

references

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3. Infants Act, RSBC 1996, c.223, s. 17. [Online]. [cited 2010 July 22]; Available from: www.bclaws.ca/Recon/document/freeside/--%20I%20--/Infants%20Act%20RSBC%201996%20c.%20223/00_96223_01.xml

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consent to treatment

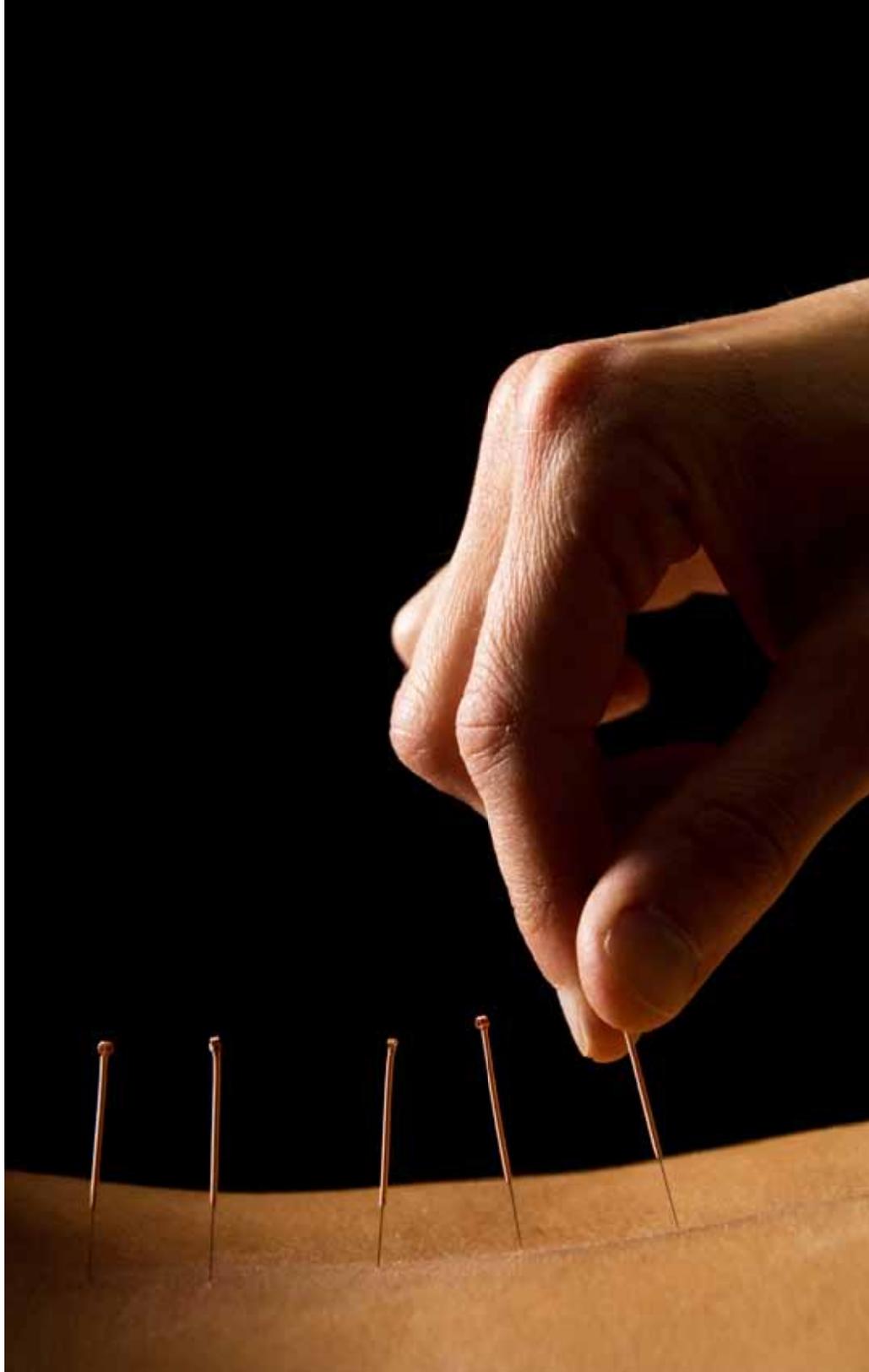
College of Traditional Chinese Medicine
Practitioners and Acupuncturists of BC





College of Traditional Chinese
Medicine Practitioners and
Acupuncturists of BC
January 2011

The College of Traditional Chinese
Medicine Practitioners and
Acupuncturists of BC
gratefully acknowledges permission
from the College of Physical
Therapists of BC to adapt their
publication on consent to treatment.



“Of course I get informed patient consent for treatment. My patients always sign a consent form in the waiting room on their first visit– before they even see me.”

