CancerCare Manitoba
ActionCancerManitoba

GOVERNING DOCUMENTS

Policy and Procedure

Title:	**Informed Consent**	
Policy Number:	10.001	Section: Patient Care – Patient Care
Effective Date:	March 2005	
Revised Date:	April 3 2019	
Approving Body:	President and CEO	
Authority:	CancerCare Manitoba Act	
Responsible Officer:	President and CEO	
Delegate:	Chief Medical Officer	
Contact:	CMO Office	
Applicable to:	CCMB Staff, Physicians, Residents and all trainees	

1.0 **BACKGROUND:**
Not Applicable

2.0 **PURPOSE:**

2.1 To provide direction that promotes practices that respect the basic rights of all Patients cared for within CancerCare Manitoba (CCMB) facilities.

2.2 To outline the ethical, legal and administrative principles of Informed Consent.

3.0 **DEFINITIONS:**

3.1 **Patient:** Any person receiving services at any CCMB site, Community Cancer Program (CCP) or Community Oncology Program site where the patient is under the care of a CCMB Responsible Physician.

3.2 **Substitute Decision-Maker:** A third party identified (See Appendix I) to make decisions and represent the interests of the Patient regarding proposed treatments or procedures on behalf of a Patient who lacks Decision-Making Capacity. For the purposes of this policy, all references to the Patient refer also to a Substitute Decision-Maker.

3.3 **Responsible Physician:** For the purpose of this policy, the Responsible Physician is a member of the CCMB Medical Staff who will be responsible for the actual supervision of the recommended treatment and/or procedure.

3.4 **Authorized Designate:** The Responsible Physician **may authorize** a Designate to complete the Informed Consent process with the Patient. This Designate may be a CCMB Medical Staff member, Senior Resident /Fellow, Family Practice Oncologist, Physician Assistant, Registered Clinical Assistant or Advanced Practice Nurse. For the purposes of this policy, references to the Responsible Physician include Authorized Designate.

3.5 **Informed Consent:** Informed Consent is a legal, ethical, and clinical obligation to provide a Patient with adequate information to enable the individual to make decisions regarding their care. The need for consent to a health care intervention is based on the principle that a Patient is autonomous and has the right to determine

what happens (or does not happen) to himself or herself. Without the Patient's consent, any physical contact is considered at law to be a battery. It is the responsibility of the health care practitioner performing the recommended intervention, usually the physician, to obtain informed consent.

3.5.1 Informed Consent for a health care intervention is a process which involves dialogue, understanding and trust between the Patient and the physician (or other health care provider) whose responsibility it is to carry out the recommended diagnostic, therapeutic or operative procedure/intervention.

3.5.2 Within the Informed Consent process, agreement with a recommended course of action is sought from the Patient. Consent can either be implied (inferred from the Patient's actions and/or the facts and circumstances of the situation) or expressed (verbal or written). Consent can be given either without or with qualifications, or Consent can be refused.

3.5.3 The consent form is evidence in written form that the Patient confirms their understanding of the explanations given and that the Patient agrees with the course of action that has been recommended. Additionally, patients need to be made aware that they have the right decline consent at any time in the future.

3.6 **Health Care Directives:** A document that makes health care preferences known in the event the Patient is unable to express them. In Manitoba, the Health Care Directives Act makes provision for indicating the type and degree of health care interventions the person prefers and naming a person or persons delegated to make decisions on their behalf (Proxy). Health Care Directives must be taken into consideration for any individual 16 years of age or older, if known to the health care provider(s), and are binding unless the request for intervention is illegal or inconsistent with accepted standards of practice. *(See CCMB Patient Care Policy #3.10.180 – Health Care Directives)*

3.7 **Documentation:** Informed consent is a dynamic, continual process of exchange of information between the health care provider and the Patient and family. Documentation of this process in the Patient's chart must minimally indicate:

- who was present during the discussion and what concerns/questions were raised by the Patient/family; and
- that the Patient indicates they understand the risks and benefits of their decision; and
- that the Patient had ample opportunity to ask questions.

There are interventions, due to their nature, that require a written consent form signed by the Patient or alternate according to the policies and procedures described herein.

3.8 **Minor:** A Patient under the age of 18 years. There is no legislative provision in Manitoba specifying the minimum age required for consent to be considered valid. The Responsible Physician must, in each case, make a determination as to the Decision-Making Capacity of the Patient to provide consent. Indicators of Decision-Making Capacity in adolescents include cognitive and emotional maturity sufficient to understand the medical condition, prognosis and treatment options.

