

Establishing patient consent in accordance with the standard of practice on consent

Luc is a runner who has recently experienced hip pain. He is preparing for a marathon next month and seeks massage therapy to address his hip pain. At his first appointment, Aisha, his new RMT, describes her clinical framework to Luc. She explains her scope of practice, her initial intake process (including a comprehensive medical history), and she describes how each treatment will include assessment, treatment and suggestions for helpful home care including exercise and possibly adjustments to daily activities including hydrotherapy. She invites Luc to ask questions about massage therapy, and explains that after she learns more about his presenting complaint, she will create a treatment plan with his input, built around his goals for treatment. Luc asks about treatment frequency; Aisha replies that it will depend on what she discovers during assessment and that her recommendation will be consistent with his training program leading up to the marathon. Luc signs the consent form. She offers to make Luc a copy of the signed form but he declines.

Aisha listens carefully to Luc's concerns about his hip pain and asks when the pain began and what makes it worse. She asks Luc if she may palpate the structures surrounding his hip and test his range of motion. She explains the actions that she intends to test and describes how this assessment will help her to create a treatment plan. Luc agrees, eager to understand what is causing him pain.

Once Aisha completes her assessment and forms a clinical impression, she explains her findings to Luc. She describes how she needs to position and drape him for treatment, and cautions Luc that if she performs certain techniques, he may feel somewhat tender for a day or two afterward. Aisha asks Luc if he has any questions about what she proposes.

Luc says that her plan makes sense to him but that he doesn't want any deep work because he has to be at his best for a meeting the following day and he doesn't want to be in pain. Aisha thanks Luc for this information and explains how she will adjust her plan to address his needs. She outlines alternate forms of care available that may help with his hip pain but he interrupts to say he's tried alternatives and is keen to proceed with massage therapy.

Finally, Aisha empowers Luc to let her know that if he feels uncomfortable at any time or wishes to stop or adjust the treatment, he simply needs to tell her. Luc thanks Aisha for explaining everything clearly. She smiles and asks

if Luc consents to the assessment and treatment she has described. He agrees. Throughout the treatment Aisha checks in with Luc regarding comfort and ensures that her actions continue to support his care. Following the treatment, Aisha includes Luc's signed consent form in his clinical record.

Did Aisha's actions meet the Consent Standard of Practice?

Yes. Aisha engaged in shared decision-making with Luc. She respected his right to make decisions about his care and adapted the treatment plan based on Luc's input. Aisha explained her clinical framework for massage therapy, and received Luc's signed consent on the initial consent form which she added to his clinical health record. Aisha sought Luc's input to the treatment plan designed to address his presenting complaint of hip pain, and advised Luc that he should speak up if he was uncomfortable at any time during treatment, or wishes to discontinue treatment. Luc is fully informed, is aware of the alternatives to Aisha's care, and has consented to treatment.

Obtaining and documenting consent from a new patient

Mike runs a busy downtown multi-disciplinary clinic. In addition to all the clinic administration, staffing, and marketing, he treats more than 30 patients per week. Mike always looks for ways to manage his time more efficiently. He decides to shorten the intake process for new patients by emailing a combined intake and consent form when they book an appointment for the first time. In his email to new patients, he asks that they bring the signed intake and consent form to their first appointment with him so that he can get on with the business of making his patients feel better. Mike also states that he will provide respectful and effective care according to each patient's needs.

A new patient named Therese arrives for her appointment one morning, having neglected to complete Mike's intake and consent form. Therese suffers from chronic pain as a result of a motor vehicle accident. She asks Mike lots of questions about his approach to care because other massage therapy treatments have left her in significant pain. Mike finds Therese's questions distracting and annoying. He says to her, "I have been in practice for many years and I haven't had a complaint from anyone. This is the way I work. My patients report good outcomes to my treatment. If my approach doesn't suit you, perhaps you would be better off with a different therapist."

Do Mike's actions meet the consent standard of practice?

No. Mike ignores the principle and purpose of informed consent. He perceives the requirement for consent as an administrative duty rather than part of his legal and ethical commitment to patients. Despite Mike's indication in his email to new patients that he intends to provide respectful and effective care, his actions prove the opposite.

