

Supporting Consent to Medical Treatment

Key Facts

Doctors and dentists need to get consent before they carry out treatment. No one can do things to your body unless you agree! What happens if patients with intellectual and developmental disabilities (I/DD) do not understand the treatment?



Tips to Help with Understanding and Decision Making:

If Possible, the Person Should Decide!

For people over 15, doctors should get consent from the patient whenever possible. They should do their best to explain the problem and the treatment to patients with I/DD. For those seeking outpatient treatment for mental health and/or chemical dependency, the age of consent is 14 years or older.

Families, advocates, and support workers may need to help the person understand.

What If the Person Cannot Consent?

The age of consent for medical treatment in Oregon is 15 years old. For children under 15, their parent or guardian can give consent for medical treatment.

If the person is 15 years or older and does not understand the problem and/or the treatment, is not capable of making their own decisions, and/or has been deemed incapacitated by a court of law; the individual's guardian can give consent for them.

Sometimes, Consent Is Not Needed

In an emergency, the doctor can provide treatment without getting prior consent.



- Involve someone the person likes talking to.
- Talk about the treatment somewhere quiet where the person feels relaxed.
- Try to use words the person knows. If you have to use difficult words, explain them simply, in a way they understand.
- If the person has an alternative communication system, use that.
- Use pictures that show the problem and the proposed treatment.
- Stick to the basic information. Do not overload the person with detail.
- Give the person time to think about the information and then have another talk.

Guardianship and the Protected Person

Natural guardianship is a relationship between parents and their children until the children turn 18 years old. Once the individual becomes an adult, a guardian can be appointed by a court of law if the court determines an individual is unable to meet the needs of or make decisions about their own feeding, shelter, clothing, personal hygiene, and other activities of daily living.

A guardian can help make decisions for the person, who is now a protected person.

Decisions made on behalf of the protected person should reflect and honor the individual's values and protect their independence, as well as their legal and civil rights.

Consent to Medical Treatments Made by the Guardian

Before making any medical decisions on behalf of the protected person, the guardian must get all information about the health problem, diagnosis, and treatment options from the individual's medical professional.

The guardian can and should ask questions and also ask for a second opinion if they want one. They should not give consent unless they are satisfied that the treatment is a good idea and in the best interest of the protected person.

For More Information

For more information about guardianship and protected person's, visit:

<https://www.courts.oregon.gov/forms/Documents/Obtaining%20Elder%20Abuse%20Restraining%20Order%20-%20Packet.pdf>

<https://thearcoregon.org/gaps/>

You might be interested in this fact sheet:

- Understanding Rights and Responsibilities

This fact sheet was created in June 2021.

The fact sheet contains general information only and does not take into account individual circumstances. It should not be relied on for medical advice. We encourage you to review the information in this fact sheet within the context of educational purposes and when appropriate, share it with your health professional to decide whether the information is right for you.

This module was adapted from NSW Council for Intellectual Disabilities (2009), Australia.

The toolkit and its components were supported in part by the grant or cooperative agreement number DD000014, funded by the Centers for Disease Control and Prevention and by the University Center for Excellence in Developmental Disabilities Administration on Community Living grant #90DDUC0039. Its contents are solely the responsibility of the authors and do not necessarily represent the official views of the Centers for Disease Control and Prevention, Administration on Community Living, or the Department of Health and Human Services.

Are There Treatments a Guardian Cannot Consent To?

The guardian of a protected person may only make decisions based on the person's specific needs. A guardian may not:

- Authorize sterilization of a protected person
- Place a protected person in a mental health treatment facility, a nursing home, or other residential facility without filing a statement with the court
- Provide consent if the patient is objecting to treatment.

