CDHO
COLLEGE OF DENTAL HYGIENISTS OF ONTARIO

Guideline: Informed Consent

INTRODUCTION

Informed consent in healthcare means that a client has given a health professional permission to do something only **after** the client has been:

- provided all the necessary information about the proposed intervention (e.g., side effects, risks, benefits, alternatives, cost, etc.) in a way that helps them easily understand and appreciate the information; and
- given an opportunity to ask questions.

GUIDANCE STATEMENT

Dental Hygienists must obtain informed consent from the client or substitute decision-maker for care decisions, including matters related to the release of information. While some Dental Hygienists assume that informed consent is only required for invasive procedures like surgery, this is not the case. Informed consent is needed throughout all aspects of Dental Hygiene care.

ELEMENTS OF INFORMED CONSENT

Informed consent can be provided verbally or in writing, and consent can be withdrawn at any time. Dental Hygienists must document the informed consent process, either by having the client sign a form **after** they've had a discussion with the client and the client has been given an opportunity to ask questions, or by documenting the discussion in the client record.

> **Implied consent** is not given explicitly but can be inferred based on the client's actions (e.g., a nod, thumbs up).
> **Express consent** is given explicitly, either verbally or in writing.

Regardless of whether consent is implied or expressed, the client must first be given all the information about the proposed intervention, and the opportunity to ask questions before deciding. For consent to be valid, it must be informed and given without undue pressure or influence, and the person consenting must have the capacity to make the decision.

A client must be informed of the following before any assessment is conducted or treatment is performed:

- **The nature of the treatment or assessment.** Always tell a client in plain language precisely what you are going to do.
- **Who will be providing the treatment.** Clients have the right to know who will be providing treatment, what that person's role is, and the right to give consent or refuse the care.

- **Reasons for the treatment and anticipated outcomes.** Clients must understand why the care is being recommended, the expected benefits, how long it will take to achieve the stated benefits, and how long those benefits should last.
- **Any risks or side effects associated with the proposed treatment.** Clients must be informed of and understand any potential risks or side effects of the proposed treatment. This information should include a description of how likely it is that the risks or side effects will occur. If there are potentially serious side effects or risks, even if they rarely happen, the client must be told about those.
- **Alternatives to the proposed treatment.** Clients must be presented with alternatives to a proposed treatment, including a description of the risks or side effects of the alternatives.
- **Consequences of declining the proposed treatment.** Clients have the right to refuse a proposed treatment. Dental Hygienists must assist the client in their understanding of the risks and sides effects of refusal. A client's decision to refuse specific treatment must be respected and documented. Clients must not be penalized or treated differently because they refused a particular treatment.
- **Answering a client's specific questions or concerns.** Clients must be given the opportunity to ask questions, seek additional information, or express concerns.

WITHDRAWING CONSENT

If a client provides consent, it can be withdrawn at any time. A client may initially consent to a course of treatment but then change their mind and withdraw their consent. You may assist in this decision-making process by reviewing the risks and benefits of a particular decision. You must respect a client's decision to withdraw their consent, even if that means stopping a procedure partway through.

DETERMINING CAPACITY

Clients are assumed to be capable of providing consent. However, there may be instances where a Dental Hygienist has doubts about the client's capacity. This judgement may be based on the client's medical history or through observations (e.g., the client is confused); they cannot be based on presumptions, generalizations or stereotypes. A client may be capable sometimes, or for certain procedures, but not for others. For example, with some forms of dementia a client may have "good days" and "bad days". In each case, the Dental Hygienist must assess whether the client understands and appreciates the information provided.

According to the *Health Care Consent Act, 1996*, a client is capable with respect to a treatment if they can understand the information that is relevant to deciding about the treatment and can appreciate the reasonably foreseeable consequences of their decision regarding that treatment. There is no minimum age for consent. In general, Dental Hygienists may find that:

- Children under the age of seven cannot provide consent for almost any treatment;
- Children between the ages of seven and 12 can very rarely provide consent to treatment; and
- Youth over 12 need to be carefully assessed as to their capacity to provide consent on a case-by-case basis.

CONSENT IF A CHILD IS INCAPABLE

If a child cannot consent to treatment — meaning they are unable or developmentally incapable of consenting to treatment — the Dental Hygienist would generally look for consent from the parent or guardian accompanying the child. This situation can be complex in situations where parents are separated or divorced.

If the Dental Hygienist has reasonable grounds to believe that another person has a legal right to be involved in the decision, the Dental Hygienist should speak to the relevant individuals, determine who is legally entitled to consent for the child, and document the discussion carefully.

SUBSTITUTE DECISION-MAKERS

Substitute decision-makers (SDMs) are people authorized to provide consent on behalf of a client who is incapable. A client who is incapable of consent cannot understand the information that is relevant to deciding or appreciate the consequences of a decision.

According to the *Substitute Decisions Act, 1992* and the *Health Care Consent Act, 1996*, the SDM must:

- be at least 16 years old (unless the SDM is the client's parent).
- be deemed capable.
- be able and willing to make the decision.
- act in accordance with either:
    - the last capable wishes of the client, if any; or
    - the best interests of the client.

SDMs may include the client's attorney for personal care, their spouse or partner, or their child or parent, among others. Where there may be more than one substitute decision-maker, the law ranks them in order of priority. Where there are multiple decision-makers, Dental Hygienists should take steps to determine who is authorized to provide consent on behalf of the client and how to address any potential conflicts. Dental Hygienist must carefully document their informed consent discussions with the SDM and the resulting decision.

ADDITIONAL RESOURCES

- *Personal Health Information Protection Act, 2004*
- *Health Care Consent Act, 1996*
- *Substitute Decisions Act, 1992*

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