

Consent for care



In general, the patient's consent is required to receive care in hospital. This fact sheet explains what happens if someone other than the patient has to consent to care on his or her behalf.

What is consent?

Upon arrival at the hospital, patients sign a form giving their general consent to care. This means they agree to receive the planned care.

In addition, for examinations or treatments that present a particular risk, new forms need to be signed.

What care are we talking about?

This care could involve tests or treatments (such as an operation).

Being housed somewhere that is not the patient's usual living environment also requires consent. This needs to be accepted by the patient when the care team considers that it is no longer possible for the patient to return to their usual living environment.

What is a patient who is unable to consent to care?

A patient will be considered incapable of consenting to care if he or she is unable to understand:

- > the nature of the illness affecting them
- > the nature and purpose of the care
- > the risks associated with this care
- > the risks incurred if this care is not done
- > the fact that their health condition impairs their capacity to consent

Who decides that a patient is incapable?

A medical evaluation must be done to decide this.

In complex or difficult social situations, a social worker may also intervene to assess the patient's capacity to consent.

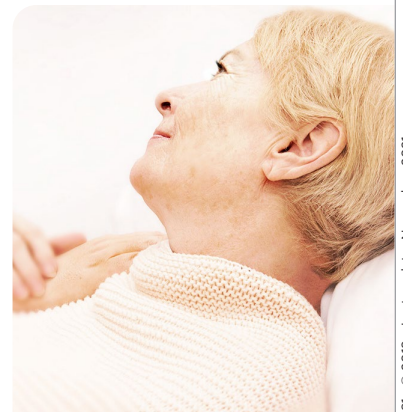
In addition, advice from other members of the care team (occupational therapist, neuropsychologist) is sometimes required.

How can we tell if a patient is incapable?

An assessment is done to check whether the patient has certain abilities. In particular, this includes ensuring he or she can express a choice about care and remain consistent in that decision.

The care team also constantly checks to see whether the patient remains able to:

- understand information about their care
- discuss the possible options in their own words
- give reasons for their decision



Who can consent on the patient's behalf?

If the patient's care team has assessed that the patient is incapable of consenting to his or her care, they need to know who can consent for them.

If the patient doesn't already have a legal representative, one of the persons below may be designated as a representative, in the following order of priority:

- 1 The spouse (married or not).
- 2 A close relative (parent, brother, sister, child).
- 3 Anyone who shows a benevolent interest in the person.
- 4 The Public Curator, if the patient is isolated.



How can a free and informed choice be made for the patient?

To give consent in the best interests of the patient, the representative must ask the care team the following questions:

- How is this care necessary for the patient's mental or physical health?
- What benefits will it provide?
- What are the risks in relation to the expected benefits?

The representative should also consider:

- What does the patient say about their quality of life?
- What are the patient's priorities at this time in their life: their comfort? being able to manage on their own? prolonging their life at all costs?
- What would they have chosen, and why?

What if the patient's choice differs from that of the representative?

Even if the patient has difficulty understanding complex care, he or she can still give an opinion.

If this opinion is different from that of the representative, but the patient has held it all his or her life, it must be respected. It is necessary to act in the patient's interest and to take into account his or her wishes.

If the doctor and the patient's representative believe this care is essential, the hospital may ask the court for authorization to treat the patient. The judge decides in the best interests of the patient after hearing the arguments of both parties.

What happens when the patient is discharged?

The representative will be consulted when it is necessary to prepare the patient's discharge and decide whether they should return home, go to another facility to convalesce, etc.

The care team, together with the CLSC, will help find a solution.



USEFUL RESOURCES

If you have questions, you can contact the office of the Curateur public during business hours, by phone:

> **514 873-4074 or 1 844 532-8728**

Other health sheets published by the CHUM are available. Ask for those that might fit your situation.



You can also find them on our web site chumontreal.qc.ca/fiches-sante

The content of this document in no way replaces the recommendations and diagnoses made, or the treatment suggested by your health professional.

To find out more about the Centre hospitalier de l'Université de Montréal
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