
Consent to Treatment

A Practical Guide

Fifth Edition

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This is the recognized treatise for health lawyers, risk managers, and other compliance professionals on health care decision-making. Filled with analysis of case law, legislation, and regulatory law, *Consent to Treatment: A Practical Guide* includes hands-on strategies for effective decision-making along the entire continuum of care. Aside from foundation chapters on the rules for and exceptions to consent, the book contains specific chapters on reproductive health care, prisoners, minors, mental health, end-of-life choice-making, clinical research, the elderly, organ donation and procurement, consent to testing in the workplace, public health, and consent documentation practices. The appendices include a series of practical tools to facilitate good consent practices.

The Fifth Edition of *Consent to Treatment* focuses on communication: Consent is a communication process, not merely a form to be signed. Therefore, shared decision-making is emphasized throughout the chapters, and hypothetical case examples highlight key consent considerations. Along with updated case law, legislation, and regulations, the Fifth Edition discusses current guidelines from both national and international associations.

Highlights of the Fifth Edition

Major changes to the Fifth Edition include:

- Chapter 1, How to Obtain Consent: The Art of Consent Communication, is a new chapter about the mechanics of consent to treatment and is intended as an instructional guide for use with physicians, nurse



practitioners, doctors of nursing practice, physician assistants, and other health care professionals responsible for engaging patients in a consent communication process. The true stories of two health lawyers who were cancer patients are discussed to emphasize the importance of practical consent communication.

- Chapter 3, Exceptions to the Rules, examines consent situations that are particularly challenging for health care professionals, including when patients repeatedly change their mind *prior* to treatment or *after* the commencement of a procedure. The chapter offers practical insights for managing such situations.
- Chapter 4, Consent, Reproduction, and Gender Health, has been divided into four Parts. Parts I and II cover reproduction, contraception, and gynecologic treatment consent issues from the vantage point of the female patient. In-depth discussion includes gynecologic procedures, pregnancy, artificial insemination, and delivery, as well as genetic testing in the prenatal period—all linked to various consent issues. Part III covers consent for the male patient. Addressed are such topics as prostate screening, consent to treatment of prostate and testicular cancer, and impotency arising from aggressive surgery. Part IV takes on the issue of gender health, focusing on important considerations in consent and treatment among members of the lesbian, gay, bisexual, and transgender (LGBT) community.
- Chapter 12, Workplace Consent Issues, now includes three Parts: Part I discusses drug and substance abuse testing, new Part II discusses medical screening and occupational medicine, and Part III discusses consent and immunization. Addressed in this chapter is the important topic of consent and post-exposure testing and treatment.
- Chapter 13, Consent, Communicable and Infectious Disease, and the Public Health, is a new chapter that covers a range of consent issues, including testing and treatment for sexually transmitted diseases (STDs), HIV, and tuberculosis infections and disease; expedited partner therapy (EPT) programs; mass immunization programs; and public health measures, including the use of isolation and quarantine and compulsory examination. Also discussed is the role of the judiciary, including the use of bench books for public health situations.

Other highlights of the Fifth Edition include:

- Discussion of Belgian law on pediatric euthanasia (§ 6.09[B]) and the American College of Pediatrics' guidelines for managing end-of-life choice-making for children (§ 6.09[B][2])
- Discussion of the “two physician” or “two dentist” rule used in some states to address consent issues when incapable persons are in need of treatment (§ 8.02[B][3])
- Effective use of Do Not Resuscitate (DNR) orders (§ 8.03[C][4]) and Do Not Hospitalize (DNH) orders (§ 8.03[C][5])
- Review of the Organ Procurement Transplant Network (OPTN) policy statement on “Informed Consent of Transmissible Disease Risk” (§ 10.03[A][7])
- Examination of donation after circulatory death (DCD) in the context of protocol changes made by the OPTN in September 2014 (§ 10.03[C][1])
- Discussion of what the term “elderly” means (§ 11.01)
- New § 11.04, The Elderly in Need of Consent Assistance, including the roles of family and friends and the role of a support person

Notice

In addition to the usual end-of-year supplement, Wolters Kluwer will publish in June a mid-year supplement to the Fifth Edition of *Consent to Treatment: A Practical Guide*. We intend to cover any further developments in the Ebola crisis worldwide and in the United States, as well as the status of clinical research rules and guidance from the Food & Drug Administration and the Department of Health & Human Services. Revised regulations on human research and final guidance on standard of care research are expected to be issued in the near future. In addition, there will be updates to other key areas that are changing rapidly, such as “right to try” state laws.

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