3.9 **Witness:** An individual other than the Responsible Physician, except in emergent situations, who will indicate that they have observed the Patient physically signing the Consent Form. The act of witnessing a signature indicates only that the person signing the statement is the person they claim to be, and that they appear to be able to understand what they are signing is a consent form. The person witnessing the consent form is not testifying to the adequacy of the explanation that the Responsible Physician gave to the Patient.

3.10 **Criteria for Valid Informed Consent:** all of the following must be considered:

3.10.1 PATIENT DECISION-MAKING CAPACITY: The Patient must be capable of understanding the information required to make the decision about the recommended course of action. This includes the ability to understand the nature, anticipated effect(s) of the recommended treatment and/or procedure and alternatives, including the consequence(s) of not proceeding with the recommended course of action. The Responsible Physician must determine if a Patient has Decision-Making Capacity.

3.10.2 CONSENT BY SUBSTITUTE DECISION-MAKER: If the Patient is deemed to lack Decision-Making Capacity, this assessment shall be documented on the health record by the Responsible Physician. Consent must be obtained from a specified Substitute Decision-Maker, who must have Decision-Making Capacity (see Appendix I, Guidelines for Substituted Consent).

3.10.3 DISCLOSURE OF INFORMATION: Information must be provided to the Patient by the Responsible Physician in a manner which can be understood by the Patient, including at minimum:

- The diagnosis and the extent of the disease (stage and prognosis);
- The goal(s) of treatment;
- A description of the health care intervention;
- The benefits of the health care intervention and the likelihood of achieving such benefits;
- The degree of necessity and urgency of the recommended health care intervention;
- The relevant risks during the health care intervention and the likelihood of each materializing;
- Alternative available interventions, including no treatment, and related risks;
- The consequences of refusing the health care intervention;
- The recommendation of the health care provider as to whether or not the intervention should be given; and
- Any information that the Patient specifically requests if available.

The mere possibility of a complication does not mean it has to be disclosed, but if its occurrence may result in serious consequences, such as paralysis, permanent disability or even death, then it should be regarded as a material risk. The following questions will serve as a general guideline for the Responsible Physician to consider when providing information to the Patient:

- How much information would an average reasonable Patient expect to be told?
- Would an average reasonable Patient give Consent in the same

situation?
- Would any significant detail not mentioned lead to a different decision by the Patient?

3.10.4 CONSENT GIVEN FREELY: Consent must be free and voluntary, without undue promise of favourable outcome or threat of penalty for non-compliance.

3.10.5 PATIENT UNDERSTANDING OF INFORMATION: The Responsible Physician shall use discretion as to the extent of details provided to each Patient, with opportunity for questions, answering to the best of their ability to the Patient's satisfaction. It is not always possible to get expressed informed consent. Consent can be assumed in situations where:
- A Patient does not have the capacity to consent AND
- A substitute decision-maker is not readily available AND
- Life and/or limb is threatened AND
- Most reasonable people would consent in this situation AND
- There is no written or verbal evidence that the Patient would object to treatment in this situation.

4.0 **POLICY:**

4.1 Scope of Policy
This policy applies to health care interventions provided to Patients at a CCMB or CCP facility under the direction of a CCMB Responsible Physician. All new staff (including medical staff), students and affiliates of CCMB in patient contact positions must review this policy as part of their orientation.

4.2 Role of Responsible Physician in Informed Consent Process
It is the role of the Responsible Physician to obtain the informed consent from the Patient for each specific treatment and/or procedure, prior to administration of any pre-procedure sedative medication (if required). The Responsible Physician must:

4.2.1 Provide all information, including any other available information requested by the Patient to help to make an informed decision;

4.2.2 Ensure that the Patient has Decision-Making Capacity and understands the information given, risks explained and benefits for recommended treatments

4.2.3 Determine that treatment decisions are voluntary and not coerced;

4.2.4 Ensure the Consent Form, where required, is completed and signed. Additionally, where required on the Consent Form the patient has initialed in all the appropriate locations;

4.2.5 Where the Patient lacks Decision-Making Capacity, obtain consent from the Substitute Decision-Maker *(see Appendix I – Guidelines for Substituted Consent);*

4.2.6 Where an Authorized Designate has obtained informed consent and signed the Consent Form, co-sign the bottom of the Consent Form prior to the treatment and/or procedure; and

4.2.7 Document details of the discussion of risks and alternatives which took place between the Responsible Physician and the Patient in the electronic health record. The responsible physician shall ensure the patient has been made aware of the risks and benefits of the various treatment options.

