

Purpose

This policy establishes Men's Health Trust NZ's framework for obtaining informed consent, including situations where clients are unable to provide consent. It defines legal and ethical standards for substituted or surrogate decision-making and outlines a clear process for obtaining consent in such circumstances.

Scope

This policy applies to all personnel, volunteers, contractors and service delivery partners involved in interactions with clients where informed consent is required.

1. Definitions

1.1 Informed Consent

- Informed consent is the voluntary agreement of a client to a proposed action based on adequate information, understanding, and the ability to make a decision.

1.2 Situations Where Clients May Be Unable to Provide Informed Consent

- Unconsciousness: The client is unable to communicate due to medical or physical conditions.
- Cognitive Impairment: The client lacks the capacity to understand or evaluate the information provided.
- Legal Restrictions: Situations where a minor or legally incapacitated individual requires consent from a legal guardian.

1.3 Substitute or Surrogate Decision-Maker

- An individual or entity authorised to make decisions on behalf of the client, such as a legal guardian, next of kin, or holder of power of attorney.

2. Legal and Ethical Standards for Substituted or Surrogate Decision-Making

2.1 Legal Standards

- Substitute decision-makers must act in compliance with applicable laws, including healthcare, guardianship, and power of attorney regulations.
- Decisions must prioritise the client's best interests and known preferences.

2.2 Ethical Standards

- Substitute decision-makers should respect the autonomy and dignity of the client.
- Efforts must be made to involve the client in decision-making to the extent of their capacity.

3. Obtaining Consent in Special Circumstances

3.1 Identifying the Appropriate Substitute Decision-Maker

- Hierarchy of Decision-Makers:
 - Legal guardian or power of attorney.
 - Next of kin (e.g., spouse, adult children, parents).
 - Court-appointed decision-maker.

3.2 Documenting the Decision-Making Process

- Record the following details in the client's file:
 - Reason for substituted decision-making.
 - Name and relationship of the substitute decision-maker.
 - Information provided to the decision-maker.
 - The decision made and its rationale.

3.3 Consultation Requirements

- Engage relevant parties as needed, including:
 - Healthcare providers for medical expertise.
 - Advocates to represent the client's best interests.
 - Legal counsel in complex or disputed cases.

4. Substituted Decision-Making Process

Step 1: Assess the Client's Capacity

- Evaluate whether the client can understand, appreciate, and communicate decisions.
- Document the assessment and the reasons for determining incapacity.

Step 2: Identify the Substitute Decision-Maker

- Determine the appropriate decision-maker based on legal and organisational guidelines.
- Verify the decision-maker's authority (e.g., legal documents, court orders).

Step 3: Provide Information to the Substitute Decision-Maker

- Explain the situation, options, risks, and benefits clearly and thoroughly.
- Ensure the decision-maker understands their responsibility to act in the client's best interests.

Step 4: Document the Decision

- Record the decision, including:
 - The decision-maker's identity and authority.
 - The options considered and the rationale for the decision.
 - Any consultations or additional input obtained.

Step 5: Implement and Review the Decision

- Take action based on the substitute decision-maker's consent.
- Monitor outcomes and re-evaluate the client's capacity periodically.

5. Responsibilities

5.1 Personnel and Volunteers

- Recognise and respect the client's capacity and right to provide consent.
- Follow this policy and report any concerns or conflicts promptly.

5.2 Management

- Ensure staff are trained on informed consent and substituted decision-making.
- Provide resources to support compliance with legal and ethical standards.

5.3 Legal and Advocacy Support

- Assist in complex or disputed cases involving substituted decision-making.
- Ensure decisions align with the client's rights and legal protections.

Policy Review Schedule

This policy will be reviewed annually, or more frequently if significant legislative or organisational changes occur, to ensure ongoing compliance and relevance. Below is the policy review schedule.

Version: 20-03-26 [The latest policy version is identified by the most recent review date]

Last Review Date: 20 March 2026. Reviewed by CEO

Board Approved Date: 23 March 2026

Next review date: By 31 March 2027, aligned with the Annual Plan cycle.

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