By combining the consent form with the intake form, Mike eliminates the opportunity for discussion with a new patient and demonstrates that his interest in patient information is limited to what can be included on his form. Plus, he excludes patients from asking about his clinical framework for care prior to signing consent, contrary to a principle of patient-centred care regarding shared decision-making. When Therese asks questions about Mike's approach to care, he becomes annoyed rather than listening to Therese's concerns, answering questions, or informing her about options.

RMTs must not ask that new patients sign a consent form before arriving at their initial appointment. A patient may fill out an intake form in advance with questions about health history to save time at the first session, but the same is not true for informed consent. The consent standard requires that the patient is provided with information specific to the RMT's clinical framework, and has an opportunity to ask questions about massage therapy.

Instead of providing a comprehensive explanation of his approach to treatment, Mike suggests that if Therese doesn't like the way he works, she should find another therapist. This is in violation of the Code of Ethics and the Consent Standard of Practice. At no time does Mike ask Therese about her goals, nor does he inform her of potential concerns or consequences of treatment. He doesn't offer options for positioning or draping, nor does he advise Therese that she can stop or change the treatment direction at any time. Finally, although Mike retains the signed intake and consent forms in patient files, he asks patients to sign their forms before they even meet him and have the opportunity to receive information and ask questions. These actions do not support informed consent in any way.

Obtaining consent from an existing patient

Lee is a long-time patient who has not received massage therapy for several months. When she enters the clinic, her RMT, Gina, greets her warmly. Gina always enjoys seeing Lee because they share an interest in design and

decorating. They have interesting conversations and Gina enjoys Lee's sense of humour.

Lee sustained several bouts of low back pain over the past five years. Gina treated her repeatedly for facet joint and piriformis syndromes. Expecting a similar concern, Gina asks Lee how her back is feeling. Lee says that her back is a bit sore but not too bad. Gina does not assess Lee and encourages her to get onto the massage table as usual. She notices that Lee seems to have put on a bit of weight but doesn't mention it because she knows that Lee is sensitive about her weight and body image.

Once Lee is on the table, Gina knocks, enters the treatment room, and undrapes Lee's back. After giving Lee a similar treatment to previous visits, Gina asks Lee to turn over onto her back. While lying supine, Lee eagerly smiles at Gina and says, "I can't keep it a secret anymore. Guess what? We're going to have a baby!"

"I am so happy for you," says Gina and gives Lee a 'high five'. Gina appreciates how excited Lee must be since they have both discussed wanting babies during previous conversations. She realizes that this must be the reason for Lee's weight gain, too. Gina spends the next few minutes asking about Lee's plans for the birth and how Lee will decorate the nursery. They continue their conversation until the end of the treatment time.

Do Gina's actions meet the consent standard of practice?

No. Gina exhibits significant disregard for the consent standard of practice. Gina has fallen into a treatment habit with Lee and has forgotten her professional role. She assumes that this treatment is no different than the others, and does not ask Lee about her treatment goals. If she had, she might have learned sooner about the pregnancy. Despite the months since Lee's last treatment, Gina does not bother to assess Lee and assumes that low back pain has brought her into the clinic once again. She doesn't ask if Lee has any questions or concerns. Gina is proceeding with an existing treatment plan she had in mind for Lee that has not changed despite a significant change in Lee's presenting condition. Gina is in violation of her practice standards; she is unaware of Lee's current condition.

Gina does not recognize the need for special treatment considerations and positioning adaptations as a result of Lee's pregnancy. She missed an important opportunity to educate Lee on the role that massage therapy might play throughout Lee's pregnancy. Gina expresses more interest in how

the nursery will be decorated than inquiring professionally about Lee's stage of pregnancy and other health concerns.

This case demonstrates the need to establish a new treatment plan based on a change in circumstances. New treatment plans require that RMTs revisit, revise, obtain, and document the patient's informed consent.