Sound familiar? ...read on.

As with most professional situations involving patient care, there is no substitute for common sense, sound professional judgment, College Practice Standards, and what the law requires. This resource is to be used in conjunction with the *Health Care Consent and Facilities Admissions Act* (www.bclaws.ca) and College Practice Standard No. 1 - Consent to Treatment, and should not be used as a stand alone document.

defining consent¹

Consent. n **1** permission for something: acceptance of or agreement to something proposed or desired by another **2** **consensus:** agreement on an opinion or course of action



Remember...

Getting patient consent to treatment means having ongoing communication between you and your patient, so that the patient has enough information about the proposed traditional Chinese medicine and acupuncture treatment to make an informed decision about how they want to proceed. Informed consent ensures that the patient shares in the decision making process.

In British Columbia, **registrants of the CTCMA are required to obtain informed patient consent from patients, in order to provide treatment.** The *Health Care Consent and Facilities Admissions Act* (the *Act*) outlines the requirements for obtaining informed consent to health care.

ask yourself

How will you know if you are getting patient consent properly if you don't know what the *Act* requires?

This resource contains several excerpts from the *Act* that will guide you.



consent rights² (Section 4 of the *Act*)

Every adult who is capable of giving or refusing consent to health care has:

- the right to give consent or to refuse consent on any grounds, including moral or religious grounds, even if the refusal will result in death,
- the right to select a particular form of available health care on any grounds, including moral or religious grounds,
- the right to revoke consent,
- the right to expect that a decision to give, refuse or revoke consent will be respected, and
- the right to be involved to the greatest degree possible in all case planning and decision making.

Always respect a patient's decision about how to proceed. In some cases this means respecting a patient's decision not to proceed with the proposed treatment, or respecting a patient's right to revoke consent.

Did you know...

In order to get informed consent from your patient certain conditions must be met. According to the *Act* there are core elements of informed consent.

elements of consent² (Section 6 of the *Act*)

An adult consents to health care if:

- the consent relates to the proposed health care,
- the consent is given voluntarily,
- the consent is not obtained by fraud or misrepresentation,
- the adult is capable of making a decision about whether to give or refuse consent to the proposed health care,
- the health care provider gives the adult the information a reasonable person would require to understand the proposed health care and to make a decision, including information about:
 - (i) the condition for which the health care is proposed,
 - (ii) the nature of the proposed health care,
 - (iii) the risks and benefits of the proposed health care that a reasonable person would expect to be told about, and
 - (iv) alternative courses of health care, and
- the adult has an opportunity to ask questions and receive answers about the proposed health care.

Remember...
patient consent must be specific to the treatment you propose. Don't assume that 'blanket' consent is enough – if in doubt, re-establish patient consent.

When deciding whether an adult is incapable of giving, refusing or revoking consent to health care, a health care provider must base the decision on whether or not the adult demonstrates that he or she understands:

- (a) the information given by the health care provider..., and
- (b) that the information applies to the situation of the adult for whom the health care is proposed.

how incapability² is determined² (Section 7 of the *Act*)

“Some days I’m not sure my adult patient is capable of giving consent.”

The *Act* presumes that a person is capable of giving, refusing, or revoking consent. The questions to consider are: Does my patient demonstrate understanding of the information I have given them and the treatment I am proposing for them? If so, that patient is capable of giving consent, on that day.

If you determine that a patient is not capable of providing consent for traditional Chinese medicine and acupuncture treatment, a substitute decision maker will have to give consent **before** you can provide treatment. For more information about substitute decision makers see section 7 of the *Health Care (Consent) and Care Facility (Admission) Act* at: www.bclaws.ca.



duty to communicate in appropriate manner²

(Section 8 of the *Act*)

When seeking an adult's consent to health care or deciding whether an adult is incapable of giving, refusing or revoking consent, a health care provider:

- (a) *must communicate with the adult in a manner appropriate to the adult's skills and abilities, and*
- (b) *may allow the adult's spouse, or any relatives or friends, who accompany the adult and offer their assistance, to help the adult to understand...*



