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# 3. Scope

## 3.1. Who is bound by the Consent Manual?

The Consent Manual is mandatory for all people who work within the NSW public health system. This includes, but is not limited to, staff members, contractors, and other health care providers who, in the course of their work, are involved in providing a health service or treatment to patients of NSW Health Services.

Health Practitioners must also comply with relevant professional practice standards and legislation.

## 3.2. Roles and responsibilities of Health Services

Chief Executives of Health Services must ensure that:

- the principles and requirements of this Consent Manual are applied, achieved and sustained
- staff are made aware of their obligations in relation to obtaining consent
- documented procedures are in place to support the implementation of the Consent Manual
- documented procedures are in place to effectively respond to and investigate any breaches of the Consent Manual.

Facility managers and Health Practitioners have a responsibility to ensure that the principles of this Consent Manual are applied and achieved. They are to understand:

- the legal requirements for obtaining consent
- what information must be provided to a patient before a patient gives their consent
- when consent should be provided by a substitute decision maker, how to correctly identify who the substitute decision maker is and how to seek substitute consent
- the requirement to document consent and the consent process.

## 3.3. What does the Consent Manual cover?

The Consent Manual explains the law and provides practical guidance for Health Practitioners about obtaining consent from patients of NSW Health Services for medical treatment and other healthcare. It covers the legal requirements for obtaining valid patient consent including with respect to those patients who do not have the capacity to consent to treatment for themselves. The Consent Manual also provides specific guidance on obtaining consent to some particular procedures/treatment, for example, blood transfusions and obstetric procedures.

## 3.4. What is not covered?

The Consent Manual does not cover consent relating to areas such as:

- consent to financial expenses relating to medical treatment
- consent related to the use, disclosure or storage of health information, including consent for photographing or filming treatment for training or research purposes, (see *Privacy Manual for Health Information*)
- consent to the removal and use of human tissue (including organ donation) (see *Organ and Tissue Donation, Use and Retention* (PD2022\_035))
- consent to non-coronial post mortems (see *Non-Coronial Post Mortems* (PD2013\_051))
- consent to participate in the NSW Health Statewide Biobank (see <https://biobank.health.nsw.gov.au/wp-content/uploads/2020/07/NSW-Health-Consent-Toolkit-V3-072020.pdf>)
- consent to compulsory forensic blood and alcohol testing in Emergency Departments.
- consent to Aged Care Assessments (see *My Aged Care Assessment Manual*).

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### 3.5. What other NSW Health resources should be considered?

There are a range of NSW Health policies which are relevant to obtaining the consent of patients to medical treatment in Health Services. While the main policies are referenced in the body of the Consent Manual, see also the list of related NSW Health policies and legislation in Appendix 1.

### 3.6. NSW Health State Forms relating to consent

This Consent Manual attaches the key State Forms for recording patient consent to medical procedures/treatment:

- Consent for Medical Procedure/Treatment (Adult and Mature Minors) – for patients with capacity
- Consent for Medical Procedure/Treatment (Minors) – for parents/guardians of minors without capacity
- Consent – Substitute Consent for Medical Procedure/Treatment – *Guardianship Act 1987*
- Procedure/Treatment Refusal Acknowledgement (Patient with Capacity)
- Discharge against Medical Advice (Adult with Capacity)
- Discharge against Medical Advice (Parents/Guardians of Minors)

The following additional State Forms document consent for related purposes and can be obtained from the State Forms Committee or within the relevant policy document:

- Consent for oral health treatment
- Consent for the NSW Rheumatic Heart Disease Register
- Consent for genetic testing (PD2007\_066, PD2005\_303, GL2007\_013)
- Forms relating to mental health assessments
- Forms for consents relating to human tissue/organ donation
- BreastScreen consent forms
- Photo and Video Imaging in Cases of Suspected Child Sexual Abuse, Physical Abuse and Neglect (PD2015\_047)
- Consents for public health screening:
  - Statewide Infant Screening – Hearing (GL2010\_002)
  - Various immunisation policies
  - Statewide Eyesight Preschooler (StEPS) Screening flyer
- RhD Immunoglobulin Patient Consent (GL2015\_011)
- *Sexual Assault Medical Forensic Examination Consent* form (refer to section 10.8) (PD2020\_006)
- *Sexual Assault Medical Forensic Examination Record (MFER)* and the *Suspected Child Abuse and Neglect (SCAN) Medical Protocol* (GL2014\_012)
- Forms under the *Mental Health Act 2007*.