



## Policy for Consent

### Introduction:

**Consent** is an agreement or permission to do or allow something.

- Implied consent is a controversial form of consent which is not expressly granted by a person, but rather inferred from a person's actions and the facts and circumstances of a particular situation (or in some cases, by a person's silence or inaction).
- Express consent is clearly and unmistakably stated, rather than implied. It may be given in writing, by speech (orally), or non-verbally, e.g. by a clear gesture such as a nod. Non-written express consent not evidenced by witnesses or an audio or video recording may be disputed if a party denies that it was given.
- Informed consent in medicine is consent given by a person who has a clear appreciation and understanding of the facts, implications, and future consequences of an action. The term is also used in other contexts.
- Unanimous consent, or general consent, by a group of several parties (e.g., an association) is consent given by all parties.

Consent is the need to respect an individual right to autonomy or self-governance, the right to control their own life and what happens in it. The Irish Law states that consent must be obtained for any medical examination, treatment, service or investigation. Consent is a requirement by myhomecare.ie for the fundamental ethical and autonomic principles of any individual.

### Scope:

The need for consent and the application of the principles extends to receiving any service and all interventions conducted by myhomecare.ie in any location. The knowledge of obtaining informed consent is expected from all staff working for and with myhomecare.ie.

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**Purpose:**

To ensure that all myhomecare staff are fully aware of

- What is informed consent
- The importance of informed consent.
- The autonomy of each individual
- The importance of specific and individualised language, body language, sign language and writings.
- The importance of unbiased, moral and accurate information
- The importance of good communication and decision making
- Respect and support of each individual's decisions

**Valid and Genuine Consent:**

Consent is giving permission or agreement for something to happen or occur following a process of sufficient information and clear comprehensible communication at the beginning resulting in a clear appreciation and understanding of the facts, implications, and future consequences of the action or intervention at the end. For the consent to be valid and genuine the individual needs to:

- Give consent to the person performing the intervention or treatment.
- Receive clear comprehensible communication regarding the service, reasoning, purpose, benefits and risks of the action or intervention.
- Be able to understand the language spoken.
- Be of sound mind, memory and understanding.
- Not acting under any duress and their decision is giving freely
- Have the capacity to make the particular decision.
- Document consent clearly

**In the event the individual does not have the capacity to make a decision:**

- Consider using lucid moments if possible to obtain informed consent taking into consideration the individuals previously expressed preferences.
- Support and encourage the individual to be involved in their own care and treatment
- Consider the views of anyone the individual has asked
- Consider the view of the individuals family and close friends
- Consider an advocate to support the individual. This may be helpful for an individual without any friends or family involved.

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### **Role of the Family or Next of Kin**

- Upon commencing a service with myhomecare.ie, a point of contact or next of kin is appointed by the individual to be involved in any treatment decisions, in the discussion of and decision making process pertaining to the individual's health and social care.
- The next of kin's role is not to make the final decision for the individual receiving care unless otherwise stated and consented by the service user.

### **In the event of an emergency:**

Consent is not necessary in emergency situations provided the emergency is life threatening and treatment is required to save the individual's life. In the event of an emergency a family member request or a healthcare professional may treat a service user if it is immediately necessary to save the service user's life, prevent serious deterioration and provided the service user has not previously refused treatment.

### **Confidentiality and Data Protection:**

Myhomecare.ie cloud based database API Healthcare facilitates the timely and accurate collection of data on each client. The database allows us to monitor each case closely and complies with the Data Protection Acts 1988 and 2003. Security is significantly increased with API Healthcare by using specific logins and passwords for each team working within the company only.

All employees of myhomecare.ie are in a position of trust and this is particularly important when staff have access to personal client information. It is expected that all staff understand the importance of treating information in a discreet and confidential manner in accordance with the Data protection Acts 1988 and 2003.

- Written records and correspondence are kept securely on myhomecare.ie's API database and, with the consent of the client, in the client's home.
- Information regarding a client's care is not disclosed to any unauthorised person.
- Information about clients is not given to an unknown third party, in writing nor by telephone.
- Any breach of confidentiality is regarded as misconduct and is subject to disciplinary action.
- Data may be shared if it is deemed necessary to prevent injury or death or if required by a court.

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**Advanced Refusal of Treatment or Withdrawal of Consent:**

Service users may wish to plan their future treatment in the inevitability of incapacitation including refusal of all treatment. These plans should be respected on the condition that:

- The decision was an informed choice
- The individual is of sound mind, memory and understanding.
- That the individual has not changed their mind after the plan is made.

An individual has the right to withdraw consent at any time including during a previously consented procedure. The client's withdrawal of consent should be respected and adhered to without question. Concerns and consequences of stopping treatment should be addressed and client's decision should be respected.

**Children and Minors:**

All service users have a right to decision making in regards to their care including children. Children have a right to express their views and wishes freely on all matters relating to them and the child's best interest is of the utmost importance. Parents and legal guardians are considered best protection to safeguard the wellbeing and health of their children and have a responsibility to do so. For children under 16 years of age, a parent or legal guardian can consent to the treatment of a child with the assumption that the child's best interest is paramount as per the Child care Acts 1991 and 2001. In emergency situation where the parent or legal guardian is neither present nor contactable, the healthcare professional is obliged to act in the best interest of the child. Children under 16 years of age should be informed that any information disclosed to a health professional, confidentiality cannot be assured as the parent or legal guardian may have a right to access the information under the Freedom of Information Act 1997.

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## References:

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- Mason and Kenyon (2006). Mason and McCall Smith's Law and Medical Ethics (7<sup>th</sup> Edition). Oxford University Press.
- Data Protection Act 1988
- Data Protection Act (Amended) 2003
- Freedom of Information Act 1997
- Child Care Act 1991
- Child Care Act (Amended) 2001
- Charter of Fundamental Rights of the European Union 2000

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