COLLEGE OF DENTURISTS OF ONTARIO

STANDARD OF PRACTICE: INFORMED CONSENT

Standards of Practice are a validated set of expectations that contribute to public protection. The standards define the expectations for the profession, communicate to the public Denturists' accountability and guide Denturist's practice. The College or other bodies may use the Standards of Practice in determining whether appropriate standards and professional responsibilities have been met. In the event of any inconsistency between this Standard and any legislation that governs the profession, the legislation prevails.

Introduction

In Ontario, patients have the legal right to make choices about services and treatments offered based on the information presented to them by healthcare practitioners. A critical responsibility for health professionals in patient-centred practice is ensuring patients and/or patients' substitute decision-makers have all of the information needed to make an informed choice about their healthcare. Merely asking a patient to sign a consent form does not meet the professional Standard for Informed Consent.

Informed consent is achieved through a process that requires a conversation between the person proposing the treatment and/or services and the patient (or substitute decision-maker). The dialogue requires the Denturist to explain all aspects of the assessment and proposed treatment and/or services, including the risks, benefits and alternative options, to the patient. When working collaboratively with the other members of the dental team, Denturists are responsible for obtaining informed consent for the aspects of denturism services they are providing.

The process must also provide an opportunity for the patient or substitute decision-maker to ask questions that Denturists answer in a manner that is clear, complete, and understood by the patient.

Two pieces of legislation govern the right of Ontario patients to autonomy in making healthcare decisions:

> The *Heath Care Consent Act, 1996 (HCCA)* provides a set of rules for the process of obtaining informed consent for treatment. It clearly articulates the information that must be shared with the patient prior to providing treatment and addresses obtaining consent when the patient is incapable of giving consent. The *HCCA* also presents the order in which substitute decision-makers are appointed for patients lacking the capacity to make such decisions for themselves.
>
> The *Substitute Decision-Maker Act, 1996 (SDM)* outlines the rules to be followed and defines the role of the substitute decision-maker.

Purpose of the Standard

This Standard of Practice provides an overview of Denturists' legal obligations under the *Health Care Consent Act 1996 and the Substitute Decision-Makers Act 1996*.

It is important to recognize that since the law and the practice environment is ever evolving, the *HCCA* cannot deal with every aspect of consent. Recent decisions of courts and tribunals comprising case law emphasize the need to ensure informed consent is reached for all proposed services, including those that take place outside of (or are corollary to) treatments and procedures to be carried out. This means that Denturists, like all health professionals, have an obligation to obtain informed consent from patients/SDMs for every interaction, including those not specifically covered under the *HCCA*, for which a reasonable person would consider consent to be necessary and very important before proceeding.

To this end, the College Standard includes the requirement for Denturists to obtain informed consent for activities such as carrying out an assessment, billing arrangements, and making follow-up appointments.

> Note: This document does <u>not</u> address the consent process for the collection, use, disclosure and storage of personal information. For more information on that specific consent process, please refer to the College's Standard for Confidentiality and Privacy and the *Personal Health Information Act, 2004.*

Glossary

Capacity	The ability to understand the information that is needed to make a decision, including the ability to appreciate the consequences and/or risks of that decision. A person is presumed to be capable of making a healthcare decision for him/herself unless there are reasonable grounds to suspect incapacity, meaning they seem to be unable to make some or all of their healthcare decisions.
Informed Consent	A process involving a conversation between the practitioner and the patient and/or substitute decision maker (SDM). Consent is informed when the patient and/or SDM is provided with all the information that a reasonable person would need to understand to make an informed decision. During this process the patient and/or SDM is given the opportunity to ask questions and receive answers to his/her inquiry. The *Health Care Consent Act* defines the information that must be shared and reviewed with the patient as part of the informed consent process.
Substitute Decision-Maker (SDM)	A person identified by the Health Care Consent Act who may make a treatment decision upon behalf of a person who is deemed incapable of making her/her own decision. See Appendix A: The *SDM* Hierarchy of Order for appointing a substitute decision-maker.
Treatment	Any process or service that is performed for a therapeutic, preventive, palliative, diagnostic, cosmetic or other health-related purpose; includes but is not limited to a course of treatment, a plan of treatment or care, and a community treatment plan.

The Standard

<table>
<tr><th>Standard Statement</th><th>Performance Indicators</th></tr>
<tr><td rowspan="6">Before conducting an assessment and/or initiating a plan of care (treatment), Denturists obtain informed consent from the patient and/or substitute decision-maker.</td><td>Capacity of Patient

The Denturist:
1. Formulates an opinion about the patient's capacity to make an informed decision specific to the proposed denturism treatment and/or services before entering into the process of informed consent.</td></tr>
<tr><td>2. Does not make a presumption of incapacity based on:
• age;*
• disability;
• diagnosis of psychiatric or medical condition;
• refusal of service; or
• the fact that there is a guardian or SDM in place.