4.3 The responsible physician shall assess the patient for possible contraindications to the proposed therapy or procedure.

4.4 Role of Care Providers in the Informed Consent Process

The direct care provider, if other than the Responsible Physician (e.g. nurse, radiation therapist), should confirm the Patient's understanding of the procedure or treatment and ask if they have any further questions. **It is the responsibility of the direct care provider who will be administering a procedure or treatment for a Patient to ensure the Consent Form, if required, has been completed prior to beginning the procedure or treatment. The Responsible Physician's signature must be in place prior to the initiation of the specified procedure or treatment.** If a consent form is not completed and signed, the Responsible Physician will be contacted by phone or pager to attend the appropriate area to complete the form.

4.5 Consent to Treatment of a Minor

4.5.1 If the Responsible Physician determines that the Patient who is a minor has the Decision-Making Capacity to consent to their treatment and if the Patient wishes to provide their consent to the recommended treatment and/or procedure, this shall be accepted and documented in the CCMB health record. Generally the involvement of the minor's parents in the decision making process should be encouraged unless the minor expressly forbids their involvement and the minor has Decision-Making Capacity.

4.5.2 If the Responsible Physician determines that the Patient who is a minor does not have the Decision-Making Capacity to consent to treatment, Consent must be obtained from a specified Substitute Decision-Maker *(see Guidelines for Substituted Consent, Appendix I).*

4.5.3 An assent process should be used for a patient between the ages of 7 and 16 years, where it is determined the minor has partial decision making capacity. Information regarding the treatment or procedure is to be provided at a level they can understand and use to make choices in their care where appropriate. This process must be documented in the patient's electronic health record.

4.6 Treatments and/or Procedures Requiring Written Consent

The CCMB list of treatments and/or procedures requiring written consent is attached as Appendix II. **Completion of the Consent for Treatment and/or Procedure for Cancer and/or Blood Disorder form by the Responsible Physician and the Patient is required before the initiation/performance of any of the listed treatments / procedures.** Completed Consent Forms must include:

4.6.1 The recommended treatment or procedure;

4.6.2 The signature of the Responsible Physician and date signed;

4.6.3 The signature of the Patient and date signed; and

4.6.4 The signature of the witness and date signed.

The "signature" of the Patient can be in any form or style, including an "X". If the form or style of the "signature" makes it unreadable or not identifiable, the individual obtaining the "signature" shall print the Patient's name below the "signature".

The patient shall also be responsible for initialing all required locations on the Consent for Treatment and/or Procedure for Cancer and/or Blood Disorder form as required.

4.7 Refusal of Treatment

A detailed note shall be made in the Progress Notes in the CCMB health record if the Patient refuses treatment.

If the Responsible Physician determines that the Patient who is a Minor has the Decision-Making Capacity to make treatment decisions and they refuse treatment, and the refusal endangers their life, health or emotional well-being, the Responsible Physician shall report the situation to a Child and Family Services Agency. If the Child and Family Services Agency consents to treatment:

4.7.1 Where there is, in the opinion of the Responsible Physician, sufficient time, CCMB should seek the advice and direction of the Court of Queen's Bench as to whether to accept the refusal of the Patient or the consent of the Child and Family Services Agency; or

4.7.2 Where there is not, in the opinion of the Responsible Physician, sufficient time to obtain a Court ruling, the Responsible Physician shall proceed with the treatment authorized by the Child and Family Services Agency, notwithstanding the Patient's refusal.

4.8 Consent Given Over the Telephone

4.8.1 Telephone Consent applies only to urgent situations where a Patient is unable to provide their own consent and the **Substitute Decision-Maker is not immediately available, but can be reached by telephone. In this situation, the Responsible Physician can complete the informed consent process by telephone**. If the Public Trustee is the Substitute Decision-Maker, they will consider telephone requests for consent from the

Responsible Physician only (i.e. NOT from an Authorized Designate).