Changing the treatment plan

Suzanne is an RMT who works out of a home office where she treats three to four patients per day. Her regular patient, Donna, returns for ongoing treatment of chronic low back pain due to osteoarthritis. It has been over a year since Donna's last visit.

Suzanne takes care to ask Donna if there are any changes or updates to her health history. She establishes a clear treatment plan, charts Donna's current pain level, communicates benefits and possible risks of treatment, and charts that verbal consent was received to proceed with treatment.

During today's treatment, Suzanne observes that Donna's right shoulder is elevated and hyper-toned. Aware of how relaxed Donna is, Suzanne chooses to add the shoulder work into the treatment without obtaining verbal consent from Donna. She completes the treatment, charts changes to Donna's pain levels as well as the treatment that was provided during Donna's visit, and continues to her next appointment.

Do Suzanne's actions meet the consent standard of practice?

Yes and no. Suzanne should have taken time to gain consent to change the treatment plan. New treatment plans require that an RMT revisit, revise, obtain, and document the patient's informed consent.

It is possible that Donna may have an undisclosed injury to her right shoulder. This would require proper assessment prior to treatment. By failing to obtain Donna's consent to the new treatment plan, and thereby failing to take a health history and conduct assessments specific to that treatment plan, Suzanne has not acted in her patient's best interests.

However, Suzanne did meet the requirements of the consent standard of practice in another respect. Suzanne was very thorough with her interview process and charted verbal consent.

Consent and capacity

Karen is a new RMT who provides care for seniors in a local retirement residence. The Director of Care noted in her interview that Karen is polite, soft-spoken, and shy; it took some time for Karen to open up about her interests and skills. Karen is excited about the prospect of working with seniors because she shares a close relationship with her grandparents. She really enjoyed treating seniors during her massage therapy training and especially liked listening to all the patients' stories. After a few weeks on this job, however, Karen realizes that being in practice is quite different from being a student in school. Unlike her grandparents who seem really sharp and aware, the seniors in this residence are living in various stages of dementia. In addition, unlike her training experience, there is no supervisor here to help her with clinical decision-making.

One resident named John tells Karen war stories while she massages his legs. John doesn't pay much attention when Karen asks him about his leg pain other than to say that it is awful and that he has lived with it for many years. John doesn't want Karen to move his legs because they hurt so much. She is unsure whether John's pain relates to an old injury, nerve damage, or circulatory problems. Feeling shy and unsure, Karen has not been able to interrupt John's stories and ask about the quality or character of John's pain.

One day Karen arrives at John's room and he appears angry and upset. She enters the room and asks John if he wants a massage treatment. He doesn't seem to notice that Karen is in the room. Not knowing what to do, she approaches John as she usually does, kneels by his chair, puts her hands on his legs to comfort him, and waits for him to notice her. John is completely unresponsive to her presence. Without knowing what else to do, Karen massages John's legs, hoping that her actions might bring him out of this fog.

Do Karen's actions meet the consent standard of practice?

No. Although Karen is excited about working with seniors, she has not embraced her professional role and responsibilities. She has not found a way to assess capacity or to establish informed consent for patients living with dementia. She does not know if John has the capacity to comprehend her treatment approach or if she should seek consent from a substitute decision-maker, and she has not been able to perform an effective assessment for John's leg pain. Determining whether John's leg pain stems from an old

injury, nerve issues, a circulatory problem, or from something else is essential to providing appropriate care.

When faced with John's lack of awareness, Karen does not seek help from other healthcare professionals on staff. She begins to treat John's legs in the hope that he will regain awareness.

She does not appear to realize that continuing treatment without John's express consent puts him at risk. Since John is unaware of her presence, treatment is contraindicated until Karen can obtain consent from a substitute decision-maker.

Establishing informed consent requires that an individual or their substitute decision maker fully comprehends what is proposed so they can consent to assessment and treatment. In this case, Karen felt responsible and committed to providing John's care, but she never found a way to confirm that he wanted or understood what she offered. She is in violation of the Consent Standard of Practice and the Code of Ethics.

