CMRITO

What you must know about ... consent

Consent is an essential component of patient centred care and is vital for patient safety.

The *Health Care Consent Act, 1996* (HCCA) requires informed consent to be obtained for every health care treatment or procedure. Prior to performing a procedure, the health professional carrying out the procedure must explain the procedure to be performed to the patient and ensure that the patient (or, in certain cases, a substitute decision-maker) consent to it.

As a result, medical radiation and imaging technologists (MRITs) ensure consent prior to each procedure they perform, as required by legislation and standards of practice, and ensure that consent is maintained throughout the procedure. MRITs must also obtain consent if they propose a procedure.

What is informed consent?

Consent is required by the HCCA as well as CMRITO's Code of Ethics and Standards of Practice, which govern the practice of medical radiation and imaging technology in Ontario. It involves the MRIT explaining the procedure that was ordered to the patient and ensuring that the patient gives permission to them to conduct the ordered procedure.

A central principle of consent is that the patient retains the right to be respected and maintains ownership of what happens to their body at all times, as aligned with their beliefs and values. As a result, consent can be withdrawn by the patient at any time before or during the procedure. Consent is an ongoing process. Informed consent is not only required before starting the procedure. It must be maintained throughout the procedure, as patient consent can be withdrawn at any time.

As an MRIT, before you begin a procedure, you should thoroughly explain to the patient what you are going to do and why. The patient must understand what will occur during the procedure, including any medically required physical interaction (i.e., touching).

Once you have explained the procedure to the patient, you must ask for their permission to proceed. The consent may be oral, but it must be obtained before the procedure begins. Then and only then can you proceed to carry out the procedure.

Health Care Consent Act

The HCCA requires that no procedure should take place without the informed consent of the patient. This means that the patient must be capable of making a voluntary decision about whether to undergo the procedure and that they understand the risks, benefits and alternatives of the proposed procedure.

The person proposing the procedure is responsible for ensuring the patient has consented to the procedure and that their consent is informed. The person performing the procedure needs to ensure that consent is maintained by assessing the patient's condition before, during, and after the procedure. This should be monitored verbally as well as by observing how the patient reacts and tolerates the procedure.

If a patient is not capable of consenting, a substitute decision maker may consent on their behalf.

See Jurisprudence Module 7 for more detailed information about the HCCA including:

- what constitutes informed consent
- how capacity to consent is determined
- who may act as a substitute decision maker

Standards of Practice

The Standards of Practice describe the expectations for MRITs and what each registrant is accountable and responsible for in practice. The following standards and indicators apply to the consent process and the obligations of MRITs.

Standard 1: Legislation, standards and ethics

MRITs must:

- adhere to all relevant provincial and federal legislation and guidelines governing the practice of the profession (HCCA)
- adhere to the Standards of Practice set by the College

Standard 3: Diagnostic and therapeutic procedures

MRITs must:

- ensure that patient consent has been obtained
- assess the patient’s condition before, during and after the procedure or course of treatment
- respond to any change in the patient’s condition during or after the procedure or course of treatment

Standard 5: Relationships with patients

MRITs must:

- provide clear and understandable information to the patient or patient's substitute decision maker prior to, during and after the diagnostic or therapeutic procedure, using an interpreter if necessary
- give the patient or patient's substitute decision maker an opportunity to ask questions
- provide the patient or patient's substitute decision maker with answers to their questions within the scope of the profession's responsibility
- refer questions of the patient or patient's substitute decision maker that are outside the scope of the profession's responsibility to an appropriate health professional for answers
- carry out diagnostic or therapeutic procedures only with the informed consent of the patient or the patient's substitute decision maker
- explain to the patient when and where the registrant might touch them and why
- touch the patient in only those areas needed to facilitate carrying out the procedure
- comply with all relevant legislation such as the *Health Care Consent Act*

Code of Ethics

The CMRITO Code of Ethics provides direction and guidance for all CMRITO registrants, defining the principles of responsible conduct and ethical and moral behaviour, and ensuring the welfare and protection of patients and the public.

Ethical principle 2: Responsibility to patients

Registrants act in the best interests of their patients by:

- upholding the principle of informed consent including the right of the patient, or the patient's substitute decision maker, to refuse service

MRITs and consent in practice

MRITs must always ensure they have the patient's consent before performing any diagnostic or therapeutic procedure. MRITs must also ensure consent is maintained throughout the procedure.