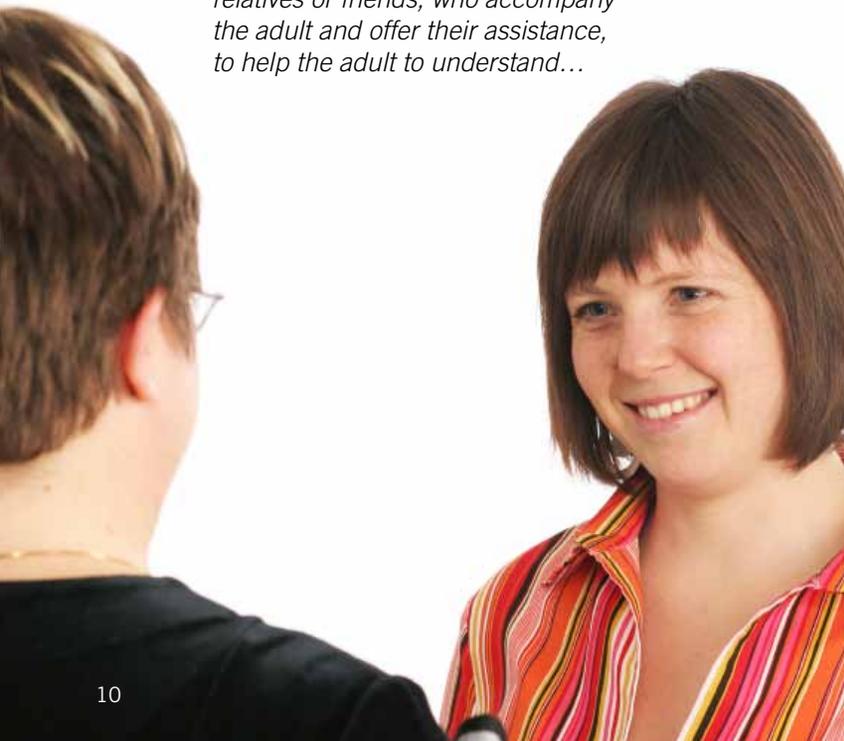
how consent is given and scope of consent²

(Section 9 of the *Act*)

- *Consent to health care may be expressed orally or in writing or may be inferred from conduct.*
- *Consent to health care applies only to the specific health care that an adult has consented to.*

Keep in mind:

Consent is an ongoing process. While a patient may consent to an initial treatment plan; you'll need to re-establish consent if you make changes to that plan.



things. to consider if your patient is a minor...

If your patient is a minor (under the age of 19), consent must be given by the minor's legal guardian. In some cases, a minor is allowed to provide consent. Section 17 of the *Infants Act*³ is commonly referred to as the 'mature minor' clause, which allows a minor to provide consent if certain conditions are met. Section 17 reads:

A request for consent, agreement or acquiescence to health care by an infant does not constitute consent to the health care for the purposes of subsection (2) unless the health care provider providing the health care:

- (a) has explained to the infant and has been satisfied that the infant understands the nature and consequences and the reasonably foreseeable benefits and risks of the health care, and***
- (b) has made reasonable efforts to determine and has concluded that the health care is in the infant's best interests.***

The *Infants Act* does not make mention of an age range where section 17 might apply (ie. over 12 or over 16). This means it is up to the practitioner to use common sense and professional judgment to determine whether or not a patient meets the criteria of a mature minor or not. Consider the risk involved of the proposed treatment, and how confident you would feel if you had to justify your decision to treat a patient as a mature minor. As always, be sure your entry in the clinical record documents your decision and rationale.



key points to remember

As a CTCMA registrant you must have **informed consent** to provide treatment.

Consent is about **ongoing communication** with your patient to ensure that they have the information about the proposed treatment that a reasonable person would want, in order to make an informed decision about how they want to proceed.

Always ensure that your patient is given **a chance to ask questions.**

Re-visit patient consent if you are ever in doubt as to the patient's wishes, or when the treatment plan changes.

Be sure to **document in the clinical record** when a patient gives, refuses or revokes consent.

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If you plan to draft a 'consent to treatment' template for your patients, here are some things to consider:

If your patient is an adult...

- Does the form indicate that the person giving consent understands the proposed traditional Chinese medicine and acupuncture treatment and the associated risks and benefits?
- Does the form indicate that the person giving consent had the opportunity to ask questions?
- Does the form include the patient's name?
- Does the form set out any limits on the nature of the consent, or the nature of the treatment?
- When does the consent agreement 'expire'?
- Can the form be 'added on to' if the treatment plan changes and consent is re-established?
- Is the form properly dated and signed?
- Where will the form be filed? ie. with the patient's clinical record.

In addition, if your patient is a minor, or an adult not capable of giving consent...

- Does the form indicate that the person giving consent has the authority to do so?
- Does the form indicate the legal relationship between the person giving consent and the patient?
- Does the form identify the person for whom consent is being given?



In addition, if your patient is giving consent as a 'mature minor'...

- Does the form document the process the practitioner went through to satisfy him/herself that the minor understands:
 - the nature and consequences of the proposed health care?
 - the benefits and risks of the proposed health care?
- Does the form document that the practitioner has made reasonable efforts to determine and has concluded that the health care is in the best interest of the minor?