

PRACTICE GUIDELINE INFORMED CONSENT

COLLEGE OF PHYSICAL THERAPISTS OF ALBERTA

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PRACTICE GUIDELINE

INTRODUCTION

Obtaining consent is an ongoing communication process, not a one-time event. The process is meant to provide information that enables patients to make informed choices/decisions about accepting or refusing proposed treatment and therefore should include an explanation of the diagnosis and recommended treatment including: benefits, risks and other treatment options. It is important that patients understand the nature and purpose of what is being proposed and have an opportunity to ask questions if required. The consent process is further helped by communicating to patients in plain, easy to understand language—the use of technical terms or jargon is not recommended.

This guideline was developed to communicate:

- key informed consent principles
- legal consent requirements and
- a physical therapist's accountability for obtaining informed consent for physical therapy services.

PRINCIPLES OF INFORMED CONSENT

Principle 1

The obligation to obtain informed consent is rooted in the ethical principle of client autonomy, both in professional policy and Canadian law

- Physical therapists are ethically and legally bound to communicate with patients so that patients can make informed choices regarding their treatment.
- Societal values now reject the concept that healthcare professionals always know what is 'best for the patient.'

Principle 2

Informed consent is an ongoing process and must be based on a careful discussion of relevant information and considerations regarding a proposed treatment

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Principle 2 continued

- Patients must:
 - Understand nature and purpose of proposed treatment.
 - Be informed why treatment should be performed.
 - Be given reasonable and understandable answers to questions about treatment.
 - Be informed of reasonable alternatives to proposed treatment.
 - Be advised of treatment's impact on lifestyle if any.
 - Be informed of any economic considerations of receiving or refusing proposed treatment.
 - Be acquainted with potential risks and odds of risk occurring.
 - Be advised of the consequences of refusing treatment.
- Probable attendant, material and special risks should be disclosed as Canadian law requires that patients be informed of the risks (attendant, material and special) associated with a given treatment:
 - **Attendant risks** – those that are more common.
 - **Material risks** – those that are less common but serious should they happen. Material risks can differ between patients.
 - **Special risks** – include probable and possible relevance to a particular person.
- When determining whether informed consent was established, the law asks whether the average, reasonable person in the patient's position would consent to the treatment knowing the attendant, material and special risks.
- Different strategies may be required to ensure patient understanding including:
 - Handouts.
 - Verbal explanations.
 - Visual aids when/where feasible.
 - Asking patient what they understood about information presented.
 - Consent forms.
 - Providing frequent updates/reports while providing the service.

Principle 3**Consent must be given voluntarily**

- Consent is invalid if obtained by coercion, undue influence or by intentional misrepresentation.

Principle 3 continued

- Consent should be given in an environment free of fear and compulsion from others, including family members.

Principle 4**Capacity to give consent**

- Consent is only valid when person consenting has legal capacity to do so.
- Must have the ability to appreciate the nature and consequences of the consent decision.
- If patient is under 18, consent must generally be obtained from **both** the minor and their parent/guardian.
- A mature minor under 18, may give consent on their own behalf if they understand the nature/purpose of proposed treatment and consequences of receiving/refusing treatment.
- Patients must be mentally competent and able to give informed consent. If they are not, consent must be given by:
 - a family member/designate with legal authority to do so,
 - a legally-appointed guardian, or
 - the court.
- Translators, including sign language interpreters, should be used if any doubt exists about a patient's ability to understand the implications and nuances of the English language.

Principle 5**Informed consent is treatment specific**

- If more extensive or different treatment is required, additional informed consent should be obtained.
- It is in the best interests of the physical therapist **and** the patient to understand the limits of the patient's consent.

Principle 6

The treating physical therapist is the one who obtains consent through a treatment-specific discussion with the patient

- Informed consent is personal and normally authorises a specific person to carry out a specific treatment.
- Patients have the right to treatment by the health care professional with whom they have a relationship.
- Patients can also consent to a physical therapist's delegation of treatment responsibilities to another individual.
- Provided there are no significant changes in the nature, expected benefits or risks, a physical therapist may presume that consent to treatment includes consent to treatment variations/ adjustments.

Principle 7

Consent can be expressed or implied

- **Expressed consent** – can be written or verbal. As a general rule, the law does not require 'written consent' however; written consent is more precise and prudent, and provides clear evidence of consent.
- **Implied consent** – can be implied from a patient's words or actions (e.g., consent is implied when a patient presents themselves for physical therapy treatment).

Principle 8

Document consent

- Signed consent forms are evidence that informed consent has been given. However, if the consent form was not explained to or understood by the patient, it is invalid.

Principle 8 continued

- Documentation should reflect the consent process and when and how consent was obtained. An effective way to document consent in a patient chart is to use a detailed note or checklist of criteria required for valid consent.

Principle 9**Patient's have the right to refuse treatment**

- Mentally competent patients have the right to refuse treatment, regardless of the consequences of that refusal and regardless of how beneficial or necessary the treatment may be.
- Patients also have the right to change their mind and withdraw previous consent at any time during care.
- It is important to document a patient's refusal.

ADDITIONAL INFORMED CONSENT RESOURCES

The Canadian Law of Consent to Treatment by L.E. Rozovsky, Butterworths.

The College of Physical Therapists of Alberta regulates the practice of physical therapy in Alberta.

For more information or advice regarding these guidelines please contact the College of Physical Therapists of Alberta.
www.cpta.ab.ca
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Protecting Albertans through effective regulation and leadership.