

Hep C factsheets

Treatment consent



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Introduction

What does it mean when you agree to take a drug or try a particular treatment? What are your legal rights? What should you know about the treatment?

Before you're given any treatment it's required that you give your consent one way or another. This protects you against drugs, remedies or procedures that you don't want.

The need for consent also helps ensure that people are given as much information as possible about treatments. In addition, consent can legally protect health care providers if things go wrong.

Before any medical treatment is given, people must give valid consent. Anyone who treats you without getting that consent could be charged with the common law offences of assault and battery. Consent doesn't have to be given verbally or in writing however. Sometimes consent can be implied, for example by holding your arm out for an injection to be given or by not actually objecting.

There are exceptions to this general rule. For example, any emergency treatment that is necessary to save your life or prevent serious injury to your health can be given without formal consent.

What is a valid consent?

Generally, once information has been given in broad terms about a treatment and you consent on the basis of that information then that is valid consent.

But there are three important aspects to consent:

1. Consent must be 'informed'

For consent to be informed, you must be given enough information about a treatment for you to make a proper choice about whether to take it or not.

Where there is some risk of a complication which could have a serious effect on the quality of your life, then information about that risk should be given. Health Care providers must tell you of any risk which you should reasonably know. If they know you would be particularly concerned about certain kinds of risks, then they have to tell you about those risks. If by your questioning you show that you want to know all likely risks, they have to tell you.

In Australia you don't have the right to sue a doctor if you've consented to treatment on broad terms without knowing all the details about the treatment. So, when offered a treatment, it's vital to ask all the questions you want. The doctor must answer those questions to the best of their knowledge.

2. Consent must be voluntary

If there is some type of coercion attached to obtaining consent, it is not valid consent. Where there is psychological pressure to agree with what medical staff want or not enough time given to decide, it is not valid consent.

3) Consent has to cover the treatment

If you have agreed to drug A, they can't throw in drug B without getting you to agree to that too.

Getting the right information

- Helps you make an informed decision whether to take a drug or herbal treatment.
- Lets you know what to avoid doing or taking while on treatment.
- Helps you understand what the treatment or remedy is meant to do - this helps you monitor yourself for success.
- Helps you monitor side effects etc.
- Helps you to use the treatment or remedy safely.

Age of consent

Generally speaking, anyone aged 14 years or over can give consent for medical treatment.

With children aged under 14 years, consent from a parent or guardian is necessary. With adolescents aged 14 or 15, it is prudent for health care workers to seek consent from a parent or guardian as well, but the young person has the right to object to this.

Parents or guardians need not be consulted in the case of people aged 16 years or over.

Also see

Treatment overview (factsheet)

Also contact *The Hep C Helpline*

- 9332 1599 (Sydney callers)
- 1800 803 990 (NSW regional callers)

- This factsheet is adapted from an article by Paul van Reyk in the *HIV Herald*, March 1996.