

College of Audiologists and Speech Language Pathologists of Ontario



Consent Issues for Audiologists

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Samidha Joglekar

Audiology Advisor &
Manager of Mentorship



Sarah Chapman-Jay

Advisor, Professional Practice &
Quality Assurance

Agenda

- The two types of consent
- Scenarios illustrating key points
- Questions

Resources for Obtaining and Documenting Consent

What documents do we have to help you?



- ✓ [Health Care Consent Act](#)
- ✓ [Personal Health Information and Protection Act \(PHIPA\)](#)
- ✓ [Guide for Obtaining Consent for Services](#)
- ✓ [Consent and Capacity Tool](#)
- ✓ [Consent and Capacity e-learning module](#)
- ✓ [Records Regulation](#)
- ✓ [Practice Advice articles](#)

Where are they?



College of Audiologists and
Speech-Language Pathologists of Ontario
Ordre des audiologistes et
des orthophonistes de l'Ontario



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CASLPO · OAOO

Where are they?

Resources/Ressources

Should there be differences in documentation previously distributed to CASLPO members, it is up to the member to source the latest version posted on the CASLPO website.

Lorsque les documents distribués aux membres de l'Ordre ont été mis à jour ou modifiés, il incombe au membre d'obtenir la dernière version affichée dans le site Web de l'Ordre.

Acronym List
Liste d'acronymes et de
sigles

Legislation, Regulations &
By-Laws
Lois, règlements
d'application et règlements
administratifs

Practice Standards
Normes de pratique

Position Statements
Énoncés de position

Practice Guidelines
Lignes directrices de
pratique

Practice Advice
Conseils sur la pratique

There are two types of consent:

- 1) Consent to **collect, use and disclose** personal health information (PHI)
- 2) Consent to **provide services**

Both must be obtained when providing services to the public

Why is consent important?

Why is consent important?

- It is the **law** (HCCA, 1996 & PHIPA, 2004)
- It is a core component of **patient-centred care**
- You are protecting your **patients' rights**
- It helps to build **trust**
- Facilitates **communication**
- Can be **withdrawn** at any time

Consent: Key Messages



Consent to Collect, Use and Disclose PHI

Knowledgeable Consent

Members must obtain the patient's **knowledgeable** consent for the collection, use, and/or disclosure of any personal health information (PHI)

-Personal Health Information Protection Act, 2004 (PHIPA)



Consent to Collect, Use and Disclose PHI

Knowledgeable consent means that individuals must know:

- **Why** the information is being collected, used or disclosed
- That they have the right to **give or withhold** consent for the collection, use or disclosure of their personal health information

Consent to Collect, Use and Disclose PHI

What is Personal Health Information (PHI)?



Consent to Collect, Use and Disclose PHI

What is PHI?

PHI is “identifying information” about an individual, whether oral or recorded if the information:

- Relates to the individual’s physical or mental condition, including family medical history
- Relates to the provision of health care to the individual
- Is a plan of service for the individual
- Relates to payments, or eligibility for health care or for coverage for health care
- Is the individual’s health number or
- Identifies a health care provider or a substitute decision-maker for the individual.

[Frequently Asked Questions, Personal Health Information and Protection Act, 2015](#)



Consent to Services

Informed Consent

Valid and **informed** consent must be obtained for:

- Screening
- Assessment
- Consultation
- Treatment

[Health Care Consent Act, 1996](#)

CASLPO Position Statement,

[Consent to Provide Screening and Assessment Services](#)

Valid consent means the consent is:

- Voluntary
- Not obtained through misrepresentation or fraud
- Relates to the services being proposed
- Is informed

-Health Care Consent Act, 1996

Informed Consent

Explain to the patient:

