



PRACTICE ADVICE

CONSENT FOR SCREENING AND ASSESSMENT

DATE: 2007

CONSENT FOR SCREENING AND ASSESSMENT: QUANDARIES

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In the November 2006 issue of CASLPO Today, in an article entitled "Consent to Provide Screening and Assessment Services Now Required", members were informed that CASLPO Council had recently determined that members must obtain patient/client consent to perform screening and assessment services. Before making this decision, Council sought member input for consideration before making any decision in this matter. In response, the vast majority of the membership stated that it would be able to meet any future standard requiring consent for screening and assessment.

In June 2007, Council approved in principle a position statement on consent for screening and assessment, which sets out the newly established consent requirements. Again, CASLPO was pleased to provide members with an opportunity to comment on the draft position statement.

Survey responses will be reviewed by the Audiology and Speech-Language Pathology Advisory Committees and the position statement will be reviewed by Council. The College thanks its members who took the time to review the position statement and respond to the survey.

In order to assist its members, the College has developed a guide entitled [Obtaining Consent for Services: A Guide for Audiologists and Speech-Language Pathologists](#), to reflect the newly-established requirements for consent for screening and assessment.

Members have contacted the College to discuss the requirement to obtain consent for screening and assessment services and some common themes have emerged regarding certain aspects of the implementation of this requirement.

FREQUENTLY ASKED QUESTIONS

Q: Can I assume that, since patients/clients call for appointments and come to my office, they are consenting to my services?

No. Even though the patient/client's coming to a member's office for service does indicate

that the patient/client is consenting to the service, this may not be informed consent.

Under the [Health Care Consent Act \(HCCA\)](#), informed consent means that before agreeing to the services, the patient/client or substitute decision maker has received information that a reasonable person in the same circumstances would require. Necessary information to be provided to the patient/client includes the nature, expected benefits, materials risks and side effects of the services along with any alternative courses of action, and the likely consequences of not having the services.

Once this information has been provided, the patient/client's consent may be expressed or implied. An example of informed implied consent would be that a person, after having been provided information about the services, proceeds to make another appointment to receive the services.

Q: In my work setting, I see patients/clients who appear to be incapable of providing valid and informed consent, for a variety of reasons. When I try to reach the substitute decision-maker (SDM) to obtain consent on behalf of the patient/client, I am often not successful in reaching the SDM. Can I go proceed with the services?

The [Health Care Consent Act \(HCCA\)](#) states that a person is capable with respect to services if the person is able to understand the information (including the nature of the proposed services, the benefits, material risks and side effects, alternative services and the consequences of not having the services) that is relevant to making a decision about the services offered and able to appreciate the reasonably foreseeable consequences of a decision or lack of decision.

It is the responsibility of the audiologist or speech-language pathologist to determine if a person is capable of consenting to their services. A person may be incapable with respect to some services, such as major surgery, but be capable of consenting to other services, such speech-language therapy or the use of a hearing aid. In addition, a person may also be incapable of consenting at one time but capable at another time.

If the patient/client is not capable, consent must be obtained from the substitute decision-maker. Health care professionals have no authority to make service decisions on behalf of patient/clients except in an emergency when no authorized person is available to make the decision.

Please note that written consent to services is not required. Verbal consent is equally acceptable, and members are required to document in the patient/client record that they have received the verbal consent. They can do so, for example by simply noting in the record that the required information was discussed and consent was granted.

CASLPO's [Obtaining Consent for Services: A Guide for Audiologists and Speech-Language Pathologists](#) and the Act itself contain further information regarding indicators of incapacity, substitute decision-makers and provision of emergency services without consent.

Q: How can I obtain consent from a person who has significant communication difficulties?

By virtue of their unique and specialized training, audiologists and speech-language pathologists recognize that the existence of a communication difficulty is not sufficient to presume a patient/client is incapable of giving consent.

However, providing consent may pose a significant challenge for individuals with communication impairment. As communication professionals, members can ensure that all reasonable steps are taken to allow patients/clients to understand the service options, express their wishes and provide informed consent to the interventions performed by members, independent of their communication difficulties.

An article in the August 2005 issue of CASLPO Today entitled "Facilitating Informed Health Care Consent for Individuals with Communication Impairment" provides some suggestions on obtaining consent from patients/clients with communication difficulties, to assist in ensuring that patients/clients are given every opportunity to engage in a partnership with the member when service decisions are made.