*Note: the HCCA does not define an age at which a person is deemed old enough to give consent for healthcare. Capacity is based on the maturity of the patient and his/her ability to understand the situation, any proposed treatment and its consequences. The SDM ACT specifies that an SDM must be at least 16 years old.</td></tr>
<tr><td>3. Understands and refers to the SDM Hierarchy when a SDM is not in place but deemed necessary (See Appendix A).</td></tr>
<tr><td>Components of Informed Consent

The Denturist:
4. Bases every informed consent discussion on the proposed treatment or plan of care, provides all relevant information and answers to patient/SDM questions.</td></tr>
<tr><td>5. Clearly communicates his/her professional title(s), scope of practice and personal competence to the patient and/or SDM as part of the process.</td></tr>
<tr><td>6. Provides information specific to
• the nature, benefits, material risks and side effects of the treatment, plan of care or services;
• alternative courses of action; and
• the likely consequences of not engaging in the proposed treatment, plan of care and/or services.</td></tr>
</table>

Standard Statement	Performance Indicators
	7. Clearly explains in a manner that is understood by the patient and/or SDM the immediate, short-term and long-term expectations and outcomes with regards to the plan of care and fit and function of the prosthetic, if appropriate.
	8. Clearly explains the fee structure and outlines expectation for any financial arrangements regarding payment for services.
	9. Provides an opportunity for the patient and/or SDM to ask questions and provides a response to each in a manner that is easily understood by the patient and/or SDM.
	10. When students, support personnel, laboratory team members, technicians, registered members of other health professions, or others will be involved in the provision of services, the Denturist: a. Provides the necessary information to enable the patient/SDM to understand the role and responsibilities of everyone involved in providing the services; b. Explains the level and method of supervision for all aspects of the denturism services; and c. Informs the patient that he/she is the primary denturism-service provider and holds accountability for all services and treatment; and d. Documents the process followed and whether or not consent was obtained for the involvement of students, support personnel and others.
	Documentation of Consent 11. The Denturist determines the level of risk associated with proposed treatments and/or services to determine if a written consent form should be signed by the patient after their discussion. It is prudent practice to obtain written consent when developing a plan of care, making a change in the treatment plan, and/or if there is a change in the financial arrangements.
	12. Consent can be evidenced in writing (a signed consent form); or consent can also be provided verbally and/or implied. a. If provided in writing, the form used confirms that the patient was engaged in the informed consent process, that the Denturist explained all the necessary information and allowed time to respond to the patient's questions before obtaining the signature. A signature on the form is not valid informed consent unless each of these steps of the process was actually carried out. b. If provided orally, the Denturist notes in the patient's record that

Standard Statement	Performance Indicators
	• the process was followed, that the discussion occurred, and the patient was given an opportunity to ask questions; and • whether informed consent was obtained or not. (Note: oral consent is usually reserved for situations where the treatment and/or proposed services pose little-to-no risk of harm to the patient.) c. Denturists should refrain from assuming implied consent except for situations where a reasonable person would agree the patient consents and if the situation did not warrant information sharing to make an informed decision. (e.g. patient opens mouth during procedure)

Standard Statement	Performance Indicators
Denturists ensure patients and/or SDMs understand their right to refuse to give and/or to withdraw consent at any time.	**Refusal to Consent and/or Withdrawal of Consent** 13. As part of the consent process, the Denturist advises the patient/SDM of the following: a. the right to refuse and/or withdraw consent for treatment and/or services; b. the consequences of not providing and/or withdrawing consent for the proposed treatment, plan of care or services (e.g. health implications; patient's comfort; potential complications; fit and function); and c. the financial implications and arrangements if/when consent is withdrawn.
	14. If consent is withdrawn, the Denturist: a. documents any services provided prior to the withdrawal of consent; b. notes the reason for the withdrawal; and c. notes the relevant discussion with the patient and/or substitute decision-maker.

References

Denturism Act, 1991: Ontario Regulation 854/93: "Professional Misconduct Regulations"
http://www.ontario.ca/laws/regulation/930854

Health Care Consent Act, 1996, S.O. 1996, c. 2, Sched. A
https://www.ontario.ca/laws/statute/96h02

Substitute Decision-Makers Act, 1992, S.O. 1992, c. 30
https://www.ontario.ca/laws/statute/92s30

A Guide to Consent and Capacity in Ontario. Erie St. Clair Community Care Access Centre
http://healthcareathome.ca/eriestclair/en/care/Documents/Consent%20and%20Capacity%20Package.pdf

APPENDIX A

Hierarchy of Order: Substitute Decision-Maker

Excerpted from the *Substitute Decision-Maker Act:*

20. (1) If a person is incapable of making a decision with respect to a treatment, consent may be given or refused on his or her behalf by a person described in one of the following paragraphs:

1. The incapable person's guardian of the person, if the guardian has authority to give or refuse consent to the treatment.
2. The incapable person's attorney for personal care, if the power of attorney confers authority to give or refuse consent to the treatment.
3. The incapable person's representative appointed by the Board under section 33, if the representative has authority to give or refuse consent to the treatment.
4. The incapable person's spouse or partner.
5. 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 paragraph does not include a parent who has only a right of access. 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.
6. A parent of the incapable person who has only a right of access.
7. A brother or sister of the incapable person.
8. Any other relative of the incapable person. 1996, c. 2, Sched. A, s. 20 (1).