health care provider. Usually the client signs a form provided by the agency. The form is a record of the informed consent, not the informed consent itself.

There are two types of consent: express and implied. **Express consent** may be either an oral or written agreement. Usually, the more invasive a procedure and/or the greater the potential for risk to the client, the greater the need for written permission. **Implied consent** exists when the individual’s non-verbal behavior indicates agreement. For example, clients who position their bodies for an injection or cooperate with the taking of vital signs infer implied consent. Consent is also implied in a medical emergency when an individual cannot provide express consent because of physical condition.

Obtaining informed consent for specific medical and surgical treatments is the responsibility of the person who is going to perform the procedure. Generally it is the physician; however, it could also be a nurse practitioner, nurse-anesthetist, or nurse-midwife who is performing procedures in their advanced practices.

Informed consent also applies to nurses who are not independent practitioners and are performing direct nursing care for such procedures as nasogastric tube insertion or medication administration. The nurse relies on orally expressed consent or implied consent for most nursing interventions. It is imperative to remember the importance of communicating with the client by explaining nursing procedures, ensuring the client understands, and obtaining permission.

The law says that a “reasonable amount” of information required for the client to make an informed decision is what any other reasonable physician or practitioner would disclose under similar circumstances (Dunn, 1999, p.42). General guidelines include the following:

- The purposes of the treatment
- What the client can expect to feel or experience
- The intended benefits of the treatment
- Possible risks or negative outcomes of the treatment
- Advantages and disadvantages of possible alternatives to the treatment (including no treatment).

There are three major elements of informed consent:

1. The consent must be given voluntarily.
2. The consent must be given by a client or individual with the capacity and competence to understand.
3. The client or individual must be given enough information to be the ultimate decision maker.

To give informed consent voluntarily, the client must not feel coerced. Sometimes fear of disapproval by a health professional can be the motivation for giving consent; such consent is not voluntarily given. Coercion invalidates the consent. It is important, therefore, for the person obtaining the consent to invite and answer client questions. Cultural perspective also needs to be considered when clients are asked to make decisions about a procedure or treatment (see Providing Culturally Competent Care).

It is also important that the client understand. Technical words and language barriers can inhibit understanding. If a client cannot read, the consent form must be read to the client and the client must state understanding before the form is signed. If the client does not speak the same language as the health professional who is providing the information, an interpreter must be present.

If given sufficient information, a competent adult can make decisions regarding health. A competent adult is a person over 18 years of age who is conscious and oriented. A client who is confused, disoriented, or sedated is not considered functionally competent. A legal guardian or representative can provide or refuse consent for the incompetent adult.

Informed consent regulations were originally written with acute care settings in mind. Nonetheless, ensuring informed consent is equally important in providing nursing care in the home. Because the provision of home care often occurs over an extended period of time, the nurse has multiple opportunities to ensure that the client agrees to the plan of treatment. A challenge to informed consent in the home, however, is that the plan may affect other members of the family and, if so, they need to be consulted.

**Exceptions**

Three groups of people cannot provide consent. The first is minors. In most areas, a parent or guardian must give consent before minors can obtain treatment. The same is true of an adult who has the mental capacity of a child and who has an appointed guardian. In some states, however, minors are allowed to give consent for such procedures as blood donations, treatment for substance abuse, mental health problems, and reproductive health concerns such as sexually transmitted diseases.