

# Informed Decision-making in Healthcare

## Policy Statement

All health service providers support the rights of patients and their substitute decision-makers to receive and understand information about their healthcare, to make informed decisions including declining treatment or withdrawing consent at any time, and to have their decisions respected.

## Intent of this policy

The intent of the policy is to:

- ensure patients and their substitute decision-makers receive and understand information regarding their healthcare in a timely and culturally appropriate manner
- support patients and their substitute decision-makers to make informed decisions about their healthcare
- improve care and minimise preventable harm to patients by ensuring patients or decision-makers fully understand intended treatment outcomes and associated risks prior to receiving healthcare
- guide and support health practitioners and those working under their supervision towards good standards of clinical practice in gaining and documenting the process of informed consent which meet legal and ethical requirements
- reduce complaints and litigation.

## Scope

This policy applies to all Queensland Health employees (permanent, temporary and casual), agents and other partners in healthcare including contractors, consultants and Visiting Medical Officers including those health practitioners who are eligible to be indemnified by Queensland Health (under the Indemnity for Queensland Health Medical Practitioners Human Resources Policy I2 (2009) (QH-POL-153:2009) or the Indemnity for Queensland Health Employees and Other Persons Human Resources Policy I3 (2009) (QH-POL-152:2009), when providing healthcare to any patient (private or public) within Queensland Health facilities.

## Principles

- Respect for the rights of patients and substitute decision-makers to make decisions about their own healthcare
- Open and ongoing communication: informed decision-making is a collaborative process of communication between health practitioners, patients and substitute decision-makers and is sensitive to the particular healthcare situation.
- Good clinical and ethical practice: informed decision-making is an ongoing process of communication that is integral to good patient care, not simply an isolated act of signing a consent document at a particular point in time.
- Multidisciplinary practice: informed decision-making is a shared responsibility of all health practitioners and those who support them.
- Compliance with legal and ethical requirements.

## Legislative or other Authority

- *Adoption Act 2009 (Qld)*
- *Guardianship and Administration Act 2000 (Qld)* (This act is under review by the Health and Disabilities Committee of Queensland Parliament at time of publication)
- *Child Protection Act 1999 (Qld)*
- *Civil Liability Act 2003 (Qld)*
- *Criminal Code Act 1899 (Qld)*
- *Family Law Act 1975 (Cwlth)*
- *Mental Health Act 2000 (Qld)*
- *Powers of Attorney Act 1998 (Qld)*
- *Public Health Act 2005 (Qld)*
- *Public Health Regulation 2005 (Qld)*
- *Transplantation and Anatomy Act 1979 (Qld)*
- *Health Services Act 1991 (Qld)*
- *Surrogacy Act 2010 (Qld)*

## Related Policy or Documents

- ACHS EQulP5 Guide, Standard 1.1, Criterion 1.1.3 (Mandatory Criterion)
- Indemnity for Queensland Health Medical Practitioners Human Resources Policy I2 (QH-POL-153:2009)
- Indemnity for Queensland Health Employees and Other Persons Human Resources Policy I3 (QH-POL-152:2009)
- Queensland Health, Ensuring Correct Patient, Correct Site and Side, Correct Procedure (3Cs) Policy Implementation Standard
- Queensland Health, Withholding and Withdrawing Life-Sustaining Measures Policy (QH-POL-005:2010)
- Queensland Health, Decision-Making for Withholding and Withdrawing Life-Sustaining Measures from Adult Patients, Implementation Guideline (QH-GDL-005-1-1:2010 and QH-GDL-005-1-2:2010)
- Queensland Health, Midwifery models of care: Implementation Guide 2008 (QH-GDL-906:2008).
- Queensland Health, Working with Interpreters Guidelines (2007) Queensland Interpreters Service

## Supporting Documents

- Informed Decision-making in Healthcare Implementation Standard.
- Guide to Informed Decision-making in Healthcare. (<http://www.health.qld.gov.au/consent/>)

## Review:

This policy will be reviewed at least every three years, or before, if new circumstances warrant an earlier review.

