

Consent during pregnancy.



Consent is the principle that a person must have the right to give or refuse permission before any type of medical treatment, test or examination. This must be done on the basis of clear and unbiased information provided by a doctor. For consent to be valid, a patient must understand that they have choice.

Consent from a patient is needed regardless of the procedure, whether it's a physical examination, taking medication or undergoing a medical treatment. The principle of consent is an important part of medical ethics and the international human rights law.

An issue for women

Under the Eighth Amendment, a woman and her pregnancy are treated as two separate lives, of equal importance, with separate rights. As a result, women have limited rights to agree to or refuse a examinations or medical treatment.

This creates difficulties for health professionals. They may be uncertain about a woman's right to refuse treatment if they believe this may put the pregnancy at risk. Doctors are being advised that legal advice should be sought as to whether an application to the High Court is necessary to override a woman's wishes. (HSE National Maternity Strategy)

An issue for doctors

The Eighth Amendment also makes a dangerous and unworkable distinction between a pregnant woman's life and her health. Doctors are obliged to wait until a woman's life is at risk before being able to provide appropriate health care, i.e. to carry out an abortion. The law, combined with the threat that they might be breaking the law are known to have prevented doctors from being able to act in the best interests of their patients.

This legal uncertainty contributed to the death of Savita Halappanavar in 2012. Doctors refused to perform a termination after a diagnosis of inevitable miscarriage. She was told that she could not have a termination because a foetal heartbeat was still present. She died a short while later of sepsis.

If the public vote yes

The Dáil will be able to legislate for women's consent. If the proposed legislation is passed, there will be no conflict in law between the health of a pregnant woman and the developing life of her pregnancy. Doctors will be able to treat a pregnant woman in the same way that they would treat anyone else. A woman will be able to have the right to informed consent for any treatment, examination or procedure.