable person would want, in order to make an informed decision about how they want to proceed.

Always ensure that your client is given **a chance to ask questions.**

Re-visit client consent if you are ever in doubt as to the client's wishes, or when the treatment plan changes.

Be sure to **document in the clinical record** when a client gives, refuses, or revokes consent.

If you plan to draft a 'consent to treatment' template for clients, here are some things to consider.



If your client is an adult...

- Does the form indicate that the person giving consent understands the proposed treatment/service 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 treatment or service?
- When does the consent agreement 'expire'?
- Can the form be 'added on to' if the treatment plan changes and consent is re-established?
- Is the form properly dated and signed?
- Where will the form be filed? i.e., with the client's clinical record.



In addition, 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 the health and care professional went through to satisfy themselves that the minor understands:
 - The nature and consequences of the proposed health care?
 - The benefits and risks of the proposed health care?
- Does the form document that the health and care provider has made reasonable efforts to determine and has concluded that the health care is in the best interest of the minor?

References

1. CHCPBC Physical Therapist Standard of Practice: Informed Consent.
2. Encarta World Dictionary [Online].[cited 2010 Apr 6]; Available from: www.encarta.msn.com/encnet/features/dictionary/dictionaryhome.aspx
3. Health Care Consent and Facilities Admissions Act, RSBC 1996, c. 181, s. 6. [Online].[cited 2019 Oct 30]; Available from: www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/00_96181_01
4. Infants Act, RSBC 1996, c.223, s. 17. [Online].[cited 2019 Oct 30]; Available from: www.bclaws.ca/Recon/document/freeside/--%20I%20--/Infants%20Act%20RSBC%201996%20c.%20223/00_96223_01.xml

Still have questions?

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