The College of Physiotherapists of Ontario presents the Health Care Consent E-Learning Module. This module is divided into four chapters. Chapter 1 provided an overview of the Health Care Consent Act and the Substitute Decisions Act. The second chapter highlights the key principles of consent. Chapter 3 will cover consent as it applies to a physiotherapist’s practice. The fourth and final chapter in this series can be used to test your knowledge. The ‘Test Your Knowledge’ questions found in Chapters 1, 2, and 3 have been combined as an opportunity to review the material from the previous chapters.
We begin chapter 2 with a brief review of the legislation introduced in chapter 1. We will explore the 10 key principles of consent that have been identified in the Briefing Note to the Health Care Consent Act. This document is available in the Registrants’ Guide section of the College website.

During and at the end of the chapter you will have an opportunity to test your knowledge.
In chapter 1 we learned that the Health Care Consent Act provides explicit rules about when consent is required for treatment, who can give consent and the role of the substitute decision-maker in the consent process. The Act ensures that health care practitioners do not have the authority to make decisions for their patients. Additionally, the Act provides a hierarchy of substitute decision-makers.

To learn more about substitute decision-makers or to understand the definition of the term ‘treatment’, please return to chapter 1. The glossary at the end of this chapter will also provide you with definitions of the terms from chapter 1.
Chapter 1 also reviewed the purpose or intent of the Health Care Consent Act. Take a moment to review the items on the screen.

Other points made in chapter 1 include the following:

- Consent can be written, oral, or implied, and

- When obtaining consent, health care practitioners should initially assume the patient is capable.
The requirements for obtaining consent under the Health Care Consent Act can be summarized into 10 principles. This module will guide you through these principles to assist you in understanding the basic concepts which you can then apply to your own practice. As you work through the chapter you will have an opportunity to problem solve various scenarios. At the end of this chapter you will have an opportunity to further test your knowledge.

For more details about the Health Care Consent Act please refer to the Act itself which is available on the Government of Ontario’s E-Laws website or the Briefing Note to the Health Care Consent Act that is available on the College website.
Principle 1: The health care practitioner proposing treatment must obtain consent before treatment is provided. The patient provides consent if they are capable. A substitute decision-maker provides consent if the patient is incapable.
Principle 2: The health care practitioner proposing the treatment is responsible for forming an opinion about the patient’s capacity to either consent to or refuse treatment.

(this person may be different from the person who actually administers the treatment)

Principle 2: The health care practitioner who is proposing the treatment is responsible for forming an opinion about the patient’s capacity to either consent to or refuse treatment.

The person administering treatment may be different from the person proposing treatment.
But how do you determine capacity?

We learned in chapter 1 that physiotherapists should assume that an individual patient is capable and then use their judgment in evaluating the patient’s behaviour that may indicate otherwise. Chapter 1 also provided an explanation of incapacity.

There are no specific rules to follow to determine capacity.

A physiotherapist may wonder “How do I use my professional judgment to determine capacity?” A physiotherapist would need to weigh the circumstances and consider the patient’s condition when determining if a patient is capable. The physiotherapist would also need to determine if the patient has the capacity to understand and appreciate the information that is relevant to making the decision.

Physiotherapists should also remember that, in some situations, capacity can change from day to day or from treatment to treatment.
Take a moment to review some of the circumstances that could falsely lead a health care practitioner to assume that a patient does not have the capacity to make treatment decisions. Even in situations such as these, physiotherapists should not assume that a patient is incapable of providing consent to treatment. The presence of these or other factors may or may not impact the person’s ability to consent to treatment.
When health care practitioners are trying to determine if the patient is incapable of providing consent, several factors may be considered.

During a discussion the patient could display evidence of confused or delusional thinking.

In other circumstances, the patient may repeatedly alternate between consenting to or declining treatment. This behaviour may indicate that the patient is not able to make a firm choice.

In the event that the patient has severe pain, fear, or anxiety, the patient may not fully appreciate or understand the information provided.

In some cases, severe depression or impairment by alcohol or drugs could also indicate that the patient may be incapable of providing informed consent.