Establishing consent to treatment of a sensitive area of a patient's body

Brad is a new RMT who works in a boutique spa. His semi-regular patient, Alanna, returns for a treatment. Alanna usually requests a full-body relaxation massage but today she explains that she did a 10-kilometre charity run the day before. Alanna asks Brad to work on her gluteals and calves to reduce the soreness from her run.

After completing a quick physical assessment, Brad and Alanna discuss and agree that a gentle, general sports treatment to her calves and gluteals would be the best treatment option for today. Brad asks for consent to treat Alanna's calves and gluteals. During this discussion, Brad explains how he will provide treatment and tells Alanna which areas of her body he will work on. He outlines anticipated benefits, his therapeutic rationale for treatment, and encourages Alanna to provide feedback for depth of pressure throughout the treatment. Brad also explains to Alanna how he proposes she disrobe, and how he will use draping during the treatment. Finally, Brad gives Alanna an opportunity to ask questions. She provides verbal consent, which Brad documents while he's outside of the room to allow her to prepare for treatment. During the massage, Alanna seems very relaxed.

Brad decides to alter the treatment in order to reduce tension in Alanna's adductors, but does not say anything to her about this, not wanting to interrupt her rest. Brad is certain that Alanna will find the treatment to her

adductors helpful and therapeutic after her run. He knows that Alanna trusts him, because she has returned to seek treatment over several visits. Brad works the entire length of the adductors, even very close to the pubic region, but does not check in with his patient about working in this area.

Alanna becomes frightened and uncomfortable, unsure why Brad is touching her close to her pubic region, but feels frozen, unable to speak up or leave. After she leaves the treatment that day, Alanna makes a complaint to CCHPBC about Brad.

Did Brad's actions meet the consent standard of practice and the boundaries standard of practice?

No. Brad's actions did not meet the **Consent Standard of Practice**; his actions were also out of keeping with the **Boundaries Standard of Practice**. Brad did not monitor and renew consent before beginning treatment near areas of Alanna's body that she may consider to be sensitive or private: the adductors and pubic region.

Brad failed to recognize that there are individual differences in levels of comfort with touch and physical contact, particularly touch in areas that an individual might consider sensitive or private. Brad did not communicate the intent of his therapeutic touch to Alanna before and during his treatment of a sensitive and potentially sexualized area of her body, instead relying on the existing trust in the patient-therapist relationship.

An RMT is required to obtain a patient's consent when changing the treatment plan, as explored in other case studies. In this case, obtaining Alanna's consent was particularly important given the area in which Brad decided to deliver treatment. Because Brad did not obtain Alanna's consent, she misperceived his intent and actions and left the treatment feeling traumatized and in distress. Brad could have prevented this by renewing and reconfirming consent to his revised treatment plan, and ensuring that he communicated clearly and thoroughly about his therapeutic intent.

Brad could also have handled this situation differently by letting Alanna know that it would be beneficial to work on her adductors near her pubic region, during a subsequent visit. This would provide Alanna with more time to consider a treatment plan that involves work near areas of her body that she considers sensitive and private. It would help to avoid making Alanna feel pressured to agree to something that is outside her goals and expectations for treatment, or that makes her feel uncomfortable.

Establishing informed consent with a 13-year-old

Niko, a massage therapist with kinesiology and sports massage training, has just been named as the RMT for players in an Under-14 soccer team in his city. He attends all the games and works with other team personnel to ensure that each player is safe to play.

Ana is 13 years old and a gifted defensive player. Recently, during a particularly intense game, Ana badly strained a hamstring on her left leg. She was helped off the field by team personnel who strongly recommended that she receive massage therapy from Niko. Because of her family's cultural beliefs, Ana is discouraged by her family from having any physical contact with males unrelated to her. She knows that she needs treatment but she tells Niko that her father will not consent to her receiving treatment from him because he is male.

Niko agrees that Ana would need her father's permission before he could treat her. He says he is sorry about her injury and wishes her good luck. Ana limps off the soccer field, fearful that this injury means the end of her competitive season.

Did Niko's actions meet the consent standard of practice?

