Practice Standards set out baseline requirements for specific aspects of Registered Psychiatric Nurses’ practice. They interact with other requirements such as the CRPNBC Code of Ethics, all the CRPNBC standards of practice, the CRPNBC bylaws and relevant legislation.

Registered Psychiatric Nurses (RPNs) have both legal and ethical obligations regarding consent for proposed care, treatment and research.

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

- The client\(^1\) 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 RPN practice in relation to consent. 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:

- Adult Guardianship Act
- Child, Family and Community Service Act
- Community Care and Assisted Living Act (Residential Care Regulation)
- Mental Health Act
- Patients Property Act
- Public Health Act
- Representation Agreement Act
- Criminal Code, Part XX.1 (Mental Disorder)
- Youth Criminal Justice Act.

An RPN’s ethical obligations related to consent 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 RPNs to meet consent requirements.

**CAUTION:** The following information is not intended to be exhaustive of all legislation that may have a bearing on the issue of consent in a particular situation. It is intended to make RPNs aware of the most important legislative provisions with respect to consent, but should not be used as a substitute for consulting the actual legislation or obtaining appropriate legal advice.

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\(^1\) Client means recipient of health care and is presumed to be interchangeable with patient, resident and persons in care.
PRINCIPLES

1. RPNs know what legislation applies to their practice and follow legislated requirements.

2. RPNs respect clients’ rights to make decisions about the management of their own health care. The presumption that a client is capable, until determined otherwise, of giving, refusing or revoking consent to care, treatment or research is fundamental to this decision-making process.

3. RPNs determine if the client is capable of giving consent. If necessary, RPNs identify the person who is authorized and able to make health care decisions on the client’s behalf.

4. RPNs do not use coercion, fraud or misrepresentation in the consent process. RPNs are sensitive to the difference in power between health professionals and clients and do not misuse that power to influence clients’ decision making.

5. RPNs obtain consent before providing care or treatment to a client, giving a client-specific order for the provision of care or treatment to a client, or carrying out research involving the provision of services to a client, except where legislation dispenses with consent. RPNs are responsible to obtain consent before carrying out care, treatment or research and when giving a client-specific order, unless legislation dispenses with consent (see item g below).

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

7. RPNs provide clients and substitute decision-makers with information a reasonable person would require in order to make a decision about proposed health care². This includes client-specific, evidence-informed information about:

   a. The condition for which the health care is proposed
   b. The nature of the proposed health care
   c. The risks and benefits of the proposed health care
   d. Alternatives to the proposed health care.

8. RPNs 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)². Behaviour that implies consent must not be assumed to indicate informed consent. RPNs must ensure the client still has the health care information identified in Principle 7 (above).

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9. RPNs 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. RPNs are not required to obtain consent for emergency health care under specific circumstances. RPNs base their decision about a client’s health care on the client’s best interests as they can best determine and in consultation with others. This occurs only when all the following conditions apply:
   a. The care or treatment must be provided without delay (e.g., in order to preserve life or to prevent serious physical or mental harm)
   b. The client is incapable of giving or refusing consent
   c. No substitute decision-maker is reasonably available
   d. There is no advance directive. This includes advance refusal of health care relevant to the emergency circumstances.

11. RPNs respect the right of clients and substitute decision-makers to refuse or withdraw consent at any time and on any grounds, even if the refusal will result in death, provided they are capable of doing so and there is no legislation that removes that right. RPNs help clients understand they have the right to refuse or withdraw consent.

12. RPNs who participate in the delivery of care or treatment by other health professionals:
   a. Confirm the identity of the client and verify that consent has been given for the proposed health care
   b. Ensure clients have sufficient information and understanding of the proposed health care
   c. Help clients understand the information provided by others
   d. Advocate for clients to acquire information from others.

13. RPNs tell clients about any care, treatment or research before it is undertaken, regardless of a client’s capacity to give consent.

14. RPNs document the consent process, as well as a refusal or withdrawal of consent.

15. RPNs take action if they have any concerns related to consent.
APPLYING THE PRINCIPLES TO PRACTICE

Introduction

a. Familiarize yourself with organizational policy, procedures or restrictions on consent and follow them. RPNs must know and understand their organization’s policies about any relevant legislation related to consent. When policies are inadequate or inappropriate, participate in refining and strengthening them.

The Consent Process

b. Effective communication is essential to ensure that your client's own health care decisions 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).

c. Communication and decision-making about health care is often an ongoing process. While clients may consent to an initial plan of 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

d. 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. These Acts do not apply to psychiatric treatment and care for people who are involuntarily admitted for the treatment of a mental disorder under the Mental Health Act.

e. 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 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) work.

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 the client’s consent.

The Infants Act addresses consent for clients less than 19 years of age (section 17). 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 those cases, identify legislation relevant to your practice setting. Legislation may include the Mental Health Act and the Community Care and Assisted Living Act (Residential Care Regulation) as stated below.

The Mental Health Act addresses consent for both voluntary and involuntary clients in a designated psychiatric facility and involuntary clients on extended leave. Consent is given using specific forms, which must be completed before treatment can be provided. A physician conducts the consent process for treatment of clients admitted under the Mental Health Act and evaluates the client’s mental capability to make a consent decision. If the client is incapable of making a consent decision or refuses to give consent, treatment may be authorized by the director of a designated facility (or their delegate) and is deemed to be given with the consent of the client (section 31).
• This does not relieve RPNs from the ongoing professional responsibility to explain what treatment is going to be provided, to engage the cooperation of the client whenever possible and to promote client autonomy whenever appropriate.

• In some settings, voluntary clients are admitted to designated psychiatric facilities under the *Hospital Act*, not the *Mental Health Act*. Always know which legislation applies in your setting.

i. *The Community Care and Assisted Living Act* (Residential Care Regulation) addresses agreement for the use of restraints in facilities licensed under this Act (Part 1: division 5).

**Working with Other Health Care Professionals**

j. If you are involved in health care being provided by another health professional (e.g., ECT), 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 lacks understanding, help him or her understand the information that has been provided by the other health professional or, if necessary, support your client in getting more information.

k. 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 a nursing team routinely carries out.

**Ethical Considerations**

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

m. 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
- 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 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 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.

FURTHER INFORMATION

CRPNBC’s Professional Standards, Practice Standards, and Scope of Practice for Registered Psychiatric Nurses: Standards, Limits and Conditions set out requirements for practice that registrants must meet. They are available from the Practice Support section of the CRPNBC website: https://www.crpnbc.ca/practice-support/.

For more information on this or any other practice issue, contact a CRPNBC Practice Consultant by email at crpnbc@crpnbc.ca or call 604.931.5200 or 1.800.565.2505.

Additional Resources


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

Seniors BC www.seniorsbc.ca/legal/healthdecisions/

Information About the Ethical Conduct of Research

Interagency Advisory Panel on Research Ethics [website](www.pre.ethics.gc.ca/eng/index/)


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