

Tip Sheet:

Recommendations for Minimizing Legal Risk and Best Practices for Dentists Treating Patients with Special Health Care Needs

Under Canadian law, dentists must obtain informed consent from, or for, any patient before completing treatment. However, obtaining informed consent can be challenging if a patient has a communication disability or an intellectual disability that affects their understanding of the proposed treatment.

If it is not obvious that a patient can understand or appreciate the foreseeable risks of a treatment decision, they may not be legally competent to provide informed consent. In such cases, a legal representative or substitute caregiver must consent to the dental procedure on the patient's behalf. Adopting the patient-centered care techniques and language, outlined in the *CDA Dental Patient with Special Health Care Needs Transition Process tool* (the Transitions Tool) will help dental professionals to obtain informed consent to a treatment proposal for a patient with a disability and will enhance patient autonomy.

Patient-centred care ensures that patient preferences, needs and values guide all clinical decisions, thereby enhancing patient autonomy. Use the Transitions Tool for the following:

1. Learn methods to enhance comfort, relieve anxiety and provide emotional support for a patient with a disability.
2. Create a comprehensive treatment plan that meets the patient's wishes and goals for treatment. Collaborate with other dental health providers including hygienists, anesthesiologists, and other specialists to ensure the treatment plan is safe and effective.
3. If the patient cannot provide consent to treatment, ensure that responsible caregivers provide written consent to the treatment plan. Ensure that the responsible caregivers and, to the extent possible, the patient with a disability, understand the proposed treatment plan.
4. Create a comprehensive medical and dental health history and current health status, including allergies and medications. Date the history and each addition to it.
5. Document a decision to temporarily transfer treatment to a hospital or other dental professional and have the responsible adult initial it to indicate they understand the reasons for transfer. Have the dental professional who completes the treatment provide a comprehensive report on findings and results to ensure your file is complete.

Following these recommended techniques not only enhances autonomy for a patient with a disability, but it also helps to mitigate risk for the dental professional and ensures that dentists meet the highest standards of practice when treating every patient, including those with special health care needs.

In Canada, legislation dealing with providing consent to treatment varies from province to province. Language around the provision of legal consent used throughout the *CDA Dental Patient with Special Health Care Needs Transition Process* aims to make information as broadly useable for Canadian oral health care providers as possible. This tip sheet does not replace professional legal advice. As a best practice, dentists who have concerns regarding the provision of legal consent to treatment in an individual's specific case, or in their practice generally, may wish to consult a lawyer for advice in their provincial or territorial jurisdiction.

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