CONSENT

Intent
To advise Registrants of their obligations with respect to consent.

Definitions
Capacity: A person is deemed to have capacity with respect to an intervention/decision if the person is able to understand the information relevant to making a decision about the intervention, and able to appreciate the reasonably foreseeable consequences of a decision, or lack of decision. People:

- are presumed to have capacity unless there is information to lead the Registrant to think otherwise,
- may have capacity with respect to one intervention/decision but not another, and
- may have capacity with respect to an intervention/decision at one time and be incapacitated at another.

Consent: To agree, approve, assent and give permission to some act or purpose.

Consent and Capacity Board: An independent agency that deals with disputes over treatment decisions where a patient has been deemed not to be capable.

Informed Consent: An indication that the consent given by a person has been based upon a clear appreciation and understanding of the facts, implications, and future consequences of an action. In order to give informed consent, the individual concerned must have adequate reasoning faculties and be in possession of all relevant facts at the time consent is given.

Substitute Decision-maker: A person who makes decisions for someone who is incapable of making their own decisions, and who is authorized to give or refuse consent to an intervention on behalf of a person who is incapable of making a decision with respect to the intervention. See Appendix I.

STANDARD 1
The Registrant ensures that the patient or substitute decision-maker has sufficient information to make decisions about their care throughout the assessment and treatment process.

A Registrant demonstrates the standard by:

- ensuring that consent is obtained prior to:
    - obtaining a case history,
    - performing a physical examination or assessment,
    - initiating treatment, and
    - collecting personal health information in accordance with the *Personal Health Information Protection Act, 2004*.
- ensuring that the consent is valid and meets the following requirements:
    - relates to the proposed interaction and/or intervention,
    - is informed,
    - is voluntary, and
    - is not obtained through fear, misrepresentation, or fraud.
- appropriately documenting, on an ongoing basis, the discussion in the patient chart and ensuring that the patient understands and appreciates the reasonable foreseeable consequences of their decisions, in order to give informed consent,
- ensuring that the patient or substitute decision-maker understands the following with respect to the proposed course of action:

    - the nature of the intervention,
    - its expected benefits,
    - the material risks and side effects,
    - available reasonable alternatives,
    - the likely consequences of not receiving the intervention,
    - any associated costs; and
    - the right to withdraw consent.
- disclosing risks or side effects that are likely to occur as well as risks and side effects that can result in significant harm or death even if they are unlikely to occur, and
- answering questions or addressing any special concerns of the patient or substitute decision-maker.

STANDARD 2

The Registrant, when obtaining consent, ensures that the patient understands the information provided and has the capacity to give consent to assessment and/or treatment.

A Registrant demonstrates the standard by:

- presuming that the patient has the capacity of providing consent, unless there is information that would lead the Registrant to think otherwise,
- considering factors that may indicate that the patient is incapacitated,
- utilizing interpreters, if necessary, to ensure that the patient understands the consent process,
- following the process below to determine capacity when there is an indication to do so:
    - gathering objective and subjective information to determine the patient's capacity to give consent,
    - analyzing the information gathered to determine the ability of the patient to make the required assessment and/or treatment decision, and
    - not making presumptions of incapacity based on:
        - diagnosis of a psychiatric or neurological condition,
        - communication impairment,
        - disability,
        - refusal of intervention,
        - age,
        - acute or chronic health status, and
        - the fact that there is a guardian or substitute decision-maker in place.
- engaging the patient in a collaborative approach regarding the capacity process.

Where a Registrant determines that a patient may be incapacitated, they shall demonstrate the standard by:

- communicating to the patient the finding of incapacity, the reasons and their right of a review of this finding with the Consent and Capacity Board upon determining incapacity,
- taking reasonable measures to confirm the substitute decision-maker, and informing the patient that the substitute decision-maker will make the final decision related to the naturopathic services upon determining incapacity,
- utilizing the hierarchy of substitute decision-makers (Appendix 1), if a substitute decision-maker has not been identified, and
- involving the patient in discussions with the substitute decision-maker whenever possible.

STANDARD 3

The Registrant documents the initial and ongoing consent for assessments and treatments.

In addition to the College's *Standard of Practice for Record Keeping,* a Registrant demonstrates the standard by:

- documenting that a discussion regarding consent took place and the patient understands the proposed assessment or treatments and their risks, limitations and benefits,
- documenting any modifications to the consent,
- documenting all information regarding when consent was obtained through the use of an interpreter, alternate means of communication, or a substitute decision-maker; the identity of the interpreter or substitute decision-maker, the legal entitlement of the substitute decision-maker as applicable (documentation on file, copy of Power of Attorney for personal care provided, etc.), and
- documenting that the patient withdrew consent, why they did so, and what specifically was withdrawn.

Appendix I

The *Health Care Consent Act, 1996* defines the hierarchy of substitute decision-makers as:

- the incapable person's guardian if the guardian has authority to give or refuse consent to the treatment,
- the incapable person's attorney for personal care, if the power of attorney confers authority to give or refuse consent to the treatment,
- the incapable person's representative appointed by the Consent and Capacity Board if the representative has authority to give or refuse consent to the treatment,
- the incapable person's spouse or partner (which need not be a sexual partner),
- a child or parent of the incapable person, or a children's aid society or other person who is lawfully entitled to give or refuse consent to the treatment in the place of the parent. This does not include a parent who has only a right of access and is not lawfully entitled to give or refuse consent to treatment. If a children's aid society or other person is lawfully entitled to give or refuse consent to the treatment in the place of the parent, this paragraph does not include the parent,
- a parent of the incapable person who has only a right of access,
- a brother or sister of the incapable person,
- any other relative of the incapable person,
- as a last resort, the Public Guardian and Trustee.