Can an individual refuse to consent to treatment?

Individuals may refuse to consent to a proposed treatment or plan of care, even if this decision does not appear to be in their best interests. If a capable individual refuses to consent to treatment, even if it is life-sustaining, it should not be provided. Prior to withholding the treatment, every effort should be made to ensure that the individual understands the nature of the treatment decision and appreciates the consequences of the decision.

When must consent be obtained?

According to the Health Care Consent Act 1996, consent is required for:

Anything that is done for a therapeutic, preventive, palliative, diagnostic, cosmetic or other health-related purpose, and includes a course of treatment, plan of treatment or community treatment plan.

When is consent not required?

The Health Care Consent Act 1996 indicates that consent may be waived in case of an emergency (defined as a situation in which the person is experiencing severe suffering or is at risk of sustaining serious bodily harm).

Online resources include:

More information about informed consent can be found on the following websites:

Consent and Capacity Board of Ontario
www.ccboard.on.ca

Health Care Consent Act
http://www.e-laws.gov.on.ca/DBLaws/Statutes/English/96h02_e.htm

Regional Ethics Program

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What are the elements of consent to treatment?

According to the Health Care Consent Act 1996, the following elements are required for consent to treatment.

1. The consent must relate to the treatment (consent for one particular treatment does not necessarily imply consent for any other treatment);
2. The consent must be informed (the kind of information that should be given is described below);
3. The consent must be given voluntarily (an individual should not feel coerced or pressured into making a particular decision); and
4. The consent must not be obtained through misrepresentation or fraud (the information given should be accurate and unbiased).

What information needs to be provided?

The Health Care Consent Act 1996 outlines the type of information that needs to be provided as follows:

1. The nature of the treatment;
2. The expected benefits of the treatment;
3. The material risks of the treatment;
4. The material side effects of the treatment;
5. Alternative courses of action; and
6. The likely consequences of not having the treatment.

What are the prerequisites to informed consent?

A person must be capable of providing informed consent. Unless one has reasonable grounds to believe that an individual is incapable, there is a presumption of capacity.

According to the Health Care Consent Act 1996, a person is capable with respect to a treatment if the person is:

(a) Able to understand the information that is relevant to making a decision about the treatment; and
(b) Able to appreciate the reasonably foreseeable consequences of a decision or lack of decision.

Decision-making capacity may vary according to the complexity and seriousness of the proposed treatment. Capacity may also vary across time due to the individual’s underlying physical and psychological condition (e.g., dementia, depression) or treatment that he/she is receiving (e.g., sedation).

There is no minimum age of consent in Ontario. If the individual is capable as described above, he/she is able to consent (or refuse to consent) to a treatment or plan of care.