

## 10 For how long is a patient consent valid?

In general, a consent is valid for an indefinite period unless the patient withdraws it.

If the consent has been obtained more than 3 months before the patient is undergoing a procedure or treatment, the patient should be asked to re-confirm his or her consent by re-signing and dating the consent form.

If the patient's condition has changed resulting in a significant change in the nature, purpose or risks associated with the treatment since the consent was signed, the consent should be obtained again. The Admission or Attendance Information form is valid for 2 years.



Feidhmeannacht na Seirbhíse Sláinte  
Health Service Executive  
South



## 1 What is involved in patient consent?

Consent is about the patient and the professional coming to a joint agreement on the best way forward for the patient's treatment, based on sharing the professional's clinical knowledge and the patient's values and preferences.

Patient consent is not getting a patient's signature on a consent form. A signature on a form is evidence that the patient has signed the form but it is not proof of valid consent.

## 2 What is needed to have valid consent?

There are three requirements for a valid consent. The person who gives consent:

- has to have the **mental and intellectual capacity** to consent to the intervention being proposed
- has to **give consent voluntarily**, ie, not make the decision under any kind of duress
- has to **be appropriately informed** about the proposed intervention prior to giving consent.

Appropriately informed means that the information given by a professional to a patient about benefits and risks includes **what is known or can or should be known by the professional who should be seeking the patient's consent**. To decide on what information is sufficient for a patient, the professional who is seeking a patient's consent has to consider these questions:

- Is there a **reasonably foreseeable risk** that is attached to the proposed treatment?

- Provision of care by students under supervision as part of their training
- Hospital responsibility for patient's personal health aids during surgery or a special procedure, but not personal items
- Release to the patient's insurer any information needed for reimbursement of the patient's care.

In addition, the same form includes a separate section on patient consent for the use of tissue in research. The admitting or outpatient or emergency doctor or nurse is responsible for ensuring that the patient is aware of the form, has signed the Admission or Attendance Information form and has decided whether or not to consent to the use of tissue for research purposes and completed the consent form appropriately.

## 8 Who should be getting the patient's consent?

It is always best for the person who is actually treating the patient to seek the patient's consent. However, you may seek consent on behalf of a colleague if you are yourself capable of performing the procedure to be carried out, or if you have been specially trained to seek consent for that procedure.

If an adult with mental and intellectual capacity to make an informed decision makes a voluntary and appropriately informed decision to refuse treatment, this decision has to be respected, even when treatment would clearly benefit the person's health.

## 7 How does the Admission or Attendance Information form relate to consent?

There are a number of routine practices and operational procedures that a patient needs to be aware of as part of receiving care at CUH because of their implications for patients. The form describes these practices and procedures and asks the patient to sign the agreement to indicate that s/he has been made aware of them. The form covers the following points:

- Routine laboratory and non-invasive tests and examinations
- Use of laboratory specimens for clinical audit, quality assurance, education and training, development of new laboratory procedures and methods and/or public health monitoring
- Use of personal health information — without revealing the patient's name or identifying information — for any of the following purposes:
  - auditing or monitoring the quality and safety of patient care
  - making improvements in the quality and safety of patient care
  - collecting statistics about the conditions treated in the hospital
  - discussing a patient's case in a case conference among specialty staff
- Patient naming of family members or others with whom the staff may discuss the patient's condition, treatment or prognosis

- Would a **reasonable patient attach significance** to the risk and therefore require warning of it?
- Would the occurrence of the **risk have serious consequences** in the patient's future?

## 3 When is patient consent needed?

Consent is needed for any of the following situations:

- Any procedure that has **significant consequences** for the patient, including surgery or an invasive diagnostic or treatment procedure
- **New technologies or drugs** for which **long-term outcomes are not yet known**
- Any genetic test
- Any **research** involving patients
- The **use of** a patient's **tissue for future research** purposes
- **Photography or video or audio recording when the patient could be identified** in the photograph or recording
- **Discussion of a patient's condition, treatment and prognosis** with the patient's family or others not directly involved with the clinical care of the patient
- **Providing access to the patient's record or revealing any information** about a patient to any third party, eg, the media
- **Testing a patient's blood for a serious communicable disease** if a staff member comes in direct contact with a patient's blood or body fluids

The authorization of a patient's next-of-kin is needed for the following circumstances:

- The **removal of an organ for transplantation** purposes
- A **post-mortem examination**, except when required by the Coroner.

#### 4 Are there any exceptions to patient consent?

There are specific exceptions to the consent process and guidance for handling them is in the CUH Consent Policy. The exceptions are as follows:

- when the **patient** makes clear that s/he **does not wish to be given information** about his or her condition or treatment or the risks and benefits
- when the patient is in a state of **temporary or permanent incapacity**
- in an **emergency** when the patient is unable to consent
- when the patient's condition is **too critical** to consent, ie, the patient is too ill to participate in the consent process
- when a patient **lacks the mental or intellectual capacity** to consent
- when the patient is a **child under the age of 16** years (and the parents or legal guardians must consent for the child)
- when the patient **refuses** to consent
- when the patient **withdraws** consent.

When one of these circumstances occurs, and consent is not obtained, the circumstance must be documented in the patient's record.

#### 5 Should the next-of-kin be asked to consent when it is not possible for an adult patient to consent?

**No-one** can give consent on behalf of an adult who is not able to consent for any of the reasons listed above. In the situation, the consultant responsible for the patient's care should make the decision to treat the patient by virtue of clinical necessity, and fully document the circumstances in the patient's record.

The professional(s) involved in the patient's care should consult with family members or carers to find out what the patient's wishes might be. However, other people cannot give consent (except a parent or guardian for a child under 16 years of age). When staff speak with family members or others, they must fully document any discussions with the family or others.

#### 6 How should consent involving treatment for a child be handled?

Since 1997, a child in Ireland is assumed to be competent at the age of 16. Therefore, a patient who is 16 or older can give consent for him/herself.

Younger children who meet the requirements for giving a valid consent also can give consent (although their parents also must consent). The CUH Consent Policy gives advice for a number of special circumstances involving children.