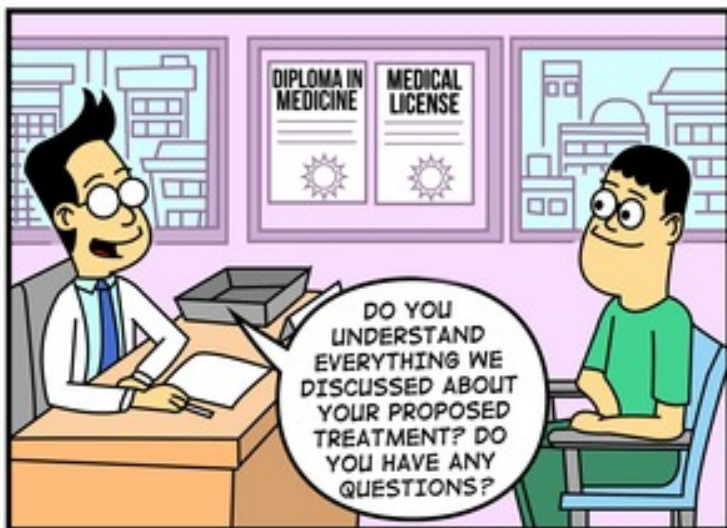
- The nature of the services
- The expected benefits of the services
- The material risks of the services
- The material side effects of the services
- Alternative courses of action
- The likely consequences of not having the services
- Responses to his or her questions about these matters.

-Health Care Consent Act, 1996

YES

INFORMED CONSENT?

NO



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Tessa, Audiologist

Tessa works in a busy clinic assessing adults and prescribing and fitting hearing aids.

She has some questions about obtaining consent according to the legislation.

Polling Question 1:



The patient has walked into my clinic and is asking for a hearing assessment. Can I assume consent?

1. Yes, the patient obviously wants the assessment because they have walked into the clinic
2. No, you have to inform the patient what is involved in the assessment and obtain consent
3. Not sure!

Polling Answer:



2. No, you have to **inform** the patient what is involved in the assessment and obtain **valid** and **informed** consent

Polling Question 2:



Must the patient sign a consent form?

1. Yes, CASLPO requires a written consent form
2. No, as long as you are getting consent it doesn't have to be documented
3. No, consent can be verbal or written, but it must be documented

Polling Answer:



3. No, consent can be verbal or written, but it must be **documented**

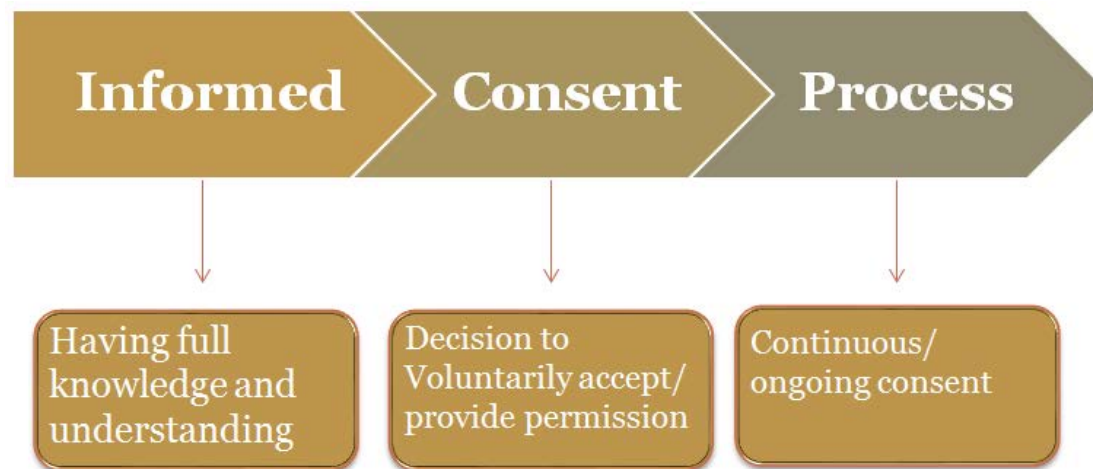
Records regulation

2) For every patient a member shall maintain a patient health record that contains the following information:

14. A record of **every consent** provided by the patient or by the patient's authorized representative.

Consent is a process, not a piece of paper.

Most important are the **discussion** and the **process** you go through to obtain consent.



Polling Question 3:



We are moving to a paperless system– Does this impact the requirements around consent?