**Date of Last Review:** New Policy

**Supersedes:** Informed Consent for Invasive Procedures (QH-POL-284:2004).

## Approval and Implementation

### Policy Custodian

Executive Director Patient Safety and Quality Improvement Service

### Responsible Executive Management Team member

Chief Executive Officer Centre for Healthcare Improvement

### Approving Officer

Chief Executive Officer Centre for Healthcare Improvement

**Approval Date:** 04/01/2012

**Implementation Date:** 01/02/2012

## Glossary of Terms used in this policy and supporting documents

Term	Definition	Source	See also
Adult	A person who is 18 years of age or older.		
Advance Health Directive	A document written by an adult who has capacity, which formalises their wishes about future health matters. It may also nominate one or more persons to make decisions on their behalf should they become unable to do so (a health attorney). It is only effective when that adult lacks capacity. A valid Advance Health Directive has the same effect as if the patient gave the directions when they had capacity.	<i>Powers of Attorney Act 1998 (Qld) s35</i>  <i>Guardianship and Administration Act 2000 (Qld) sch 4</i>	
Capacity	Capacity is specific to a particular decision and means the health practitioner has assessed the person is capable of: '(a) understanding the nature and effect of decisions about the matter; and (b) freely and voluntarily making decisions about the matter; and (c) communicating the decisions in some way.' It also includes the health practitioner's assessment of the patient's ability to retain the information and process it to reach a decision.	<i>Schedule 3 Powers of Attorney Act 1998 (Qld)</i>  <i>Schedule 4 Guardianship and Administration Act 2000 (Qld)</i>	
Child	An individual under the age of 18 years who may or may not have sufficient	<i>Child Protection Act 1999 (Qld) s8</i>	Minor Young person

Term	Definition	Source	See also
	maturity and understanding to have capacity to make important decisions about healthcare		
Clinical incident	Any event or circumstance which has actually or could potentially lead to unintended and/or unnecessary mental or physical harm to a patient. Clinical incidents include adverse events (harm caused) and near hits/misses (no harm caused).	Queensland Health Clinical Incident Management Implementation Standard (2009) <a href="http://www.health.qld.gov.au/ghpolicy/docs/imp/gh-imp-012-1.pdf">http://www.health.qld.gov.au/ghpolicy/docs/imp/gh-imp-012-1.pdf</a> [Online: accessed 18 January 2012]	
Clinical Incident Management System – PRIME CI	The Queensland Health electronic clinical incident management information system that records any event or circumstance which has actually, or could potentially, lead to unintended and/or unnecessary mental or physical harm to a patient of a Queensland Health service.		
Clinician	A health practitioner, trained as a health professional, providing direct clinical care. Clinicians include registered and non-registered practitioners, or a team of health professionals.	National Safety and Quality Health Service Standards, June 2011	
Competence	A legal term meaning that the patient has the capacity to make a particular decision.		Capacity Gillick competence
Decision-maker	The patient or other person with the authority to make a decision whether to consent to or decline healthcare. For adults, substitute decision-makers are defined in the <i>Guardianship and Administration Act 2000</i> (Qld). For minors, the decision-maker will be a parent or guardian as defined in the <i>Family Law Act 1975</i> (Cwlth) or appointed under the <i>Child Protection Act 1999</i> (Qld) Refer also to 'Substitute Decision-maker'	<i>Guardianship and Administration Act 2000</i> (Qld) s12  <i>Family Law Act 1975</i> (Cwlth) s4  <i>Child Protection Act 1999</i> (Qld) s61	Substitute decision-maker
Delegate	Refer to 'Health practitioner delegate'.		Treating health practitioner Health practitioner delegate
Dental practitioner	Dental practitioners include dentists, dental specialists, dental therapists, oral health therapists, dental hygienists and dental prosthetists		
Dental treatment	Refer to 'Healthcare'		Healthcare

Term	Definition	Source	See also
Doctor	Refer to 'Medical practitioner'		Medical practitioner
Enduring power of attorney	A document through which an adult patient with capacity may authorise one or more persons to make decisions on their behalf at times when they do not have capacity to do so for themselves in the future.	<i>Powers of Attorney Act 1998 (Qld) s32</i>	
Ensuring Correct Patient, Correct Site and Side, Correct Procedure (3cs) Policy	Ensuring that a surgical or other procedure/s is performed on the correct patient, on the correct side, and the correct site, and if applicable with the intended implant.	Queensland Health Ensuring Correct Patient, Correct Site and Side, Correct Procedure (3Cs) Policy <a href="http://www.health.qld.gov.au/chi/psg/">http://www.health.qld.gov.au/chi/psg/</a> [Online: accessed 16 November 2011]	
Examination	Refer to 'Healthcare '.		Healthcare
Gillick competence	When a minor has the capacity to consent to healthcare, despite being under 18 years of age. To be Gillick competent the minor must have sufficient understanding, intelligence and maturity to appreciate the nature of the healthcare, the consequences and risks of the healthcare that is proposed and the alternatives, including the consequences of not receiving the healthcare. This will vary according to the significance of the decision and factors within the child such as their maturity.	<i>Gillick v West Norfolk and Wisbech Area Health Authority</i> . [1986] 1 AC 112 (HL).	
Health literacy	Degree to which individuals have the capacity to obtain, process, and understand basic health information and services needed to make appropriate health decisions.		
Health practitioner	All health professionals who have the appropriate accreditation, authority and expertise to assist patients in the process of informed decision-making.  Some examples include those persons registered as: medical practitioners, dental practitioners, nurses, pharmacists, physiotherapists and radiographers. Some other healthcare professionals who are unregistered and who have the authority and expertise include social workers, dieticians, Aboriginal and Torres Strait Islander health workers and linguistic interpreters.  Depending on the circumstances, the		Treating health practitioner  Health practitioner delegate  Australian Health Practitioner Regulation Agency <a href="http://www.ahpra.gov.au">www.ahpra.gov.au</a> [Online: accessed 16 November 2011]