There may be other observations that a health care practitioner could make to suggest that the patient may be incapable. The ideas presented here provide you with a few examples but do not represent an exhaustive list of possible indicators of incapacity.
Principle 3 indicates that consent must relate to the proposed treatment, must be informed, must be given voluntarily, and must not be obtained through misrepresentation or fraud.
Principle 4:
Informed consent means that the patient, or substitute decision-maker has received the information that a reasonable person, in the same circumstances, would require to make a decision about the treatment, including information about the nature, benefits, material risks and side effects of the treatment, alternative courses of action, and the likely consequences of not having the treatment.

Patients should also have an opportunity to ask and receive answers to any questions they may have regarding the proposed treatment.
Let’s look at an example…

Consider Joanne, a physiotherapist treating a child with cerebral palsy. Joanne has recently taken a course that offers an alternative way to address the increased tone in the child’s leg muscles. She has already determined that the young child does not have the capacity to consent to this treatment so Joanne speaks with the parents, the substitute decision-makers.
Joanne is so convinced of the effectiveness of this treatment that she doesn’t think to tell the parents about some of the treatment alternatives. As well, Joanne describes the potential benefits in great detail but omits the potentially painful side effects.
Based on this example, try to answer the following questions. Click on ‘submit’ once you have selected your answer.

Question 1: If the parents agree to the treatment, will consent be fully informed?
Question 2:
Has the physiotherapist misrepresented the recommended treatment?

- A) Yes
- B) No

Correct.
The physiotherapist misrepresented this treatment because the potentially painful side effects and all of the risks were not discussed with the patient and parents. The physiotherapist only provided information about the potential benefits of the treatment.

Question 2:
Has the physiotherapist misrepresented the treatment in any way?
Principle 5:
Only a health care practitioner with the knowledge and ability to answer questions related to the proposed treatment can obtain informed consent.
The next example highlights Principles 1 and 5.

Ray, a physiotherapist, has a busy private practice. He has been treating a patient with back pain and after reviewing the patient’s chart, Ray decides to revise the treatment plan and introduce the following techniques:

- Spinal manipulation, thoracic spine
- Strengthening exercises supervised by Deb, his physiotherapist support person (PSP)
- Ultrasound

To save time, he has asked Deb to obtain consent for the new treatment he is proposing and to go ahead and start the exercises and ultrasound. He will be along in a few minutes to perform the manipulation.
There are two main concerns with this scenario:

1. Informed consent for a treatment plan is obtained by the individual proposing the treatment and should not be assigned to a physiotherapist support person.

2. Although Deb may have some knowledge and training to provide general information to the patient, she may not have the knowledge to fully explain the risks, benefits and possible side effects.
In Principle 1 we learned that the health care practitioner that proposes a treatment is responsible for obtaining informed consent before treatment is provided.

Principle 6 indicates that a physiotherapist performing a treatment proposed by another health care practitioner should be able to rely on the informed consent obtained by that health care practitioner if it is reasonable to do so.

(i.e. the consent is documented and there has been no material change in circumstances)

A physiotherapist could determine that it is reasonable to rely on the informed consent obtained by another practitioner when it has been documented that consent was obtained and the chart also indicates that there have been no changes in the patient’s circumstance.
Principle 6 - Example

Janet was asked to treat Dave’s patients because he called in sick. She reviewed the charts and noted what treatments were provided. In each chart Dave has documented that he obtained informed consent for the treatment plan.

For example:

Janet was asked to treat Dave’s patients because he called in sick. She reviewed the charts and noted what treatments were being provided. In each chart Dave has documented that he obtained informed consent for a treatment plan.
Read through the following statements and select the most correct answer. Click submit to continue.
In chapter 1 we learned that consent may be obtained for a plan of treatment. Principle 7 indicates that prior consent does not replace the need to discuss or review with the patient prior to initiating individual treatments or procedures.

Physiotherapist should briefly review what treatments will be provided each session. Although it would not be necessary to go through each part of the treatment in the same detail as was done to obtain consent, this review allows the patient an opportunity to ask additional questions or withdraw their consent.
Let’s see how this would work in practice.
Take a moment to read the example on the slide.

