

Standard of Practice S-013
Quality Assurance Committee
Approved: November 30, 2002
Amended: November 24, 2004

Note to Readers: In the event of any inconsistency between this document and the legislation that affects chiropractic practice, the legislation governs.

Intent

To facilitate appropriate care and examination or treatment of patients by ensuring members comply with their obligations relating to consent.

Objectives

- To ensure members and the public are aware of the mutual benefits of fully informed, voluntarily given consent to chiropractic examination or treatment.
- To ensure members are aware of their existing obligations relating to consent.
- To clarify the consent requirements outlined in legislation, the case law and various existing CCO standards of practice, policies and guidelines.
- To ensure patients receive appropriate information about the benefits, risks and side effects of chiropractic examinations or treatments.
- To facilitate discussion and dialogue between members and patients relating to chiropractic care.

Description of Standard

Elements of Consent

Every member of CCO is required to ensure that patient consent to any examination or treatment or to a course of treatment is:

1. fully informed;
2. voluntarily given;
3. related to the patient's condition and circumstances;
4. not obtained through fraud or misrepresentations; and
5. evidenced in a written form signed by the patient or otherwise documented in the patient record.

In certain limited circumstances, consent to an examination or treatment or to a course of treatment may be implied, but the onus is on the member to prove that exceptional circumstances warrant a deviation from the general requirements for consent outlined above.

Appropriate Discussion and Dialogue

In order to be “informed,” consent to examination or treatment (including x-rays), shall include a discussion of the following:

1. What is the recommended examination or treatment?
2. Why should the patient have the examination or treatment?
3. What are the alternatives to the examination or treatment?
4. What are the effects, material risks and side effects of the proposed examination or treatment and alternative examinations or treatments?
5. What might happen if the patient does not have the examination or treatment?

In discussing the effects, material risks and side effects of the proposed examination or treatment and alternative examinations or treatments, members shall disclose improbable risks particularly if the effects are serious. Accordingly, members shall include a discussion with patients of the rare but potentially serious risk of stroke associated with cervical adjustments.

Members shall recognise that consent is an ongoing and evolving process involving ongoing discussions with a patient and not a single event of a patient’s signature on a consent form. If the member recommends a new examination or treatment, there are significant changes in a patient’s condition, or there are significant changes in the material risks to a patient, the member shall continue to dialogue with the patient about the material risks, benefits and side-effects of the recommended examination or treatment, including potential risks that may be of a special or unusual nature, and shall document those discussions in the patient’s chart.

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During discussions, members shall provide patients with an opportunity to ask questions concerning the proposed examination or treatment and shall answer questions prior to the commencement of the examination or treatment.

Patients may withdraw their consent to any examination or treatment at any time.

The standard of disclosure focuses on the patient and what a reasonable person in the patients' position would need to know to make an informed decision. Members are advised to err on the side of caution in providing comprehensive disclosure.

Examination or Treatment of Minors

The *Health Care Consent Act* does not identify an age at which minors may exercise independent consent for health care because it is accepted that the capacity to exercise independent judgment for health care decisions varies according to the individual and the complexity of the decision at hand. Members are encouraged to seek consent from the appropriate parent or guardian to treat children who do not clearly have the capacity to consent to an examination or treatment.

Legislative Context

Section 3 (1) of the Health Professions Procedural Code - One of CCO's objects under the *Regulated Health Professions Act, 1991 (RHPA)* is to "*develop, establish and maintain programs and standards of practice to assure the quality of the practice of the profession.*"

The Quality Assurance program is defined in Ss 1(1) of the Code as "*a program to assure the quality of the practice of the profession and to promote continuing competency among members.*"

The Professional Misconduct Regulation under the *Chiropractic Act, 1991*, includes the following as an act of professional misconduct:

2. *Contravening a standard of practice of the profession or failing to maintain the standard of practice expected of members of the profession.*
3. *Doing anything to a patient for therapeutic, preventative, palliative, diagnostic, cosmetic or other health-related purpose in a situation in which a consent is required by law, without such a consent.*

The *Health Care Consent Act, 1996*, contains a number of provisions relating to consent, including Ss.11 (1) which defines the requisite elements of consent to treatment as follows:

1. The consent shall relate to the treatment.
2. The consent shall be informed.
3. The consent shall be given voluntarily.

4. The consent shall not be obtained through misrepresentation or fraud.

In addition, there is a body of case law which supports the principle that members shall ensure patient consent is fully informed and voluntarily given before patients are examined or treated.

Explanatory Notes

This standard of practice should be read in conjunction with the following, all of which require that consent be fully informed, voluntarily given and evidenced in a written form signed by the patient or otherwise documented in the patient's chart:

- S-002: Record Keeping;
- S-005: Spinal Adjustment/Manipulation;
- S-006: Technical and Interpretative Components for X-ray;
- S-007: Putting a Finger Beyond the Anal Verge for the Purpose of Manipulating the Tailbone;
- S-010: Techniques, Technologies, Devices or Procedures;
- G-001: Prevention of Sexual Abuse of Patients;
- G-001: Code of Ethics; and
- G-002: Health Care Consent Act Guidelines (relating to incapable patients).