

SOURCE: Ministry of Health	POLICY TITLE: Informed Consent
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Title: Informed Consent Policy

PURPOSE:

1. To define obligations in obtaining and documenting informed consent by physicians and nursing staff.
2. To ensure that Informed Consent is obtained from patients in accordance with Patient's Bill of Rights Policy.
3. To obtain Patient's Informed Consent for Medical and Surgical Procedures.
4. To outline procedures for Refusal of Treatment.

Applicability: **All Physicians, Nursing staff assigned to Clinical Departments /Services and staff members involved in issues of consent (Infection Control Staff).**

Definitions:

Attending Physician – the Physician with primary responsibility for a patient's treatment and case management.

Adult Patient - a person 18 years of age or older or a person under 18 years of age who has had the disabilities of minor removed.

Minor - is a person under eighteen (18) years of age and has not been legally emancipated by a court and is:

- not legally or previously married
- not at least 16 years old and living away from home managing his own financial affairs.

Informed Consent - Consent for treatment/procedure from a competent patient or authorize person not acting under duress, fraud or undue pressure, who is adequately informed by the healthcare worker of the following information concerning the contemplated procedure/treatment:

- Patient's diagnosis.
- General nature of the contemplated procedure, its purpose, whether it is experimental, and the name (s) of the person(s) who will perform the procedure or administer the direct treatment.
- The benefits, risks, discomforts and complications associated with the procedure, treatment and potential problems related to recuperation that may reasonably be expected, including all risks of the procedure or treatment.
- The likelihood of success.
- The patient's prognosis if procedure is not performed.

- Reasonable alternatives to medical treatment, if any.
- Expressed Consent - Either oral/written consent given by a competent person or authorized representative for incapacitated patient.
 1. Oral Consent – conveyed through speech.
 2. Written Consent – conveyed through written document for diagnosis and treatment or specific treatment or procedure.
- Emergency Consent - Medical Emergency is defined as a situation, where in competent medical judgment, the proposed surgical or medical treatment or procedures are immediately or imminently necessary and any delay caused by an attempt to obtain consent would jeopardize the life, health or safety of the person affected or would result in disfigurement or impaired faculties. ***This is a medical decision.***

1. **POLICY:**

The underlying principle of informed consent is that patients have the right to be told what to expect and to determine what will be done with and to their bodies. Except in emergencies, medical or surgical treatment or procedures shall not be administered to any patient until informed consent has been obtained from the patient or one legally authorized to act on behalf of the patient.

All adult patients have the right to make decisions regarding their treatment and to be provided sufficient information in order to make informed decisions regarding their healthcare.

The physician performing the medical and/or surgical procedure on patients is generally responsible for obtaining the patient's informed consent prior to the treatment or procedure.

Informed Consent shall be obtained and placed in the patient's medical record for all surgical procedures, emergency service treatment, administration of blood and/or blood products, ambulatory care treatment and other services including treatment of minors, mentally challenged, radiographic procedures, all surgical and endoscopic procedures including but not limited to:

- general anaesthesia
- local anaesthesia
- spinal anaesthesia
- minor surgical interventions
- major surgical interventions

Any other procedure that requires a specific explanation to the patient.

2. **WHO MAY CONSENT**

2.1 **ADULT PATIENTS CAPABLE OF MAKING DECISIONS**

- 2.1.1 Adult patients who are capable of making decisions regarding proposed treatment may give, withhold or revoke consent for themselves.

- 2.1.2 In the case of incapacitated patients their legal guardian or properly appointed power of attorney may give consent.
- 2.1.3 When there is no appointed power of attorney or guardian to consent on behalf of an adult who is comatose, incapacitated, or otherwise mentally and physically incapable of communication, an adult from the following list who has decision-making capacity:
 - 2.1.3.1 patient's spouse;
 - 2.1.3.2 patient's parent;
 - 2.1.3.3 an adult child of the patient who has the waiver and consent of all other qualified adult in the family;
 - 2.1.3.4 an individual clearly identified to act for the patient (before the incapacity) the patient's nearest living relative, or a member of the clergy.

2.2 **ADULT PATIENTS NOT CAPABLE OF MAKING MEDICAL DECISIONS**

- 2.2.1 If an adult is unable to understand all relevant facts related to his condition and /or proposed treatment, his capacity to give informed consent must be questioned.
- 2.2.2 Determination of incapacity must be made by an attending physician in consultation with a psychiatrist. This lack of capacity may be temporary or permanent and may be due to a natural state, age, anxiety, illness, injury, drugs or sedation, intoxication, or other cause.
- 2.2.3 An adult patient shall not be considered incapable to make a decision regarding proposed treatment based solely upon the fact of his or her refusal of medical care.
- 2.2.4 The attending physician shall document the basis of such finding in the patient's medical records.