Overall, no. Unfortunately, although massage therapy is indicated for this injury, Niko simply accepts Ana's concern over her father's expected refusal and decides not to get involved. He doesn't review how to establish informed consent with a minor nor does he discuss any other treatment options with her. Rather than engaging Ana with open-ended questions and actively listening, Niko makes no effort to determine if she is capable of understanding the nature of the injury or consenting to treatment as a mature minor. He does not describe the rationale for treatment, the expected positive effects, or any concerns, negative effects, or other considerations. Neither does he invite questions or provide time for Ana to consider her alternatives.

According to the [*Infants Act*](#), provincial legislation that forms part of the basis for the consent standard of practice, it is not essential that Ana include her father in the informed consent discussion if she is capable of understanding what is proposed. A mature minor's consent is sufficient if the RMT is satisfied that the minor understands the nature, consequences, and reasonably foreseeable benefits and risks of the proposed health care.

On the other hand, Ana is very concerned about her father's opinion. Niko could have suggested that they include Ana's father in a discussion with the coach and other team personnel so that they could inform her father of the nature of proposed treatment, and how it could positively impact her rate of recovery.

Engaging in a careful, deliberate, and thoughtful informed consent conversation may provide an acceptable way for Ana to receive the treatment she needs while at the same time honouring her family dynamics. Establishing informed consent thoroughly and carefully can provide patients with time to determine their best course of action.

Establishing informed consent with a young child with autism

Hilary is an RMT who works in a multi-disciplinary pediatric clinic. One of the patients is a young child with autism named Alan who is uncomfortable with touch. Alan's mother, Joan, wants Hilary to provide massage therapy for Alan so that he can become more comfortable with touch and with being around people. Although Hilary is used to working with children, she is concerned and uncomfortable with Joan's request because she can see that Alan doesn't want strangers near him. She sees that he reacts quite negatively to any casual touch by anyone other than his mother.

The receptionist in the clinic books Joan and Alan into Hilary's schedule. When Joan and Alan arrive at Hilary's treatment room, Alan begins to cry and wave his hands anxiously. Joan tries to soothe Alan and tells him that Hilary is going to give him a massage treatment. Alan becomes increasingly upset.

With some trepidation, Hilary asks Alan if she can sit beside him. Alan turns his back to Hilary. Joan encourages Hilary to sit beside Alan anyway, suggesting that Alan will get used to her presence in a few minutes. Hilary follows Joan's instruction and sits beside Alan, even though he clearly indicates that he doesn't want her to do so by continuing to turn away. Joan suggests that Hilary put her hand gently on Alan's back to introduce her touch. Alan squirms away from Hilary. They wait a few minutes so that Alan can get used to Hilary's presence and her hand on his back but his anxiety and body language are amplified. He begins to kick the table and yell "no".

Did Hilary's actions meet the consent standard of practice?

No. Despite Alan indicating his discomfort, Hilary follows his mother's instruction, instead. Even when he clearly demonstrates that he feels anxious and uncomfortable with Hilary's presence by squirming away, she continues to sit beside him and even puts her hand on his back, making things worse for Alan. Moreover, Hilary follows Joan's lead in how to relate to Alan, rather than respecting Hilary's own reactions to the situation.

Though Joan, as a parent, can consent on behalf of Alan as Alan is not capable of doing so under the *Infants Act*, consent is only valid if the treatment is in the minor patient's best interests. It is up to Hilary to determine if massage therapy is an appropriate form of treatment for Alan. Given his forceful objections, it is clear that no treatment should be provided until Alan becomes more comfortable with the environment, with Hilary, and with receiving touch from a stranger.

In an emergency, it may be necessary to touch someone without the individual's consent, but massage therapy is an elective form of treatment. It does not constitute emergent or urgent care. Touching any person without their express consent, particularly someone who is anxious or vulnerable, could be construed as a form of assault.

While children may not be able to comprehend the full nature or purpose of a treatment, they will indicate quickly whether or not they are comfortable with the therapist or the approach to care. Although a parent may have a vision of how massage therapy might fit into a child's reality, both the parent and the therapist must respect the child's wishes and needs.