Term	Definition	Source	See also
	health practitioner might be the treating health practitioner with overall responsibility for the care of a patient, but on other occasions may be acting as the health practitioner delegate.		Office of Health Practitioner Registration Boards (OHPRB) ( <a href="http://www.healthregboards.qld.gov.au">www.healthregboards.qld.gov.au</a> ) [Online: accessed 16 November 2011]
Health practitioner delegate	Refers to the delegate of the Treating health practitioner, whom the treating health practitioner has deemed capable of assisting patients in the process of informed decision-making on their behalf. On a specific occasion, this might include a junior medical practitioner, radiographer, physiotherapist, registered nurse, nurse practitioner, oral health or dental therapist.		Delegate
Healthcare	<p>The term healthcare includes any care, or a service or a procedure, to diagnose, maintain or treat a patient's physical or mental condition. For example:</p> <ul style="list-style-type: none"> <li>• administration of a drug or other like substance including chemotherapy</li> <li>• any physical examination of a patient</li> <li>• dental or oral health examinations and treatment</li> <li>• psychological assessment</li> <li>• interventions such as blood transfusions</li> <li>• 'invasive procedures' as defined above, including surgical operations, and oral health interventions</li> <li>• pathological and radiological investigations or procedures, for example, taking a blood sample or biopsy for analysis or radiotherapy</li> <li>• screening undertaken for pathological conditions, for example, breast or bowel cancer</li> <li>• services provided by the allied health disciplines, community and primary health services, such as assessment and screening programs</li> <li>• clinical trials or medical research</li> </ul> <p><b>Health care</b>, of an adult, includes withholding or withdrawal of a life-sustaining measure for the adult if the commencement or continuation of the measure for the adult would be inconsistent with good medical practice.</p>	<p><i>Guardianship and Administration Act 2000 Schedule 2 s5(2)</i></p>	<p>Dental treatment Medical treatment Invasive procedure</p>

Term	Definition	Source	See also
Impairment	Means a cognitive, intellectual, neurological or psychiatric impairment.		
Informed consent	For consent to be informed, the patient or decision-maker needs to be fully aware and have an understanding of the condition, the nature and purpose of the available and proposed healthcare, and the potential consequences of each option. Furthermore, the patient should be aware of what is likely to occur should they choose not to receive the healthcare. This results from a process of shared decision-making and the provision of information in a manner appropriate to the needs of an individual patient or decision-maker.		
Invasive procedure	'A procedure involving the insertion of an instrument, appliance or other object into human tissue, organs, body cavities or body orifices. Some examples include subcutaneous and intramuscular injections, blood collections, dentistry, suturing of superficial wounds and examinations of mouth'. It also includes such investigations as endoscopy and rectal or vaginal ultrasound. Refer to 'Healthcare'	<i>s147 Public Health Act 2005 (Qld)</i>	Healthcare
Investigation	Refer to 'Healthcare'		Healthcare
Legal guardian	A person appointed under the <i>Family Law Act 1975 (Cwlth)</i> or appointed under the <i>Child Protection Act 1999 (Qld)</i> who has the legal authority to consent on behalf of a child or young person.	<i>Family Law Act 1975 (Cwlth)</i>  <i>Child Protection Act 1999 (Qld) s61</i>	
Material risk	Within this suite of documents, material risk' refers to the information about the risks of healthcare that: <ul style="list-style-type: none"> <li>a reasonable person in the patient's position would, in the circumstances, require to enable the person to make a reasonably informed decision about whether to receive the healthcare or follow the advice; and</li> <li>the health practitioner knows or ought reasonably to know the patient wants to be given before making the decision about whether to receive the healthcare.</li> </ul>	<i>Adapted from</i>  <i>Rogers v Whittaker (1992) 175 CLR 479 (High Court of Australia)</i>  <i>s. 21 Civil Liability Act 2003 (Qld)</i>  NB: the Act and the case impose duties on doctors.	
Medical officer	Refer to 'medical practitioner'		Medical practitioner
Medical practitioner	A person registered as a medical practitioner by the Medical Board of		