Q: In a hospital setting, is a physician's referral enough for me to provide services, or am I still required to obtain patient/client consent?

Q: In a community setting, is the referral from the Community Care Access Centre (CCAC) sufficient? If the patient/client is a child attending school, do I still need to obtain consent?

A referral from a physician or a CCAC does not eliminate the necessity to obtain valid and informed consent from the patient/client or substitute decision-maker. Additionally, requirements for consent apply equally to all patient/clients and settings, including students in a school system.

However, a member is not required to personally obtain the required consent; rather a member can assign to another person the task of obtaining the consent to the member's services. Nevertheless, the member maintains the full responsibility of ensuring that the consent obtained is valid and informed.

For example, in a CCAC setting, when the CCAC administrator obtains consent from the patient/client or substitute decision-maker for the CCAC services, the administrator could also present the necessary information regarding the speech-language pathology services that will be provided. If the patient/client or substitute decision-maker then consented, the member would not be required to seek consent again when initiating services. However, the member would remain fully responsible for ensuring that the necessary information was accurately presented by the CCAC administrator and that any requests for further information have been met.

Q: If I am seeing patients/clients over a period of years, how often do I have to obtain their consent for services? Am I required to obtain consent every time there is a slight change in the services I am providing?

The consent may continue to be valid and informed over a period of time if the consent was specific to the services offered. Thus it is valid to obtain consent for a specific service plan that may be administered over a month, year or even longer.

"Blanket" consents for services are not acceptable, as consent must relate specifically to the services given. For example, it would not be valid for an audiologist or speech-language pathologist to obtain consent for any and all services for a given year.

A member is not required to seek consent anew if only minor changes are being made to the services. A member is entitled to presume that consent to services includes:

- Consent to variations or adjustments in the services, if the nature, expected benefits, material risks and side effects are not significantly different from those of the original services.
- Consent to the continuation of the same services in a different setting if there is no significant change in the nature, expected benefits, material risks and side effects of the original services as a result of the change in the original setting.

Do you have a consent quandary? Please contact CASLPO.

[Obtaining Consent for Services: A Guide for Audiologists and Speech-Language Pathologists](#)

WHAT ARE THE ELEMENTS OF A VALID CONSENT?

To be *valid*, the consent must:

- Be given voluntarily,
- Not be obtained through misrepresentation or fraud,
- Relate to the services being proposed, and
- Be informed.

WHAT IS INFORMED CONSENT?

Informed consent under the [Health Care Consent Act \(HCCA\)](#) means that before agreeing to the services, the client or substitute decision maker has received information that a reasonable person in the same circumstances would require. In addition, the person must have received responses to his or her requests for further information. Necessary information includes:

- The nature of the services,
- The expected benefits of the services,
- The material risks of the services,
- The material side effects of the services,
- Alternative courses of action, and
- The likely consequences of not having the services.

MATERIAL RISKS AND SIDE EFFECTS ARE:

- Those which are probable or likely to occur,
- Those that are possible rather than probable, but can have serious consequences, and
- Anything else which would be considered relevant by a reasonable person in the same circumstances.

GENERAL PRINCIPLES

Below is a list of the general principles that may be of assistance to members when they are obtaining consent for services.

- Consent must relate specifically to the services provided. Blanket consents for audiology or speech-language pathology services are not acceptable.
- Consent must be given voluntarily.
- The person providing consent must be capable of doing so.
- The client must be fully informed of the risks and benefits of the services being proposed.
- The HCCA does not require that consent be provided in a written form; it can also be provided verbally. Consent can be expressed or implied, but it still must be valid and informed.
- Consent, even if it is signed, is not valid unless the client was fully informed.
- Consent, even if it is signed, can be withdrawn at any time.
- A person is capable of providing consent if he or she is able to understand the information provided and appreciate the consequences of making the decision.
- The capacity to provide consent is not determined by age; therefore a child could be considered to be capable of providing consent. There is no fixed age at which a child becomes mentally capable of providing consent.
- The responsibility of determining whether a client is capable of consenting to the services provided by the member rests with the member.
- The capacity to provide consent can change with respect to the type of service being provided. A patient/client can be considered to be incapable with respect to some services and capable with respect to others.
- The capacity to provide consent can change over time. A patient/client may be incapable with respect to services at one time and capable at another.
- There is a clear hierarchy of substitute decision makers.