MRITs also need consent before they touch the patient. MRITs must touch the patient only where necessary to perform the procedure, and only after explaining where and why they need to touch the patient and obtaining consent before proceeding. MRITs must also be aware that touching of a sexual nature that is not clinically appropriate to the service being provided is sexual abuse.

Ensuring consent is maintained throughout a procedure requires MRITs to communicate effectively with patients before, during and after each procedure and be alert to any indication the patient is no longer willing to proceed. Refer to *What you must know about … communicating with patients* for additional information.

a. Performing procedures with a direct order

The health care professional who ordered the procedure (most often a physician) is responsible for ensuring that the patient is both capable of consenting to the procedure and has provided their informed consent. They will have explained to the patient that the procedure is required and why they have ordered it. However, they may not have explained the protocol that will be followed during the procedure nor the specifics of how the patient will be positioned or gowned. Protocols and policies vary from facility to facility, and these aspects of the patient's experience may be different depending on the facility they attend. As a result, MRITs are responsible for explaining what will happen in the procedure to the patient.

MRITs must explain the procedure they will be performing, answer the patient's questions that are within their scope, and ensure they have consent before proceeding. If there are multiple procedures or multiple components (i.e., views) in the procedure, MRITs must explain each step and confirm that patient consent is maintained throughout. If the patient has questions that are outside of an MRIT's scope, the patient should be referred to the appropriate health professional for answers.

b. Performing procedures under a medical directive or protocol

Medical directives or protocols may be used as the authority for performing procedures when a health professional has the knowledge, skills and judgement to determine that the conditions and circumstances described in the medical directive are met.

If an MRIT determines that a procedure that was not directly ordered is necessary, and there is a protocol or medical directive in place, the MRIT becomes the person proposing the procedure. For example, a pelvic ultrasound is ordered by the patient's physician, but a transvaginal ultrasound examination, which was not ordered by the referring physician, is required in addition to answer the clinical questions. As the person proposing the procedure, the MRIT must therefore determine if the patient is capable of consenting to the procedure and obtain informed consent to conduct the procedure prior to proceeding.

This will require the MRIT to thoroughly describe the procedure they are proposing and explain why it is being proposed. The MRIT will need to explain the benefits and risks of the procedure, answer any questions the patient has, and give the patient the option to decline the proposed procedure. MRITs must remember that the health professional who ordered the initial examination

was not aware of the medical directive/protocol and therefore could not have explained the procedure being proposed by the MRIT or obtained informed consent for it. Obtaining consent is the MRIT's responsibility in these circumstances.

Withdrawn consent

Consent may be withdrawn at any time. As an MRIT, you must respect the patient's decision and their right to change their mind. If there are any indications that consent has been withdrawn, you should stop the procedure until the patient's consent is re-established. If consent is not re-established, you cannot continue the procedure.

Professional misconduct

If an MRIT performs a procedure for a patient for a therapeutic, preventative, palliative, diagnostic, cosmetic, or other health related purpose without consent in a situation where consent is required by law, they are committing an act of professional misconduct. The Professional Misconduct Regulation made under the *Medical Radiation and Imaging Technology Act, 2017* outlines how failure to obtain consent is professional misconduct.

CONSENT CHECKLIST

Before performing a procedure, MRITs must:

- [ ] confirm the patient has an order or a requisition for the procedure
- [ ] confirm the procedure to be performed
- [ ] describe to the patient how they will perform the procedure (what the patient can expect, number of steps and what positioning and touching is involved)
- [ ] ask if the patient has any questions and answer any questions that are within their scope to answer

During the procedure, MRITs must:

- [ ] check with the patient frequently
- [ ] explain why and where they need to touch the patient, if they need to, and obtain consent prior to proceeding
- [ ] observe the patient for signs that they may not be willing to proceed with the procedure
- [ ] stop the procedure immediately if the patient withdraws their consent

If an MRIT proposes a procedure that was not a direct order, they must do the following before proceeding:

- [ ] determine if the patient is capable of consenting to the procedure and making a voluntary decision about whether to undergo the procedure
- [ ] explain to the patient why the procedure is being proposed and its risks and benefits
- [ ] ask the patient if they have any questions and answer any questions that are within their scope
- [ ] ensure the patient's consent is informed and that they understand what has been proposed
- [ ] give the patient the option to decline the proposed procedure