1. Yes, in this case CASLPO requires a written consent form
2. No, as long as the consent has been documented in the electronic file
3. Yes, you must scan and upload all signed consent forms to the paperless system

Polling Answer:

2. No, as long as the consent has been documented in the electronic file



Records regulation

2) For every patient a member shall maintain a patient health record that contains the following information:

14. A record of **every consent** provided by the patient or by the patient's authorized representative.

29. Record includes a record in **electronic** or **paper** format

Polling Question 4:



Do I have to get consent from the patient every time there is treatment or assessment?

1. No, as long as you are getting consent for assessment and consent for a course of treatment
2. No, a single consent covers everything
3. Yes, CASLPO requires consent for every action

Polling Answer:



1. No, as long as you are getting consent for assessment and consent for a course of treatment

[Self-Assessment Tool - Professional Standards](#)

Polling Answer:



Self-Assessment Tool - Professional Standards

3. PATIENT CENTRED PRACTICE

3.1 I obtain and document consent for all **intervention plans** or courses of action and any significant changes thereafter.



Peter is worried about his patient's **capacity** to decide about getting new hearing aids

Polling Question 5:

What should Peter do?



1. Contact the family physician with his concerns and ask her/him to evaluate capacity
2. Evaluate the patient's capacity himself
3. Contact the next of kin (substitute decision maker) to discuss the new hearing aids

Polling Answer:



2. Evaluate the patient's capacity himself

[Guide for Obtaining Consent for Services](#)

Polling Answer:



A person is **capable** with respect to a service if the person:

- Is **able** to **understand** the information about the proposed service that is being presented. This information will include, but is not limited to, the nature of the proposed service, the benefits, expected risks and side effects, and alternative services
- Is **able** to **appreciate** the **reasonably foreseeable consequences** of either making a decision or not making a decision.

Definition of 'understand'

- As a construct, to 'understand' refers to a person's cognitive abilities to **factually grasp** and **retain information**.
- To the extent that a person must **demonstrate understanding** through **communication**, the ability to express oneself (verbally or through symbols or gestures) is also implied.

*Capacity Assessment Office,
Ministry of the Attorney General of Ontario*

Definition of 'appreciate'

The 'appreciate' standard attempts to capture the **evaluative** nature of capable decision making, and reflects the attachment of **personal meaning** to the **facts** of a given situation

*Capacity Assessment Office,
Ministry of the Attorney General of Ontario*



Amal is an audiologist who works with children.

Juan is twelve years old and is happy with his hearing aids.



His parents want him to trial new hearing aids, Juan doesn't want to.

Polling Question 6:



Who should decide about the new hearing aids?

1. The parents, they are Juan's substitute decision makers (SDMs)
2. Juan, he is the one wearing the hearing aids
3. Further investigation into who decides is needed

Polling Answer:



3. Further investigation into who decides is needed

The Health Care Consent Act (HCCA) does not define an **age of consent** – instead it uses the constructs:

- The ability to **understand** relevant information
- The ability to **appreciate** the reasonably foreseeable consequences of a decision

Polling Answer:

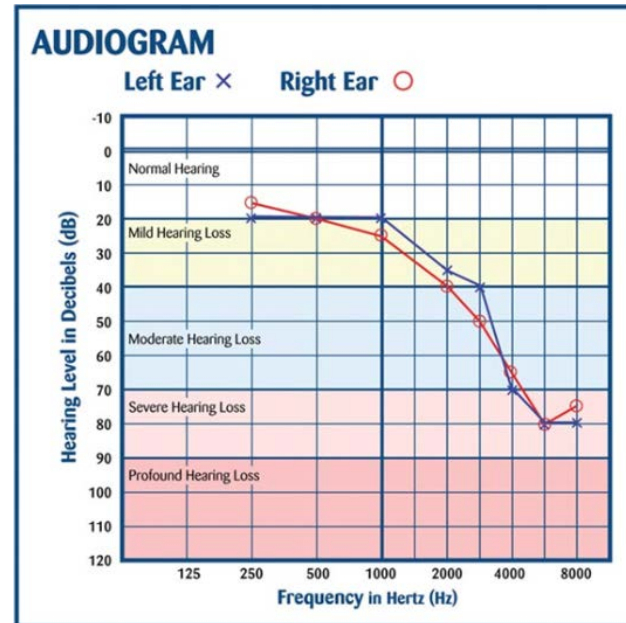
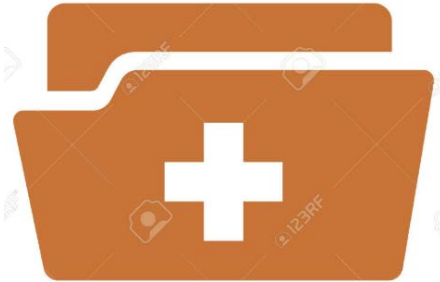