4.8.2 Along with the Responsible Physician, there must be a witness to whom the Substitute Decision-Maker repeats their consent. The person giving consent will be told that another party is listening to serve as a witness. The witness will sign the consent form, as will the Responsible Physician. Wherever possible, written consent from the Substitute Decision-Maker should be obtained as soon as possible thereafter.

4.9 Consent Given via Telehealth

Where the patient visit with the Responsible Physician occurs via Telehealth, responsibility for obtaining consent remains with that physician. The Consent Form must be completed by the Patient, witnessed on-site and sent to the Responsible Physician for completion.

4.10 Consent for Care at a CCP or Community Oncology Program

4.10.1 Where care is being delivered at a CCP site or Community Oncology Program under the direction of a CCMB physician, that physician is the Responsible Physician and is responsible for obtaining consent from the Patient.

4.10.2 I**f the Patient has not been seen in person by the Responsible Physician prior to the required start of treatment, the CCP or Community Oncology Family Practice Physician may be assigned as the Authorized Designate. The Responsible Physician must co-sign the Consent Form prior to the completion of treatment.**

4.11 Sedating Medications

Should a situation arise where the consent process has occurred and the Patient has verbally agreed but the signature on the consent form did not occur prior to the Patient receiving sedating medications:

4.11.1 The Responsible Physician confirms that the consent process had occurred prior to the administration of sedating medication, the Patient gave verbal consent and that delaying the procedure is not in the Patients best interest; and

4.11.2 An attending physician performs an appropriate mental status examination on the Patient after the procedure and confirms the capacity of the Patient to complete the consent form. Patient confirms consent process and verbal consent occurred prior to administration of sedating medication. This must then be documented in the CCMB health record by the attending physician.

4.12 Alteration to Consent Forms

4.12.1 Changes (additions or deletions) to the Consent Form requested by a Patient at the time the form is completed must be initialed by the Patient, by the physician obtaining the Patient's consent and by the witness to the signing of the Consent Form in the location(s) of any alteration(s).

4.12.2 Where changes are requested after the completion of a Consent Form, a new Consent Form must be completed, with changes noted as above. The original Consent Form must be marked to indicate that it is no longer valid, and is retained in the Patient's health record.

4.13 Interpreter's Declaration

The Responsible Physician shall request the services of a trained health interpreter where required. If an interpreter assists in the communication between the Responsible Physician and the Patient, the interpreter will complete the appropriate section of the Informed Consent Form.

4.14 External (Out of Centre) Completion of CCMB Consent Form

Where written consent is required for treatments and/or procedures done within CCMB, only CCMB consent forms or consent forms approved by CCMB Administration are acceptable as documentation. However, it is acceptable for CCMB Consent Forms to be completed off site, prior to the Patient's attendance at the Centre. **All elements of this policy shall apply, including the requirement for the Responsible Physician's signature confirming that they are satisfied that the Informed Consent process has been followed**.

4.15 Duration of Validity of Consent

When a consent form for a specific treatment and/or procedure has a valid Patient signature and the treatment/procedure is not carried out at the particular time, the consent may be used as authorization for the same treatment/procedure, within six (6) months of the date of signing, but the Responsible Physician should ensure there are no significant changes in the Patient's condition which may materially affect consent.

4.16 Consents for Clinical Research Studies

Obtaining written consent for participation in clinical research studies by CCMB Patients is mandatory. The process must comply and be documented according to University of Manitoba, Biomedical Research Ethics Board, Good Clinical Practice Consolidation Guidelines and the Tri Council Policy Statement guidelines (refer to CCMB Clinical Trials Unit (CTU) Standard Operating Procedures).

4.16.1 Because of the investigative nature of a clinical trial and the University of Manitoba Biomedical Research Ethics Board policy for obtaining informed consent, it is recommended that the treating physician (investigator) does not obtain consent. The treating physician will inform the Patient about a potential study they may be eligible for. If the Patient is interested and wishes to have more information, the CTU research nurse is notified. It remains the full responsibility of the investigator to ensure that any and all risks/benefits currently known about the drug or drugs, radiation therapy and alternative treatments, if any, are discussed with the Patient (joint effort of CTU research nurse and investigator).

4.16.2 The clinical trial consent form is signed and dated by the Patient and research nurse or investigator. In some cases a witness may also be required to sign. The investigator cannot be witness. A copy of the consent form is given to the Patient, and one filed with the CCMB health

record. The original is kept in the CTU clinical trial record. Specific source documentation outlining informed consent process and agreement to participate must be recorded in the Patient's CCMB health record. Note: the CCMB Consent for Treatment and/or Procedure must also be completed.