In this example, Deepa has reminded Ann about the acupuncture treatments they discussed previously. She provided Ann with an opportunity to ask any additional questions before proceeding. In this situation Deepa did not go through all of the components of informed consent because she did this at a previous visit.
Principle 8:
The physiotherapist administering treatment should confirm that consent was obtained and the patient is aware of the treatment.

If the physiotherapist is uncertain about consent to treatment, the patient refuses treatment or does not seem aware of the treatment, then the physiotherapist should not proceed.

(In this situation the physiotherapist should document their actions and notify the individual who proposed treatment and obtained consent.)
Principle 9

Expressed wishes refer to treatment decisions or requests made while the patient was capable. The substitute decision-maker is expected to follow the expressed wishes made by a person who was at least 16 years old and capable.

For example, a person when capable may have indicated that she would choose to not have life support if her health suddenly declined. The substitute decision-maker would be expected to follow these expressed wishes if the patient became incapable to make a decision in this regard.
Let's work through an example.

Vivian just had a knee replacement yesterday. At the pre-admission clinic, Vivian received information about the surgery and the treatment that would be required afterwards including the physiotherapy care map. She asked a few questions and agreed to the plan.

Muhammad is the physiotherapist that visits Vivian the day after surgery to assess Vivian and begin the treatment protocol.

Muhammad reviews the chart and notes that the patient reacted poorly to the anaesthetic. When he arrives at Vivian’s room she is confused, aggressive and uncooperative. Vivian refuses treatment.
In this scenario Vivian is refusing treatment that she consented to during the pre-admission clinic, but now her capacity is reduced. What should Muhammad do?

- A) Follow Vivian’s original consent and provide the treatment.
- B) Ask the nurse to page him when Vivian is feeling better.
- C) Identify and contact Vivian’s substitute decision-maker for direction.

In this scenario Vivian is refusing treatment that she consented to during the pre-admission clinic. Her capacity is reduced following surgery.

Read the statements and select the most appropriate action, then click submit to continue.
In this scenario Vivian is refusing treatment that she consented to during the pre-admission clinic, but now her capacity is reduced. What should Muhammad do?

- A) Follow Vivian’s original consent and provide the treatment.
- B) Ask the nurse to page him when Vivian is feeling better.
- C) Identify and contact Vivian’s substitute.

Correct. Even though Vivian previously consented, she is now incapable and a substitute decision-maker is needed to determine the course of action to be followed.

In this scenario Vivian is refusing treatment that she consented to during the pre-admission clinic. Her capacity is reduced following surgery.

Read the statements and select the most appropriate action, then click submit to continue.
Principle 9 explained that expressed wishes made by a capable person over the age of 16 must be followed by the substitute decision-maker, however the Health Care Consent Act does not define an age that a person is old enough to provide consent to their health care decisions.

When applying the Health Care Consent Act to patients, physiotherapists must consider the patient’s capability to understand the implications of their decisions rather than their age. A physiotherapist must use professional judgment to determine if a young patient has the capacity to provide informed consent. This would include the patient demonstrating that he has an understanding and appreciation of the information relevant to making a decision. It is possible that a child could have the capacity to make some but not all decisions related to treatment.
Zoe, the physiotherapist support person, is supervising Ajay, a patient, while he is crutch walking. The physiotherapist has already obtained consent for treatment and for Zoe’s participation in treatment.

While Zoe and Ajay are walking together Ajay has questions about the treatment for his fractured femur.
Read the three statements and select the most appropriate response. After selecting your response, click on submit to continue.
Read the three statements and select the most appropriate response. After selecting your response, click on submit to continue.
Question 6:
A physiotherapist will determine if the patient is capable to provide consent to their proposed treatment by:

- A) Asking the patient's doctor if the patient is capable.
- B) Hiring a person to assess the patient's capacity.
- C) Using professional judgment.

Read the statements and select the most correct answer and click submit to continue.
Question 6:
A physiotherapist will determine if the patient is capable to provide consent to their proposed treatment by:

- A) Asking the patient’s doctor if the patient is capable.
- B) Hiring a person to assess the patient’s capacity.

Correct.
The physiotherapist should use their professional judgment to determine the patient’s capacity. The physiotherapist may observe behaviours that will influence this decision.

