

Vaccinating Ontarians Aged 12-17: Legal and Ethical Requirements for Consent

As Ontario begins to vaccinate 12-17 year-olds, it is imperative that the legal and ethical requirements of informed consent in this population are understood and consistently applied.

Legal requirements of consent for 12-17 year-olds

- Ontario's [Health Care Consent Act](#) (HCCA) provides the legal requirements for consent to treatment.
- 'Treatment' in the HCCA includes anything done for a therapeutic, **preventive**, palliative, diagnostic, cosmetic or other health-related purpose, and therefore **includes vaccination** (HCCA, s. 2(1)).
- There is **no age of consent** for treatment in Ontario. All persons in Ontario who have **decision-making capacity** have the right to make decisions about vaccination, including 12-17 year-olds.
- Individuals are considered capable of making treatment decisions if they are **able to understand** the information that is relevant to a treatment decision and **able to appreciate** the reasonably foreseeable consequences of a decision or lack of decision (HCCA, s. 4(1)).
- The assessment of capacity is **treatment-specific** (e.g., COVID-19 vaccination) and is not an assessment of a person's 'global' decision-making capacity (HCCA, s. 15(1)).
- Individuals are **presumed capable** with respect to treatment. Health care practitioners should presume 12-17 year-olds are capable to consent to vaccination unless there is reason to believe they do not meet the above criteria (HCCA, s. 4(2)).
- Consent should be sought from a substitute decision-maker only if an individual fails to meet the above criteria and is incapable of making a decision about vaccination. A list of persons **who may act as a substitute decision-maker** and give or refuse consent on behalf of an incapable person, including the principles they must use for giving or refusing consent, is explicitly described in the HCCA, section 20 (1).
- It is the **responsibility of the health care provider** administering the vaccination to assess capacity and obtain informed consent.

Ethical imperatives

- Adhering to Ontario's Health Care Consent Act is imperative for the **ethical and equitable** rollout of vaccines among 12-17 year-olds.
- Where 12-17 year-olds have the capacity to make decisions about their health care, their decisions must be respected. They should not be required to have co-signatories and their decision-making authority should not be overridden. Doing so would fail to **respect patient autonomy and dignity**.
- Failure to apply a consistent standard across the province in the rollout of COVID-19 vaccinations among this population would be **unfair and inequitable**.

Adhering to these legal requirements and ethical imperatives for consent among 12-17 year-olds will help to enhance adherence to the Health Care Consent Act, promote respect for young people's decision-making capacity and autonomy, and ensure greater consistency and fairness in the vaccine rollout among this population.