4.17 Agreement for Individuals Not Residing in Canada
If a Patient does not reside in Canada, a "Governing Law and Jurisdiction Agreement" must be completed at the time of consent to ensure the Patient is aware of Manitoba law and jurisdiction. *(See CCMB Policy No. 02.018.)*

4.18 Consent for Medication Access Programs
Obtaining written consent for participation in a medication access program by Patients is mandatory. The process must comply with both the CCMB informed consent policy as well as the Medication Access Program requirements. The Consent for Treatment and/or Procedure Form, as well as the Medication Access Program institutional requirements for consent, are for the Responsible Physician and the Patient to complete prior to enrolling the Patient in the Medication Access Program .

4.18.1 Manufacturer-Sponsored Drug Access Program – A program administered by the drug manufacturer to allow physicians and patients access to an emerging drug therapy prior to the drug being reviewed for, or being granted, provincial funding in Manitoba. **The manufacturer determines patient eligibility and supplies the medication at no cost to the cancer agency or patient upon formal request based on their specified documentation.**

4.18.2 Special Access Programme (SAP) medication – A drug that is not marketed or available for sale or distribution in Canada. The Special Access Programme from Health Canada provides practitioners with access to non-marketed drugs for treatment of patients with serious or life-threatening conditions when conventional therapies have failed, are unsuitable, or are unavailable. **The SAP determines patient eligibility and case-by-case authorization for use upon formal request based their specified documentation.**

5.0 **PROCEDURE:**
Not Applicable

6.0 **REFERENCES:**

6.1 WRHA Policy 110.000.005 – Informed Consent

Policy Contact: All enquiries relating to this policy should be directed to:	
Name:	
Title/Position:	Chief Medical Officer
Phone:	
E-mail:	

DOCUMENTATION	
Policy Location: This policy is located (hard and e-copy formats):	
1.	The original signed and approved policy is on file in the Executive Office, CCMB
2.	The e-copy is on file in the CCMB Governing Documents Library, SharePoint
3.	

Revision History:

Date	Version	Status	Author	Summary of Changes
dd/mm/yyyy	#	Initial, Draft Final Minor/Major revision		
Mar 2005	1	Initial	Clin Ethics, CPMT	
Nov 2015	2	Minor revision	Clin Ethics Committee	Reviewed by Clinical Ethics Committee; Minor revisions to align with WRHA policy.
28/03/2018	2	Minor revision	S.Friedenberger	Reformatted to new template
15/03/2019	3	Revisions	Ethics, CPMT	
3/04/2019	3			Approved by CPMT

Approvals Record:
This Policy requires approval by:

Approval Date	**Name / Title**	**Signature**
	Clinical Programs Management Committee (CPMT)	Approved April 3 2019

FINAL APPROVAL:

Date	**Name / Title**	**Signature**
Apr 3 2019	Dr. P. Czaykowski Chief Medical Officer and Chair, CPMT	*Approved by* *Dr. P. Czaykowski*

APPENDIX I
GUIDELINES FOR SUBSTITUTED CONSENT

A) GUIDELINES FOR MINORS (<18 YEARS):

Consent for minors (<18 years) is most commonly provided by a parent or legal guardian.

The Responsible Physician shall ascertain whether the Patient is the subject of any Court order designating any person or agency other than their parent(s) as their guardian. If any person or agency has been appointed guardian of the child, the Responsible Physician shall seek the consent of such a guardian.

The following order of authority applies where substituted consent is required for a minor:

1. Parent or Parents. (Adult relatives of minors, other than parents have no legal authority to provide consent)

    a) If there is a disagreement between parents, the parent dissenting to a recommended course of action has the obligation to file a formal protest with the Courts.
    b) If parents are legally separated or divorced, authority to provide consent will be specified in the custody provisions of the separation/divorce agreement.

