

Instructions for the Informed Consent for Chiropractic Care form for the Doctor

As of Oct. 7, 2011 in California, all licensed chiropractors in this state are required to discuss and obtain signed, written informed consent from all of their patients. The most important part of informed consent is the verbal discussion, and the signed statement by the patient (or their parent, legal guardian, conservator, or agent) is not only also required by law but is evidence that the discussion actually occurred. Make sure you have this discussion with your patient or patient to be (or their parent, guardian, conservator, or agent) prior to having them sign this form, and make sure they actually sign the form.

Informed consent must include the following:

- a) the proposed procedures,
- b) the material risks of the proposed procedures,
- c) the potential benefits of the proposed procedures,
- d) common alternatives to the proposed procedures/care, including refusal of care and the associated risks of the refusal of care

Make sure that you list all proposed procedures that the patient will receive not only from you (the doctor) directly, but also those procedures recommended by you to the patient (e.g. exercise, etc.), and those procedures to which you refer a patient (e.g. radiology, massage therapy, referrals to other doctors, etc.).

Material means known risk of serious bodily harm. It is not necessary to discuss every known risk, but a sufficient variety of significant known risks is necessary. The possibility of the occurrence of known risks should be mentioned with the associated known risk.

Although the driving force for this new law was probably that of those opposed to chiropractic, this is an opportunity to turn the situation in a positive one where patients will feel comfortable with your care. To this effect, included is a perspective on risks associated with chiropractic as compared to medicine based on the premiums paid for a \$1,000,000 malpractice liability policy.

Keep this as a separate form in every patient's file as required by law.

Remember that written files (not radiographs) in California must be kept for five (5) years from the last date of service as required by the California Board of Chiropractic Examiners' Rules and Regulations. However, don't forget that the statute of limitations for malpractice actions against health care providers including chiropractors is generally limited to the lesser of three (3) years (potentially unlimited in the case of fraud or intentional concealment) or one year from when a person knew or should have known of malpractice. Therefore, it would be wise to keep files of treatment to minors until they turn age 21 even if the last date of treatment was more than five years in the past.

The discussion involved with the patient or patient to be does not need to be overly long, just sufficient to reasonably apprise them of the procedures involve, material risks and benefits, and consequences of not obtaining chiropractic care. After the discussion, be sure to give the patient or patient to be an opportunity to ask any questions or raise any concerns they may have. Only after all that has occurred (which may only take a few minutes) obtain the patient's (or parent's, guardian's, conservator's, or agent's) signature on the form.

Make sure you perform this process and obtain appropriate signatures for all of your patients who are treated on or after Oct. 7, 2011. This includes existing patients who are treated on and after 10/7/11 as well as new patients who become new on or after 10/7/11.

This particular form and its instructions were written by Dr. David H. Hofheimer, D.C., Esq. who is licensed in California as both a chiropractor and attorney. Feel free to contact Dr. Hofheimer at no charge for any questions related to chiropractic and law, including this form.

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INFORMED CONSENT FOR CHIROPRACTIC CARE

To the patient (or their parent, legal guardian, court appointed conservator, or agent): Please read this entire form prior to signing it. It is important that you understand the information contained in this form. Please ask any questions prior to signing this form if you are unclear about anything in this form.

Chiropractic Adjustments -

The primary treatment rendered by the Doctor of Chiropractic to you will be chiropractic adjustments, which are purposely intentioned movements of bones with the desired effect being to remove interference to nerves, which then allows your body to use its innate ability to heal itself. Chiropractic adjustments also have the desirable effect enabling muscles, tendons, and ligaments to properly function and heal, and also allows blood flow to properly occur. Chiropractic adjustments can be made by either the use of hands or mechanical instruments to any bone or joint in the body including both spinal and extremity bones. You may or may not hear an audible sound, which is just air being released from the joint space as bones are moved into their proper positions.