2.3 CIRCUMSTANCES WHEN MINORS MAY CONSENT.

- 2.3.1 A minor may give, withhold, and revoke consent for him or herself if the minor is.
 - 2.3.1.1 sixteen years of age or older and resides separate and apart from his or her parents, managing his or her own financial affairs.
 - 2.3.1.2 pregnant and seeking treatment in connection with pregnancy or childbirth.
 - 2.3.1.3 emancipated (that is, patient has been self-supporting, makes his/her own life decisions and is living apart from parents for a substantial period of time. Emancipation is ultimately a legal determination.
 - 2.3.1.4 incarcerated in the Department of Correction.
 - 2.3.1.5 seeking treatment for a venereal disease.

2.4. COURT-ORDERED CONSENT.

- 2.4.1 When consent cannot be obtained through any other means, a court order can be obtained giving consent for treatment. Hospital Administration should be contacted if such a situation arises and if time permits.
- 2.4.2 Hospital administration should be contacted in at least the following situations:
 - 2.4.3 A pregnant female in the third trimester of pregnancy who refuses surgical or medical treatment or procedures;
 - 2.4.4 A minor patient who is not authorized and empowered to give consent for himself or herself and all available persons authorized and empowered to give consent to surgical or medical treatment or procedures on his or her behalf refuse to do so;
 - 2.4.5 An adult who is incapable of making a medical decision and all available persons authorized and empowered to give consent to surgical or medical treatment or procedures on his or her behalf refuse to do so.

II. PROCEDURE FOR OBTAINING CONSENT

1. It is the legal responsibility of the attending physician responsible for performing the medical or surgical treatment or procedure to:
 - 1.1 Disclose all medical information that he/she believes is relevant to making an informed in a language the patient can understand.
 - 1.2 Obtain an informed consent from the patient or one authorized, and capable of consenting on behalf of the patient.
2. The patient's signature on the Informed Consent Form is witnessed by a medical/nursing staff not involved in the procedure. The witness' signature on the consent form signifies only that the patient's signature is indeed his own. Witnessing the signature implies nothing about the witness's knowledge of the patient's ability to give consent or completeness of the information shared by the physician with the patient.
3. Because of the distance involved or because of an extreme emergency situation, verbal or phone permission from any of the persons

authorized to give consent on behalf of the patient may be obtained in the presence of two (2) witnesses by the use of extension phones (the physician and a hospital employee), and signed by both. The person giving the consent should be asked to sign as soon as possible. It is not necessary for the hospital employee to witness the information provided by the physician, merely the person's consent.

III. DURATION OF CONSENT

1. A general consent for admission shall be valid for the duration of the hospitalization. If the patient is discharged and needs to be readmitted, a new Informed Consent Form must be signed by the patient or one legally authorized to act on behalf of the patient.

IV. PROCEDURE FOR REFUSALS OR WITHDRAWAL OF CONSENT

1. An adult patient who is conscious and capable of making a medical decision has the right to refuse any surgical or medical treatment or procedures.
2. A patient may, before treatment is begun, specifically prohibit a procedure that might become necessary during treatment or withdraw a consent previously given for such procedure. In the event of such refusal, two alternative courses are possible:
 - 2.1 The physician may refuse to admit the patient on the grounds that proper care cannot be rendered because of the patient's refusal to allow procedures that the physician believes may be necessary for the preservation of life or health; or
 - 2.2 The physician can admit the patient and provide only such services and procedures as are within the limits stated by the patient.
3. If the patient has already been admitted when the refusal to consent is expressed, the services or procedures should be provided within the limits imposed by the patient or the physician should offer assistance to the patient in finding another physician who is willing to provide treatment within the patient's limitations.
4. The Medical Chief of Staff or his designee on duty should be contacted immediately if the patient is:
 - 4.1 A minor;
 - 4.2 Pregnant;
 - 4.3 An adult with minor children; or
 - 4.4 A person who appears to be under the influence of drugs, delirious or comatose, or otherwise incapable of exercising rational judgment.
5. A patient who imposes limits by refusing certain procedures (e.g., refusal to permit a blood or blood derivatives transfusion to an adult of the Jehovah's Witness Faith) should be required to sign the Refusal to Consent Form. The progress notes in the patient's medical records should reflect the discussion with the patient and the patient's refusal to consent to specific treatment.
6. The Refusal to consent Form becomes part of the patient's medical record.

V. CONSENT AFTER REFUSAL OF CONSENT HAS BEEN GIVEN.

1. Consent to surgical or medical treatment or procedures may also be implied when;
 - 1.1 There has been a subsequent material or morbid change in the condition of the affected person after the refusal of consent and

- an emergency condition now exists; and
- 1.2 The patient is not capable of giving or withholding consent for himself or herself; and
- 1.3 There is no other person immediately available who is authorized, empowered, or capable to consent.

Forms: Informed Consent Form
 Refusal to Consent Form

Signatures:

Prepared by: _____ Date: _____

Ms. Michelle Cox –Hoare
Ag. Director, Licensing and Accreditation Unit

Reviewed by: _____ Date: _____

Dr. Jorge Polanco
Deputy Director of Health Services

Approved by: _____ Date: _____

Dr. Michael Pitts
Director of Health Services