    Minors who themselves are parents can provide consent for their own children.
2. A Proxy named in a valid Health Care Directive (applies to Patients ≥ 16 years). See CCMB Patient Care Policies: Advance Directives (3.10.180), Advance Care Planning (3.10.185).
3. Court appointed guardian (applicable only if there is a valid Order of Guardianship). (Temporary guardians, e.g. babysitters, have no legal authority to provide consent)
4. Child and Family Services Agency (applicable only if minor has been apprehended by a Child and Family Services Agency and is designated a Ward of a specific Agency).
5. Manitoba Public Trustee, if Patient is under an existing "Order of Supervision" (applies only to a small number of children resident in the St. Amant Centre). See below regarding the Office of the Public Trustee.
6. If consent for a minor is not available or is denied, and if it is the opinion of two (2) physicians that the refusal of treatment constitutes endangerment to life, limb or vital organ, the Responsible Physician must promptly report to the Child and Family Services Agency with geographic responsibility for the Patient that, in the opinion of CCMB the minor is "in need of protection".

B) GUIDELINES FOR ADULTS (≥ 18 YEARS)

The following order of authority applies where substituted consent is required for an adult:

1. A Proxy identified in a valid Health Care Directive. See CCMB Patient Care Policies: Advance Directives (3.10.180), Advance Care Planning (3.10.185).
2. A court appointed Committee of both property and personal care (see section 7.3.3 of the Mental Health Act).

    a) This Committee may be an individual(s) or the Public Trustee. Note: even if a Patient has a court appointed Committee the Patient must provide their own consent if competent to do so.
    b) If the Patient is subject to a court appointed Committee, family members are not entitled to provide consent as alternates. However, when the Patient is a client of the Public Trustee, the Public Trustee expects that family members will be included in the discussion process.
    c) Assessment of competence to provide consent addresses a specific treatment at a specific time for an individual Patient.

3. Manitoba Public Trustee acting under an existing "Order of Committeeship" (see attached summary of operations of the Office of the Public Trustee).
4. A relative of the Patient, in the following order (from Manitoba Mental Health Act). "Nearest relative" means, with respect to a Patient, the adult person first listed in the following clauses, relatives of whole blood being preferred to relatives of the same description of half-blood and the elder or eldest of two or more relatives described in any clause being preferred to the other of those relatives regardless of gender:

    i. spouse, (including a person who, although not married to the Patient, cohabited with the Patient as his or her spouse for at least 6 months immediately prior to referral, but does not include a spouse from whom the Patient is living separate and apart);

ii. son or daughter;
iii. father or mother;
iv. brother or sister;
v. person with whom the individual has a close personal relationship;
vi. grandparent;
vii. grandchild;
viii. uncle or aunt;
ix. nephew or niece.

5. The Public Trustee acting under a new Order of Committeeship.
Under the new Mental Health Act (October 1999) the process of issuing an Order of Committeeship will take approximately 12 days except in the case of an emergency. In such cases the Office of the Provincial Psychiatrist should be contacted directly regarding the urgency. See next sections – Role of the Manitoba Public Trustee and Steps to Follow.

ROLE OF THE MANITOBA PUBLIC TRUSTEE IN MEDICAL CONSENT OUTSIDE OF A "PSYCHIATRIC FACILITY"

- The Office of the Public Trustee is a branch of the Department of Justice, Province of Manitoba. The Public Trustee operates under the authority granted by The Public Trustee Act and is governed both by this Act and other Acts, particularly The Mental Health Act.
- For Patients outside of "Psychiatric Facilities", the Public Trustee is authorized to act upon an "Order of Committeeship" from the Chief Provincial Psychiatrist. The order makes the Public Trustee the Committee of both the "person" and the "property" of the client. Note that the Public Trustee will serve in this capacity on receipt of the "Order of Committeeship", or as ordered by the Court of Queen's Bench. The Chief Provincial Psychiatrist (if in agreement) issues the "Order of Committeeship" in response to the receipt from any Manitoba licensed physician of "Form 21 - Certificate of Incapacity."
- Although the Public Trustee assumes responsibility for both the person and the property of her Clients, this does **not** mean that informed consent for all Clients of the Public Trustee must be obtained from the Public Trustee. Substitute consent for treatment will only be given by the Public Trustee on behalf of her Clients if the doctor advises that the person is not competent to make treatment decisions on his/her own behalf.
- **NOTE:** If the doctor states that the Client is capable of making treatment decisions on his/her own behalf, the doctor must obtain consent to the treatment directly from the person. In this case, it is appropriate for the doctor to proceed with the Patient's own consent but also to notify the Office of the Public Trustee, as a courtesy, that this course of action is being followed.
- When the Public Trustee is the appropriate body to give substitute consent to medical treatment, the Public Trustee, the Manager and all of the Lawyers have power to consent to any recommended therapeutic surgery or medical treatment. “Therapeutic” is defined as a procedure or treatment necessary to save life or cure injury or disease.
- Client Administration Officers have the designated authority of the Public Trustee to consent to therapeutic surgery or medical treatment if the recommended procedure or treatment is not controversial or life threatening.
- Normally therefore the Client Administration Officer will be the first contact in the Office of the Public Trustee when it has been determined that substitute consent will be required for a Client of the Public Trustee.
- Procedures to which substituted consent will not be given would include any non-therapeutic procedure, such as sterilization, abortion, or organ donation. If surgery or treatment is life threatening or controversial, requests for consent should be directed to the Public Trustee, the Manager or one of the Lawyers.
- Information about whether a Patient is a client of the Public Trustee – 204-945-3093
Out of hours telephone contact number (for medical consent only) – 204-944-8161

