

Practice Standards

for Registered Nurses and Nurse Practitioners

Consent

Practice Standards set out requirements related to specific aspects of nurses' practice. They link with other standards, policies and bylaws of the College of Registered Nurses of British Columbia and all legislation relevant to nursing practice.

Nurses¹ have both legal and ethical obligations regarding **consent**² for proposed care, treatment and research.

Consent is the voluntary agreement to some act or purpose made by a capable individual. The conditions for consent include:

- The client or **substitute decision-maker** being adequately informed.
- The client or substitute decision-maker being capable of giving or refusing consent.
- There being no coercion, fraud or misrepresentation.

In British Columbia, the legal obligations concerning consent are imposed by legislation, which limits and directs nurses' practice in relation to consent.³ The Health Care (Consent) and Care Facility (Admission) Act and the Infants Act are key statutes. Other relevant legislation may include the following acts and regulations:

- Adoption Act
- Adult Guardianship Act
- Child, Family and Community Service Act
- Human Tissue Gift Act
- Mental Health Act
- Patients Property Act

¹ "Nurse" refers to CRNBC practising registrants.

² Terms defined in the Glossary are highlighted in bold type the first time they appear.

³ This practice standard does not address restraint use. The Residential Care Regulation under the Community Care and Assisted Living Act sets out requirements for the use of restraints.

- Public Health Act and Communicable Disease Regulation
- Representation Agreement Act

The ethical obligations of nurses are to recognize, respect and promote the client's right to be informed and make informed choices.

Employers are responsible for providing necessary systems and supports to enable nurses to meet consent requirements.

Principles

1. Nurses respect clients' rights to make decisions about the management of their own health care. The giving or refusing of consent to care, treatment or research is fundamental to this decision-making process.
2. Nurses know what legislation applies to their practice and follow legislated requirements.
3. Nurses determine the client's capacity to give consent. If necessary, nurses identify the person who is authorized and able to make health care decisions on the client's behalf.
4. Nurses obtain consent prior to carrying out care, treatment or research unless legislation dispenses with consent. Nurses are responsible for obtaining consent for care or treatment they carry out (e.g., taking blood pressure, starting an intravenous). It is not appropriate for nurses to take responsibility for obtaining consent for care or treatment provided by another health professional (e.g., surgery, anesthesia).
5. Nurses provide clients and substitute decision-makers with the information that a reasonable person would require in order to make a decision about proposed health care. This includes information about:
 - The condition for which the health care is proposed.
 - The nature of the proposed health care.
 - The risks and benefits of the proposed health care.
 - Alternatives to the proposed health care.

The information is sufficient, specific and evidence-based.

6. Nurses provide information in a timely and appropriate manner, taking into account the individual's abilities, age, culture, language and preferences. Nurses give clients and substitute decision-makers an opportunity to ask questions and receive answers.

7. Nurses recognize that consent may be given verbally, in writing, through an alternative communication system (e.g., computer assisted) or through behaviour that implies consent (e.g., client rolls up sleeve when nurse reaches for blood pressure cuff).
8. Nurses do not use coercion, fraud or misrepresentation in the consent process. Nurses are sensitive to the difference in power between health professionals and clients and do not misuse that power to influence clients' decision making.
9. Nurses respect the right of clients and substitute decision-makers to seek further information or another opinion and to involve others in the decision-making and consent process.
10. In very limited circumstances, nurses base their decision about a client's health care on what is in the best interests of that client, as they can best determine and in consultation with others. This occurs only when all of the following conditions apply:
 - The client is unable to provide consent.
 - There is no **advance directive**.
 - No substitute decision-maker is reasonably available.
 - The care or treatment must be provided without delay (e.g., in order to preserve life or to prevent serious physical or mental harm).
11. Nurses respect the right of clients and substitute decision-makers to refuse or withdraw consent at any time and for any reason, provided they are capable of doing so and there is no legislation that removes that right. Nurses help clients understand that they have the right to refuse or withdraw consent.
12. Nurses who participate in the delivery of care or treatment by other health professionals:
 - Confirm the identity of the client and verify that consent has been given for the proposed care or treatment.
 - Ask clients if they have sufficient information and understanding of the proposed care or treatment.
 - Help clients to understand the information provided by others.
 - Advocate for clients to acquire information from others.
13. Nurses tell clients about any care, treatment or research before it is undertaken, regardless of a client's capacity to give consent.
14. Nurses document the consent process, as well as a refusal or withdrawal of consent.
15. Nurses take action if they have any concerns related to consent.

Applying The Principles To Practice

THE CONSENT PROCESS

Effective communication is essential to ensure that your client's decisions about his or her own health care are understood, expressed and respected by everyone involved. Strengthen your communication by giving explanations in ways best understood by the client and by using a combination of strategies. These might include:

- Giving verbal explanations.
- Using visual aids and handouts.
- Asking clients for feedback about what they understand.
- Asking clients if they have any questions.
- Engaging any family or friends who are supporting the client to help the client understand.
- Using plain language and age-appropriate terminology.
- Using the services of a qualified interpreter if a language barrier exists.
- Providing information through an alternate mode (e.g., using sign language, speaking in the client's mother tongue).

Communication and decision-making about health care is often an ongoing process. While clients may consent to an initial plan for care, you should re-establish consent if, for example, you believe your client may be reconsidering the decision or if you are contemplating changes to the plan.

RELEVANT LEGISLATION

Identify which legislation applies to your practice. In B.C., the Health Care (Consent) and Care Facility (Admission) Act and the Infants Act are key statutes.