Term	Definition	Source	See also
	Australia, and, within this guide includes other descriptions such as 'doctor' and 'medical officer'.		
Medical treatment	Refer to 'Healthcare'		Healthcare
Minor	An individual under the age of 18 years.	<i>Child Protection Act 1999 (Qld) s8</i>	Child Young person
Midwife	A person registered and licensed as a midwife by the Nursing and Midwifery Board of Australia		Health practitioner
Nurse Practitioner	A person registered and licensed as a registered nurse and holding an additional endorsement as a nurse practitioner from the Nursing and Midwifery Board of Australia.		Health practitioner
Nurse	A person registered and licensed as a registered or enrolled nurse by the Nursing and Midwifery Board of Australia.		Health practitioner
Open access	The open access system allows a health practitioner to directly schedule elective procedures for patients without them having first been examined by a specialist proceduralist. Examples might include endoscopy, colonoscopy and radiological procedures.		
Parent	Means a person with parental responsibility for a child or young person, such as a natural parent, adoptive parent, guardian, or someone who is subject of a parenting order for the child under the <i>Family Law Act 1975 (Cwlth)</i> . More than one person may have parental responsibility.	<i>Family Law Act 1975 (Cwlth) s4</i>	
Patient	The term 'patient' refers to the patient or other person who is legally able to make a decision on behalf of the patient. In relation to the informed consent process, a person who is legally recognised as an appropriate decision-maker for a patient who lacks capacity is treated in the same as the patient. For a child or young person this might be a parent or legal guardian. For an adult this might be a substitute decision-maker as defined within the <i>Guardianship and Administration Act 2000 (Qld)</i> . Synonyms for 'patient' include client or customer.		Decision-maker
Patient-centred	The delivery of healthcare that is	National Safety and	

Term	Definition	Source	See also
care	responsive to the needs and preferences of patients. Patient-centred care is a dimension of safety and quality. The dimensions of patient-centred care are respect, information and communication, education, emotional support, physical comfort, continuity and transition, care co-ordination, involvement of family and carers, and access to care.	Quality Health Service Standards, June 2011	
Procedure	A component of healthcare.		Healthcare
Sight translation	Rendering a verbal interpretation of a written message (reading in one language, relaying messages orally in another language).		
Special Access Scheme (SAS)	This scheme allows medical practitioners to prescribe medications which are not approved for use in Australia on a case-by-case, individual patient basis, where certain conditions have been met.	Therapeutic Goods Administration. <a href="http://www.tga.gov.au/about/contact.htm">http://www.tga.gov.au/about/contact.htm</a> [Online: accessed 16 November 2011]	
Special healthcare matter	Healthcare of the following type: <ul style="list-style-type: none"> <li>removal of tissue from a patient while alive for donation to someone else</li> <li>sterilisation</li> <li>termination of a pregnancy</li> <li>participation by a patient in special medical research or experimental healthcare</li> <li>electroconvulsive therapy or psychosurgery</li> <li>care that is prescribed under the <i>Guardianship and Administration Act 2000</i> (Qld).</li> </ul>	<i>Guardianship and Administration Act 2000</i> (Qld) sch 2, 5.7	
Statutory Health Attorney	The first person from the following list (in descending order or priority) who is readily available and culturally appropriate to make a decision on the current matter: <ul style="list-style-type: none"> <li>a spouse of the adult patient if the relationship is close and continuing;</li> <li>a person who is 18 years or over and who has the care of the adult patient (but not a paid carer for the adult). This includes someone who provides or arranges domestic services and support to the adult. Where a patient resides in an institution the patient remains in the care of the person in whose care they were immediately before residing in the institution;</li> <li>a person who is 18 years or over and</li> </ul>	<i>Powers of Attorney Act 1998</i> (Qld) - s62 - 63	Substitute-decision-maker

Term	Definition	Source	See also
	<p>who is a close friend or relation of the adult patient and is not a paid carer for the adult; or,</p> <ul style="list-style-type: none"> <li>if no other substitute decision-maker is readily available and culturally appropriate to exercise power for a matter, the adult guardian.</li> </ul>		
Student health practitioner	Someone enrolled in an approved program of study.		Trainee
Substitute decision-maker	The person who is legally entitled to give consent to healthcare on behalf of a patient who lacks capacity. This may be a guardian, or attorney under an Advance Health Directive or Enduring Power of Attorney or Statutory Health Attorney. Refer also to 'Decision-maker'		Decision-maker
Trainee health practitioner	Someone enrolled in an approved program of study.		Student
Treating health practitioner	The health practitioner with overall responsibility for the care of a patient. In many instances this will be the treating medical practitioner but may be another health practitioner with responsibility for the patient, for example, a midwife working within the Queensland midwifery models of care.		Treating medical practitioner
Treating medical practitioner	Refers to the specialist / consultant under whose care the patient is admitted or the specialist / consultant to whom the patient is referred for healthcare.		Treating health practitioner
Treatment	A form of healthcare.		Healthcare
Young person	An individual under the age of 18 years who may or may not have sufficient maturity and understanding to have capacity to make important decisions about healthcare.		Minor Child