Steps to follow when requesting Manitoba Public Trustee to Assume Responsibility for a CancerCare Manitoba Patient and Provide Medical Consent:

1. Complete Form 21 - "Certificate of Incapacity" (available from Patient / Family Support Services office).

2. Any fully licensed Physician (i.e. not an educational license), with CCMB privileges, can complete and sign the form.

3. A referral should be made to Psychosocial Oncology. The Psychosocial Oncology Clinician will prepare a social assessment, focusing on the need and rationale for the Order of Supervision, the role and location of family and will provide information on the Patient's financial situation and assets.

4. The Psychosocial Clinician will send the social assessment and Form 21 to the Director of Psychiatric Services, Manitoba Health, 2112 - 300 Carlton St., Winnipeg, MB R3B 3M9, Phone No. 204-788-6677.
   Note - this office operates during regular business hours (8:30am – 4:30pm) Monday to Friday only.

5. If the Director of Psychiatric Services is in agreement with the Physician's recommendation, he/she will issue an Order of Committeeship authorizing the Manitoba Public Trustee to assume responsibility for the Patient.

6. Once the Order of Committeeship has been issued, the guidelines in the CCMB consent policies and procedures relating to the Public Trustee must then be followed.

7. If a Patient is admitted to a psychiatric facility and that person is a client of the Public Trustee under an order of Committeeship issued by the Director of Psychiatric Services, the Public Trustee can make treatment decisions for the Patient if the Patient is incapable of consenting and the Patient has <u>not</u> appointed a proxy for the purpose of making such substituted treatment decisions.

APPENDIX II

Listing of CancerCare Manitoba Treatments and Procedures Requiring Written Consent

Completion of the Consent for Treatment and/or Procedure Form by the Responsible Physician and the Patient, confirming that informed consent has been provided is required before the initiation/performance of any treatment and/or procedure requiring formal written consent. The CCMB Clinical Program Management Team approved list of treatments and/or procedures requiring written consent includes:

- All surgical procedures performed by CCMB where general, spinal, epidural or regional anesthesia is required.
- Biopsies and excisions that require or are performed at CCMB in an operating room, except skin punch biopsies, fine needle aspirations.
- Initial thoracentesis, paracentesis or lumbar puncture. Repeated performance of these procedures requires verbal consent only.
- Initial use of blood and blood products, i.e., all cellular products (red cells, platelets), all plasma and derivatives (stored plasma, fresh frozen plasma, albumin, cryoprecipitate), all factor concentrates, intravenous immoglobulin, Rh immune globulin. Repeat use of blood products requires verbal consent only.
- Systemic therapy (oral or parenteral) given as adjuvant treatment, radical treatment or as palliative treatment when it is the first time the Patient has had chemotherapy. Systemic therapy after any of the above requires verbal consent only.
- Bone marrow and peripheral blood stem cell transplants.
- CCMB radiology procedures performed during radiation therapy simulation requiring intravenous or intra-arterial contrast. Radiological procedures requiring oral or intracavitary contrasts require verbal consent only.
- Radiation therapy given as adjuvant treatment, radical treatment, or palliative treatment when it is the first radiation treatment that the Patient has received. Palliative radiation after any of the above requires verbal consent only.
- Endoscopies which require conscious sedation or general anesthesia. Endoscopies requiring local anesthesia require verbal consent only.
- Routine vaccinations.

The above list is not exclusive and medical staff may obtain written consent for other procedures as they see fit. The description of the recommended treatment or procedure must be specific.