

Getting to the Point

Consent of Individuals With a Developmental
Disability – Preparing for COVID-19 Vaccination

January 20, 2021

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Purpose

This presentation has been developed to:

- ▶ Assist in preparation for the COVID-19 Vaccination Consent Process.
- ▶ Provide practical high-level guidelines/processes that can be adapted.
- ▶ Accompany the *Suggested Guidelines for DS Agencies Managing Consent Regarding the COVID-19 Vaccination (attached or search “Real Xchange”, COVID-19 Vaccine Resources)*.

Note: This presentation does not constitute legal advice.

Current Context and Challenges

Early preparation is key:

- ▶ Exact timelines and order of vaccine rollout unknown.
- ▶ Expectation that consent forms developed for long-term care and retirement homes are applicable for other sectors.
- ▶ Pressure for health practitioners (HPs) to obtain consent as soon as possible.
- ▶ Delays could result in further risks if opportunity to receive vaccine is deferred or bypassed.

Mobilization

Two Key Activities:

- ▶ Communications
- ▶ Consent Process

Communications

Communications play critical role in:

- ▶ Engagement of individuals, families, caregivers.
- ▶ Informed consent process.

Communications

Provide Notice and Relevant Documentation

- ▶ Prepare letter/email about the vaccine for staff, individuals, caregivers, families, SDMs, letting them know, as appropriate, that you will seek their assistance in obtaining consent.
- ▶ Encourage review of material as soon as possible for vaccination rollout.
- ▶ Attach Ministry script for facilitating consent, the screening and consent form, and a social story.
- ▶ Include information RE: vaccination benefits, risks and related procedures.
- ▶ **Note:** For those individuals whose SDMs are not noted in their file, identify potential SDMs based on the highest ranked eligible person identified in the hierarchy set out in provincial legislation (HCCA). See Appendix for list of SDMs (which includes family members in the hierarchy, etc.)
- ▶ **See Resources on Last Slides.**

Consent Process – Roles and Responsibilities

- ▶ **The health practitioner who administers the vaccine is ultimately responsible for acquiring consent.**
- ▶ **Service providers are critical to facilitating the consent process** as they can help individuals and SDMs understand the information necessary to give or refuse consent. Service providers can explain:
 - ▶ What is meant by consent.
 - ▶ Information being provided about the vaccine (including risks, benefits, side effects, what could happen if they refuse the vaccine).
 - ▶ Ask if the individual has any questions and respond.
- ▶ A health practitioner must still confirm capacity and obtain informed consent prior to administering the vaccine.

Consent Process – Roles and Responsibilities Individuals with Capacity/SDMs

- ▶ Individuals who have the capacity to provide consent and/or their SDMs can:
 - ▶ Identify potential underlying health concerns/allergies per the Ministry screening and consent form.
 - ▶ Review the social story, public health information RE: the vaccine, potential side effects.
 - ▶ Contact their family physician for advice if there are concerns RE: risks/impact on current medical condition.
 - ▶ Obtain written/verbal consent, document as required, and bring Ministry screening and consent form for health practitioner who administers vaccine to confirm capacity and obtain informed consent.
- ▶ Note: For those individuals whose SDMs are not noted in their file, identify potential SDMs based on *the highest ranked* eligible person identified in the hierarchy set out in provincial legislation (HCCA). See Appendix for list of SDMs.

Consent Process – Roles and Responsibilities

The Family Physician

- ▶ If the individual and/or SDMs have any concerns RE: risks/impact on current medical condition, etc., ask them to contact the family physician.
- ▶ The physician should *facilitate* the consent process by:
 - ▶ Reviewing the screening questions on the screening and consent forms.
 - ▶ Determining the capacity of the person to give/refuse their own consent.
 - ▶ Explaining benefits and risks, etc., for the capable individual and/or SDM.
 - ▶ Verifying consent for the health practitioner administering the vaccine (if asked).
- ▶ However, the physician *cannot provide consent*.

Consent Process – Roles and Responsibilities

Office of the Public Guardian and Trustee

- ▶ If individuals do not have the capacity to give informed consent for the vaccine, *or* where there is no SDM who is willing or able to make a decision regarding the vaccine, then the OPGT can be contacted to provide consent.
- ▶ You must be able to identify whether each resident:
 - ▶ Is incapable of consenting to his/her own COVID-19 vaccination, and
 - ▶ Has no other substitute decision maker available, capable or willing to provide consent.
- ▶ You must also confirm that the list of screening questions on the consent form have been reviewed, that a family physician has been consulted if appropriate, and that there are no other concerns.

Consent Process – Create Tracking Sheet

Create tracking sheet for those who can provide consent:

- ▶ Create inventory of the following five categories of individuals who may give consent (set out below).
- ▶ Remember the screening and consent form and key information listed in the Resources slide.
- 1. Identify which individuals may have the capacity to provide consent regarding vaccination.
- 2. Identify which individuals have SDMs.
- 3. Identify individuals who may not have capacity and whose SDMs are not noted in their file, and identify potential SDMs.
- 4. Identify individuals who already have an assigned Public Guardian and Trustee .
- 5. Identify individuals where it is not possible to find or reach the SDM in time, or where there is no SDM who is willing or able make a decision regarding the vaccine and prepare a list for the OPGT.