Read the statements and select the most correct answer and click submit to continue.
An 80 year old patient, Mrs. Tam has declined a treatment proposed by Jim, the physiotherapist. He has explained that this treatment is the most effective treatment available for the condition. Jim has explained the side effects, benefits and the associated risks of declining the treatment. He believes Mrs. Tam is making a bad decision.

What does Jim do?

Select the most correct response and click submit to continue.
An 80 year old patient, Mrs. Tam has declined a treatment proposed by Jim, the physiotherapist. He has explained that this treatment is the most effective treatment available for the condition. Jim has explained the side effects, benefits and the associated risks of declining the treatment. He believes Mrs. Tam is making a bad decision.

What does Jim do?

Select the most correct response and click submit to continue.
Read the scenario and select your answer then click submit to continue.
Question 8:
Kasia has just started receiving treatments for her lymphedema following a mastectomy. She has received two treatments of the proposed 12. When the physiotherapist obtained consent she explained that she would likely not notice significant changes within the first few sessions. Kasia has now changed her mind and does not wish to pursue this treatment. Can she withdraw consent now that treatment has begun?

Correct.
A patient may withdraw consent for treatment at any time. Once consent is withdrawn, the physiotherapist must respect the patient's wishes and either cease or modify the treatment accordingly. The physiotherapist may wish to explore why consent is being withdrawn in addition to producing information on the alternatives available.

Read the scenario and select your answer then click submit to continue.
A substitute decision-maker has the right to access the information necessary to make an informed decision.

Select a response and click on submit to continue.
Select either ‘true’ or ‘false’ as your response and click on submit to continue.
Question 11:
A patient’s expressed wishes...
(click the correct answer)

☐ A) Must be respected at any age.

☐ B) Can be ignored if the substitute decision-maker does not agree.

☒ C) Must be expressed when the patient is capable.

Correct.
A patient’s expressed wishes must be made at a time when the patient has the capacity to do so and is at least 16 years old. The substitute decision-maker cannot ignore these wishes.
This slide and the next two slides provide a glossary of terms used in this chapter of the Consent E-Learning Module.
Glossary Cont'd

Course of Treatment
A series or sequence of similar treatments administered to a patient over a period of time for a particular injury or problem. For example, obtaining consent for stretching and strengthening exercises.

Health Information
Includes: health history, physical or mental health, individual plan of service under the Long Term Care Act, payments for health care or eligibility for health care, the donation, testing or examination of any body part or fluid, health number, the name of the substitute decision-maker.

Partner
Defined as two persons who have lived together for at least one year and have a close personal relationship that is of primary importance in both persons’ lives.

Personal Assistance Services
In the Health Care Consent Act this phrase means ‘assistance with or supervision of hygiene, washing, dressing, grooming, eating, drinking, elimination, ambulation, positioning or any other routine activity of living, and includes a group of personal assistance services or a plan setting out personal assistance services to be provided to a person’.
Glossary Cont’d

Personal Information
Any information about an identifiable individual that relates to their personal characteristics (e.g., gender, age, ethnic background), their health or their activities and views (e.g., dealings with the physiotherapist, opinions expressed by an individual, religion, political involvement, a physiotherapist’s view or evaluation of an individual).

Plan of Treatment
A plan of treatment may be developed by one or more practitioners addressing a patient’s single problem or multiple problems. The plan of treatment may also address problems the patient may have in the future based on their current condition. This type of plan may include varied treatments but allow for the withholding or withdrawal of these treatments depending on the patient’s current health condition. For example, a care plan or care map following a total joint replacement.

Relative
Two persons are relatives if they are related by blood, marriage or adoption.

Spouse
The HCRA defines a person as a spouse if they are married to the person, living in a conjugal relationship outside of marriage having lived together for at least one year, together the parents of a child, or are living in a cohabitation agreement as defined in the Family Law Act.
Click on the references to be linked to the corresponding documents.
Questions

Please contact the Practice Advisor if you have any questions related to this module:

- 416-591-3828 Ext. 241
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If you have any questions related to this module, please contact the Practice Advisor.
Congratulations, you have now completed chapter 2.
We are very interested to hear your feedback on this chapter of the Consent E-Learning Module. Please use the link on the screen to complete a very short online survey.

Thank you.