The Health Care (Consent) and Care Facility (Admission) Act outlines: the scope and elements of consent; the requirement for nurses and other health care professionals to seek consent for care, treatment and research; how consent is obtained; and some of the exceptions to the consent requirements.

- A fundamental principle of this Act is the presumption of capability. In other words, health professionals must presume that a client is capable of giving, refusing or revoking consent to health care unless there is a reason to believe otherwise. A client is seen to be capable of giving consent if he or she demonstrates understanding of the information that is relevant to making a decision about the proposed care, including how the information applies to the client's situation. Understand how this principle applies in your practice. Know what to do if a formal assessment of incapability is required.

- Understand how advance directives (advance consents or refusals) function.
- Understand the circumstances in which consent may be given by someone other than the client. If your client does not have a committee of person, a representative with authority to make the particular health care decision or an advance directive, know who can act as a temporary substitute decision-maker.
- Know when health care can be provided without consent.

The **Infants Act** deals with consent for clients under 19 years of age. This Act uses the term “infant” to describe all minors, but it provides rules to determine who qualifies as “mature” minors and who are, therefore, entitled to give consent to their own health care.

- Understand the legal requirements for determining if a minor can provide valid consent.
- Know who may give consent if your minor client cannot.
- Understand your obligation to report under the Child, Family and Community Service Act if a mature minor or the parent or guardian of an immature minor refuses to give consent to necessary health care.

In some specific circumstances, the usual requirements related to consent may not apply. In this case, identify legislation relevant to your practice setting. Legislation may include the Human Tissue Gift Act, the Mental Health Act, and the Public Health Act.

Know your organization’s policies about any relevant legislation related to consent. When policies are inadequate or inappropriate, participate in refining and strengthening them.

WORKING WITH OTHER HEALTH CARE PROFESSIONALS

If you are involved in care or treatment that is being provided by another health professional (e.g., surgery), make sure that your client has given consent and check that he or she has sufficient information and understanding of the proposed care or treatment. If your client does not, help him or her understand information that has been provided by the other health professional or, if necessary, support your client in getting more information.

If you are establishing a plan for nursing care that will be carried out by a team, ask the client or substitute decision-maker to consent to the overall plan for nursing care. This overall consent makes it easier to perform those repetitive aspects of care that the nursing team routinely carries out.

ETHICAL CONSIDERATIONS

When clients have a reduced capacity for decision-making, support them to participate in making decisions that are within their capacity.

If you have any concerns about consent, you are obligated to take appropriate action. Taking action can include:

- Asking the client again for consent if you are in doubt about your client's wishes.
- Informing another health professional that the client does not have sufficient information about the care or treatment the professional intends to carry out.
- Providing additional information.
- Providing information through an alternate mode (e.g., using visual aids or sign language, speaking in the client's mother tongue).
- Helping the client to seek another opinion.
- Raising issues so they can be addressed by others (e.g., where coercion is suspected).

Glossary

Advance directive: A consent or a refusal in advance of the need for health care arising that complies with the requirements of the Health Care (Consent) and Care Facility (Admission) Act.

Consent: The voluntary agreement to some act or purpose made by a capable individual. The conditions for consent include the following:

- The client or substitute decision-maker being adequately informed.
- The client or substitute decision-maker being capable of giving or refusing consent.
- There being no coercion, fraud or misrepresentation.

Substitute decision-maker: The parent or guardian of a child who is not a mature minor, a temporary substitute decision-maker for an adult, a court-appointed committee of a person or a representative who, under a representation agreement, is authorized to make the particular health care decision.



For More Information

STANDARDS OF PRACTICE

CRNBC's Standards of Practice (Professional Standards, Practice Standards, and Scope of Practice Standards) set out requirements for practice that nurses must meet. They are available from the Nursing Standards section of the CRNBC website crnbc.ca

Documentation Practice Standard (pub. 334)

Professional Standards for Registered Nurses and Nurse Practitioners (pub. 128)

OTHER CRNBC RESOURCES (AVAILABLE AT [CRNBC.CA](http://crnbc.ca))

Legislation Relevant to Nurses' Practice (pub. 328)

For more information on this or any other practice issue, contact CRNBC's Practice Support by email at practice@crnbc.ca or call 604.736.7331 (ext. 332) or 1.800.565.6505.

OTHER RESOURCES

Provincial legislation online bclaws.ca/default.html

Federal legislation online laws.justice.gc.ca/en/index.html

INFORMATION TO HELP NURSES AND OTHERS INTERPRET AND IMPLEMENT RELEVANT LEGISLATION

Ministry of Health publications and reports www.health.gov.bc.ca/library/publications/index.html

Ministry of Health (July 2011) *Health Care Providers' Guide to Consent to Health Care*
www.health.gov.bc.ca/library/publications/year/2011/health-care-providers'-guide-to-consent-to-health-care.pdf

Ministry of Health (April 2005) *Guide to the Mental Health Act*
<http://www.health.gov.bc.ca/library/publications/year/2005/MentalHealthGuide.pdf>

Office of Public Guardian and Trustee of British Columbia trustee.bc.ca

Seniors BC www.seniorsbc.ca/legal/healthdecisions



COLLEGE OF
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INFORMATION ABOUT THE ETHICAL CONDUCT OF RESEARCH

Interagency Advisory Panel on Research Ethics pre.ethics.gc.ca/eng/index/

Canadian Institutes of Health Research, Natural Sciences and Engineering Research Council of Canada, & Social Sciences and Humanities Research Council of Canada. (2010). *Tri-Council Policy Statement: Ethical Conduct for Research Involving Humans*.

Canadian Nurses Association. (2002). *Ethical Research Guidelines for Registered Nurses*. Ottawa: Author.

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