Other Procedures -

There are a number of other procedures used by Doctors of Chiropractic that may be used on you. A physical examination will be performed to obtain a baseline level of functioning as well to partially determine an appropriate course of treatment and associated recommendations. The physical examination may include posture checks, range of motion testing, muscle strength testing, various neurological and orthopedic testing, and other testing. Radiology is the use of x-rays on the human body and is used to gain an inside perspective of the human body that cannot be obtained from a physical examination. Treatment may include chiropractic adjustments, physical therapy (such as ultrasound, interferential therapy, massage therapy, exercise recommendations, etc.). Additionally, there may be referrals to other doctors as necessary, and their treatment should involve the same informed consent with disclosure of risks and benefits as is being done here. For example, there can be permanent pain as a side effect of surgery as one possible consequence of that procedure.

Potential Benefits of Chiropractic and Associated Care -

The vast majority of chiropractic patients tend to achieve good to excellent improvement in their physical conditions with chiropractic care. Improvement can be measured in many different ways, including reduction in pain, increased range of motion, less stiffness, increased athletic performance, and other ways. It must be remembered that different people get different results, different people have different pre-existing conditions, and are of different ages and occupations (with different types of physical stress). Your situation is unique, and no guarantees are given. You will have to determine what results you get for yourself and report them to your Doctor of Chiropractic.

Material risks Inherent with Chiropractic Adjustments and Other Treatment -

As with any healthcare procedure, there are certain complications which may arise when chiropractic adjustments and other care/procedures are performed. These complications include but are not limited to fractures of bones, disc injuries, dislocations, muscle strains, cervical myelopathy, strokes, radiation exposure, costovertebral strains and separations, and burns. Some patients feel some stiffness and/or soreness following the first few days of treatment. The physical exam can temporarily worsen symptoms, but is a necessary part of chiropractic care. The Doctor of Chiropractic will make every reasonable effort during the examination to screen for contraindications to care, but remember it is your

responsibility to inform the Doctor of Chiropractic of any conditions that would not otherwise come to their attention.

Probability of Risks Occurring -

Fractures are rare occurrences and generally result from some underlying weakness of bone. Even though a competent history, examination (which may include radiography) will be performed, it is still possible for some weaknesses of bone to be undetected. Extremely rare are strokes from vertebral artery dissection which also occur in about one person in 133,000 in general (not related to chiropractic), but are estimated to occur in between one in one million and one in five million cervical adjustments. Although discs are generally helped with chiropractic care, they can be worsened even to the point of requiring surgical care (although this rarely occurs). Physical therapy can sometimes burn skin by irritating it, although this is unlikely to occur.

A perspective on the risks of chiropractic care as compared to medical care can be seen by the money paid by different doctors for a \$1,000,000 malpractice liability policy. The following annual premiums listed are close approximations, although not exact. A general medical doctor pays about \$20,000 per year, an internal medicine specialist pays about \$50,000 per year, and medical specialists such as surgeons, cardiologists, and obstetrics and gynecologists (OBGYN) pay about \$150,000 per year for a \$1,000,000 malpractice liability policy. In stark contrast to medical doctors who patients encounter significant more risk that Doctors of Chiropractic, Doctors of Chiropractic in California pay about \$3,000 per year. Also, it has been reported that about 187,000 deaths occur every year from medical malpractice, but that the number for chiropractic is typically zero per year.

Consequences of Not Obtaining Chiropractic Care -

Not obtaining chiropractic care will have the effect of not obtaining its benefits such as having your body function at its best ability, reducing pain, peak athletic performance, etc. Not obtaining chiropractic care may allow formation of adhesions and reduce mobility which may set up a pain reaction further reducing mobility. Over time this process may complicate treatment making it more difficult, requiring more time (and money), and less effective when chiropractic care is obtained later in time. Not obtaining chiropractic care following trauma such as whiplash or other effects of automobile accidents will cause injured muscles, tendons, and ligaments to heal improperly and be significantly weaker and more prone to reinjury as compared to receiving proper chiropractic care.

Alternatives to Chiropractic Care -

Other treatment options for your condition may include rest, acupuncture, physical therapy, medical care, medications (both over the counter and prescribed), hospitalization, and surgery, and others. If you choose to use other treatment options, you should discuss the risks and benefits with your medical doctor or other provider.

DO NOT SIGN THIS FORM UNTIL YOU HAVE READ AND UNDERSTAND THIS FORM. UPON DOING SO, PLEASE COMPLETE THE INFORMATION AND SIGN THIS FORM.

Signature of Patient,
Guardian, Conservator, or Agent

Date

Patient's Printed Name