Amal (audiologist) needs to find out the following:

- Why Juan doesn't want new hearing aids
- Why the parents want him to have new hearing aids
- Do the current hearing aids meet Juan's needs?
- Would new hearing aids be in Juan's best interests?
- Can a compromise be achieved?
- Does Juan 'understand' and 'appreciate'?



A patient calls Tessa at her clinic and asks for a copy of his audiogram.



Polling Question 7:

What should Tessa do?



1. Verify the identity of the patient and document that the audiogram has been sent to the patient
2. Insist on written consent from the patient
3. Immediately send the audiogram

Polling Answer:



1. Verify the identity of the patient and document that the audiogram has been sent to the patient

Tessa does not need to obtain consent to disclose the patient's own personal health information (PHI) to the patient.

There may be organizational protocol which supersedes your ability to directly send PHI.

Polling Answer:



However, if **another professional** or a **third party** asks Tessa to send the audiogram, Tessa needs **consent** from the patient to disclose PHI and she must **document** this in the **patient record**.



Tessa receives a letter from a patient asking Tessa to send their health record to another facility. The patient has given their consent in the letter.

Polling Question 8:



Should Tessa include reports that were written by third parties or only release her own assessment and notes to the other facility?

1. Yes, Tessa should release the entire patient record
2. Tessa should only send her assessment data and notes
3. Tessa should review the chart and decide if there is information that should not be sent

Polling Answer:



3. Tessa should review the chart and decide if there is information that should not be sent

There could be sensitive information sent by a third party, for example a report from a psychiatrist. Direct the patient to contact their psychiatrist for the report.

Contact the patient to confirm the information the patient wants shared.



Olivia (audiologist) sees many patients that speak English as a second language.



During an appointment, Olivia is not sure if the family member providing the interpretation has relayed all the information she is explaining to the patient.

As a result, she is not confident that she has obtained the patient's consent for the assessment.

Polling Question 9:

What should Olivia do?



1. Stop the appointment immediately and seek out professional language interpretation services
2. Use alternative methods of communication (e.g., visual aids), ask for clarification, re-phrase the information and consider other interpretation options (i.e., the use of professional interpreters, friends and colleagues)
3. Proceed with the assessment hoping that the patient has consented

Polling Answer:



2. Use alternative methods of communication (e.g., visual aids), ask for clarification, re-phrase the information and consider other interpretation options (i.e., the use of professional interpreters, friends and colleagues)

And if she still feels the patient is not understanding, consider option #1

Resources

[Obtaining Consent for Services – A Guide for Audiologists and Speech-Language Pathologists](#)

- Appendix A – Facilitating Informed Consent Discussions

[Guide for Service Delivery Across Diverse Cultures](#)

- Section on Interpreters and Translators

Consent & Capacity Tool & E-Learning Module

www.caslpo.com

Resources -> Learning Tools

Consent Tool

The Consent Tool guides the member to consider what information they may want to cover in their consent discussions. Both consent to assessment and treatment and consent to collect, use and disclose personal health information are included. The tool covers different areas of practice and procedures.

To use the Consent Tool, [click here](#).

Make it a goal in your SAT for 2018 and collect your CLACs!



Contact Practice Advice by e-mail or phone if you have questions

Samidha Joglekar ext. 220

Audiology Advisor & Manager of Mentorship

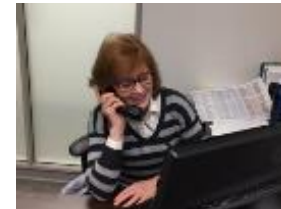
sjoglekar@caslpo.com



Alexandra Carling ext. 226

Director of Professional Practice & Quality Assurance

acarling@caslpo.com



Sarah Chapman-Jay ext. 228

Professional Practice & Quality Assurance Advisor

slpppracticeadvice@caslpo.com