Consent Process - Documentation

Documentation for Health Practitioner to Confirm Consent

- ▶ In order for the health practitioner administering the vaccine to confirm consent prior to administering the vaccine, he/she will need the signed Ministry screening and consent form, and proof of consent if the form has not been signed by the SDM, as well as the individual's health card.
- ▶ The SDM can provide written consent:
 - ▶ In an email or note.
 - ▶ On a signed and scanned Ministry consent and screening form, or
 - ▶ If available, on a digital copy of the Ministry screening and consent form that permits electronic "DocuSign".
- ▶ The SDM can also provide verbal consent. In this case, document the verbal consent:
 - ▶ On the Ministry screening and consent form by hand (or electronically if possible) or,
 - ▶ In a note that can be printed out and attached to or brought along with the Ministry screening and consent form.

Consent Process – Next Steps

- ▶ Use tracking sheet to monitor activities and follow up consents.
- ▶ Send screening and consent forms and key information to those identified in the previous slide.
- ▶ Notify the OPGT regarding the need to acquire consent on behalf of individuals who already have an assigned OPGT, and send Ministry screening and consent form and information to the OPGT for consent.
- ▶ Notify the OPGT regarding the need to acquire consent on behalf of individuals who do not have an assigned Public Guardian and Trustee Identify in cases where it is not possible to find or reach the SDM in time.
- ▶ As per Slide #11, provide information for all individuals in single chart for the OPGT to review and provide consent in a timely fashion.
- ▶ ***Remember that staff accompanying the individual, individuals, and/or SDMs must bring the Ministry screening and consent form and other proof of consent (see Slide #13) as required, along with a health card, in order for the health practitioner administering the vaccine to confirm consent prior to administering the vaccine.***

Communication Resources

COVID-19 Vaccine Obtaining Informed Consent - Script for Health Care Providers V 2.0
December 30, 2020:

http://www.health.gov.on.ca/en/pro/programs/publichealth/coronavirus/docs/vaccine/COVID-19_vaccine_obtaining_informed_consent_script_HCP.pdf

*As of January 12, 2021, the most recent version of this consent form (Version 2.0) has not been uploaded to the Ministry website, so we have attached an updated document in pdf form.

Ministry of Health COVID-19 Vaccination Recommendations for Special Populations: http://www.health.gov.on.ca/en/pro/programs/publichealth/coronavirus/docs/vaccine/COVID-19_vaccination_recommendations_special_populations.pdf

Answering Patient Questions about COVID-19 Vaccines Updated – January 8, 2021, Ontario College of Family Physicians:

<https://www.ontariofamilyphysicians.ca/tools-resources/covid-19-resources/covid-vaccines-patient-questions.pdf>

COVID-19 Vaccine Screening and Consent Form V 1.0, December 30, 2020:

http://www.health.gov.on.ca/en/pro/programs/publichealth/coronavirus/covid19_vaccine.aspx#immunization

*As of January 12, 2021, the most recent document is not yet posted on the website link above, so we have attached the document in pdf form.

Communication Resources

In addition, if you click on the Ottawa Public Health Link, you will find the same document in a version that you can complete:

<https://www.ottawapublichealth.ca/en/resources/Corona/COVID-19-Vaccine-Screening-and-Consent-Form.pdf>

COVID-19 Vaccine Social Story – What I Need to Know About COVID-19 and the COVID-19 Vaccine – January 2021, Aptus Treatment Centre:

<https://realxchange.communitylivingessex.org/wp-content/uploads/2021/01/COVID-19-Vaccine-Social-Story-Information.pptx>

<https://realxchange.communitylivingessex.org/communications-plain-language/>

COVID-19 Vaccine: Some Strategies To Help If you Are Nervous About Needles – January 2021

<https://realxchange.communitylivingessex.org/wp-content/uploads/2020/10/COVID-19-Vaccine-Needle-Strategies.pptx>

You may also wish to visit The Real Exchange website, a great link for other social stories and resources

<https://realxchange.communitylivingessex.org/>

Appendix – Hierarchy of SDMs in Ontario

Brief Overview

- ▶ Section 10 of the *HCCA* states that when a health practitioner proposes a treatment, the health practitioner must get consent before administering that treatment. Consent must come from the patient if capable, or if incapable from the patient's SDM.
- ▶ The SDM will be the highest ranked eligible person identified in the hierarchy set out in the provincial legislation (the *HCCA*).
- ▶ In the highest ranking, if there are equally ranked SDMs, i.e., three siblings, and they cannot agree among themselves, the *HCCA* provides that the OPGT can take over.
- ▶ It is important to note that in Ontario, a paid care provider cannot function as a SDM, although he/she can come to appointments and convey information to the SDM and health practitioner. A paid care provider can also encourage the person they support to be included in the decision-making process and help the person to understand decisions and follow through.
- ▶ **The list of SDMS is on the next slide.**

Appendix – Hierarchy of SDMs in Ontario

1. Guardian of the person (under the Substitute Decision Act) with authority to provide consent to treatment (Court appointed)
2. Attorney named in a Power of Attorney (POA) for Personal Care (this individual may be a different person than POA for Property)
3. Representative appointed by the Consent and Capacity Board
4. Spouse or Partner*
5. Child at least 16 years of age or older, or Parent (or Children's Aid Society or other lawfully appointed person)
6. Parent with right of access only (i.e. per custody agreement)
7. Brother or sister
8. Any other relative (related by blood, marriage or adoption)
9. Office of the Public Guardian and Trustee

*Partners are *not* common law partners. The definition here includes a special status for those who have lived together for over a year, and are in an important and significant relationship e.g., two sisters, two friends, not necessarily a sexual relationship).