GUIDEINE PURPOSE

Informed consent must be obtained before a health care treatment, procedure or operation is provided to a patient at BC Women’s Hospital (Patient Safety AS_170). This guideline provides a resource to health care practitioners in assessing competence in cases where competency is in question using the following:

- Care Facility (Admission) Act (HCCCF) for medical treatment
- Health Care (Consent)
- Mental Health Act (MHA) for treatment of a psychiatric disorder.

When competence is in question, a competence assessment is performed by the treating physician/midwife or psychiatrist, ideally in consultation with another care provider where ever possible. When a woman is assessed to be incompetent, a temporary substitute decision-maker must be appointed.

Applicability: The Informed Consent to Care And Treatment guidelines apply in all Programs at BC Women’s Hospital.

SPECIAL INSTRUCTIONS

DEFINITIONS

Competence:
The patient understands the information and that the information applies to the patient’s situation. Competence is used interchangeably with the word “capacity”.

Temporary Incompetence to give or refuse consent:
In cases of such conditions as acute or drug induced psychosis, mania or delirium where a patient is temporarily not able to give consent.

Chronic Incompetence to give or refuse consent:
Patient’s with conditions such as low IQ (below 70), Fetal Alcohol Spectrum Disorder, brain damage, chronic mental illness or chronic intellectual incapacity must be assessed as being incompetent to give informed consent for medical procedures at any or specific times.

Mental Health Act (MHA):
Patients at risk of harming themselves or others or where they may deteriorate and cause harm to self or others, are assessed for the need for certification under the Mental Health Act. One physician certifies, the patient can be held for 48 hours. If two physicians certify, the patient can be held for 30 days.

Health Care (Consent) and Care Facility (Admission) Act (HCCCF)

When a patient has been deemed incompetent to make decisions for medical care, this Act directs the appointment of a Temporary Substitute Decision Maker (PHSA Policy AS_170). If no appropriate temporary substitute decision maker is available exists, one may be appointed through the Office of the Public Guardian and Trustee. This process is available Monday - Friday - 9 am -5 pm, and limited hours on the weekend. Telephone - 604 775 - 1001.

Temporary SDM: Temporary Substitute Decision Maker (SDM) appointed under the HCCCF to make health care decisions for individuals who cannot do it for themselves.

ACE Form: Aid to Capacity Evaluation Form (Appendix C).
INFORMED CONSENT TO CARE AND TREATMENT
ASSESSING COMPETENCE GUIDELINE

PROCEDURE TO OBTAIN CONSENT FOR MEDICAL CARE AND TO ASSESS COMPETENCY

1.1 Urgent or emergency health care (i.e. life threatening): Consent by a patient or substitute decision maker is required for all medical care except when it is necessary to provide health care without delay in order to preserve the adult's life, to prevent serious physical or mental harm or to alleviate severe pain. Under the HCCCFA two physician signatures are required.

1.2 Non-urgent or emergency health care: If competence is in question (Appendix A), the health care provider must determine the patient’s competence to give or refuse consent. (Policy AS_170; Aid to Capacity Evaluation-Appendix C).

The health care provider is responsible for conducting an informal assessment of competence to consent to health care and/or securing formal assessments. Recommended guidelines for informally determining competence include:

• Repeats and explains the health care in own words or manner
• Provides clear, consistent and unambiguous answer to questions about the health care
• Provides consistent information
• Asks pertinent questions to indicate an understanding and
• Demonstrates understands that the information being provided pertains to own situation.

If the patient is not competent to give consent, the reasons must be documented in the patients’ health record. This information includes:

• Information provided regarding health, recommended health care, alternative health care options presented and the benefits and risks of the health care and benefits and risks of not accepting the proposed treatment,
• Any problems identified in communication and steps taken to overcome communication problems
• The extent of consultation with others (i.e. spouse, any relative, friend or health care provider with appropriate expertise) in helping to understand or to demonstrate an understanding of the information,
• The patient's expressed understanding of the information and that the information pertains to them, and
• Problems encountered with the process

The health care provider informs the patient and support person the result of the test of competence. This may include explaining the reasons for the determination and answering the adult’s questions.

1.3 Case Examples
Patients with chronic conditions that may impair ability to consent to medical care. Chronic conditions such as low IQ (below 70), Fetal Alcohol Spectrum Disorder, brain damage, chronic mental illness or chronic intellectual incapacity must be formally assessed for the ability to give or refuse consent to medical care.

Patients with temporary acute conditions such as acute psychosis, mania or delirium
a) not at risk of harming themselves or others and are not expected to deteriorate and cause harm to self or others.

Certification under the MHA is not permissible under these circumstances. If the patient has a medical condition that needs treatment, and it is for a non-life threatening situation, appoint a temporary substitute decision maker under the HCCCFF as per the procedure above.
b) are at risk of harming themselves or others or are expected to deteriorate and cause harm to self or others

Assess individual for eligibility for certification under the Mental Health Act (MHA). The MHA only allows treatment for their psychiatric condition.

All three of the following questions need to be answered positively in order to invoke the MHA:
1) Is there a disorder of the mind that requires treatment and seriously impairs the individual’s ability to react appropriately to the environment or to associate with others?
2) Does the individual require treatment in a designated facility, this includes BC Women’s (i.e. cannot be treated voluntarily, in the community or as an out-patient)?
3) Does the individual need to be in a facility to prevent harm to self or others or is it expected that the person will deteriorate and cause harm to self or others? Form 4 Mental Health Act is required for all certifications.

If the patient certified under the MHA requires medical care, appoint a temporary substitute decision maker under the HCCFMA.

DOCUMENTATION
- Aid to Capacity Evaluation Form
- Interprofessional Progress Notes
- Mental Health Act - Form 4 (for certification if needed)

REFERENCE
Health Care (Consent) and Care Facility (Admission) Act (RSBC 1996, Chapter 181, 12 (1).
http://www.bclaws.ca/civix/document/id/complete/statreg/96181_01

Patient Safety PHSA Policy AS_170 May 24, 2011

APPENDIX
- Appendix A Consent Issues Related to Health Care Consent and Care Facility Admission Act Diagram
- Appendix B Individual Requires Treatment When Competence is in Question Flow Diagram
- Appendix C Aid to Capacity Evaluation Form (ACE)
- Appendix D ACE - Instruction for Administration and Scoring