

Dear Doctor:

NCMIC does not have any position regarding informed consent. As an insurer, we deal with each insured and the malpractice claim against them on an individual basis. If NCMIC had such views or guidelines it could prove detrimental to other insureds and their claims.

As for the consent form itself, we have always maintained the policy that we do not review any individual consent forms nor will we draft an informed consent form for doctors to use in their practices. Further, we do not endorse any form for use by the chiropractic profession.

Doctors need to understand that informed consent is a process, which may or may not be satisfied with a written form. It is the doctor's responsibility to make sure that the patient is properly informed, understands and consents to the treatment to be provided; however, it is also within the doctor's discretion as to how the information is communicated and how the consent is obtained.

Generally, the legal concept of informed consent arises from the principle that absent extenuating circumstances, a patient has the right to exercise control over his or her body by making an informed decision concerning whether to consent to a particular course of treatment or procedure. For the patient to truly consent it is generally held that they should know and completely understand the following:

- 1) Nature of the treatment to be rendered;
- 2) All material risks attendant to that treatment;
- 3) The possibility of an occurrence of the aforementioned risks;
- 4) Alternative treatment available and the risks attendant to those treatments;
- 5) The consequences of allowing the condition to remain untreated.

Even though the principles stated above have been generally well accepted throughout the country, specific state statutes or state case law often further define the necessary elements to establish informed consent.

Because of the possible peculiarities in any given state, we believe that doctors of chiropractic would be best served by contacting an attorney in their state who practices health care related law and ask that person to advise the doctor regarding their particular practice. In this way, the doctor will have the benefit of an attorney who should be current on the informed consent issue in that state. The attorney can advise the doctor whether there are any specific informed consent laws which might impact that doctor's practice and whether use of an informed consent form would be prudent. Attached is sample language that may be considered should you choose to use a form to supplement the informed consent process.

From our experience, when a health care provider gets sued for malpractice, often times an allegation is made that there was no informed consent given by the patient. Again, NCMIC maintains no position on this issue, but rather, leaves the decision up to the practitioner.

I hope this information is helpful.

This is a suggested sample for use in developing an informed consent form and is for reference purposes only. This document does not establish a standard of care. It is intended for use as a tool to reduce malpractice risk and should be edited to fit your practice and to meet the legal requirements of your individual state(s). It also intended to improve communication with patients so they may better understand the treatment recommended. **NCMIC does not tell chiropractors what to document, but instead advises all chiropractors to use their clinical judgment in determining the need for informed consent and the content of such a form.**

Informed Consent Document

PATIENT NAME: _____

To the Patient: Please read this entire document prior to signing it. It is important that you understand the information contained in this document. Please ask questions before you sign if there is anything that is unclear.

The nature of the chiropractic adjustment.

The primary treatment used by doctors of chiropractic is spinal manipulative therapy. I will use that procedure to treat you. I may use my hands or a mechanical instrument upon your body in such a way as to move your joints. That may cause an audible “pop” or “click,” much as you have experienced when you “crack” your knuckles. You may feel a sense of movement.

Analysis / Examination / Treatment

As a part of the analysis, examination, and treatment, you are consenting to the following procedures:

- ___ spinal manipulative therapy ___ palpation ___ vital signs
- ___ range of motion testing ___ orthopedic testing ___ basic neurological testing
- ___ muscle strength testing ___ postural analysis testing
- ___ ultrasound ___ hot/cold therapy ___ EMS
- ___ radiographic studies
- ___ Other (please explain)

Patient should initial each procedure they are consenting to.

The risks inherent in chiropractic adjustment.

As with any healthcare procedure, there are certain complications which may arise during chiropractic manipulation and therapy. These complications include but are not limited to: fractures, disc injuries, dislocations, muscle strain, cervical myelopathy, costovertebral strains and separations, and burns. Some types of manipulation of the neck have been associated with injuries to the arteries in the neck leading to or contributing to serious complications including stroke. Some patients will feel some stiffness and soreness following the first few days of treatment. The Doctor will make every reasonable effort during the examination to screen for contraindications to care; however if you have a condition that would otherwise not come to the Doctor’s attention it is your responsibility to inform the Doctor.

The probability of those risks occurring.

Fractures are rare occurrences and generally result from some underlying weakness of the bone which we check for during the taking of your history and during examination and X-ray. Stroke and /or arterial dissection caused by chiropractic manipulation of the neck has been the subject of ongoing medical research and debate. The most current research on the topic is inconclusive as to a specific incident of this complication occurring. If there is a causal relationship at all it is extremely rare and remote. Unfortunately, there is no recognized screening procedure to identify patients with neck pain who are at risk of arterial stroke.

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The availability and nature of other treatment options.

Other treatment options for your condition may include:

- Self-administered, over-the-counter analgesics and rest
- Medical care and prescription drugs such as anti-inflammatory, muscle relaxants and pain-killers
- Hospitalization
- Surgery

If you chose to use one of the above noted “other treatment” options you should be aware that there are risks and benefits of such options and you may wish to discuss these with your primary medical physician.

The risks and dangers attendant to remaining untreated.

Remaining untreated may allow the 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 and less effective the longer it is postponed.

CONSENT TO TREATMENT (MINOR)

I hereby request and authorize (*insert your name*) to perform diagnostic tests and render chiropractic adjustments and other treatment to my minor son/daughter: _____ . This authorization also extends to all other doctors and office staff members and is intended to include radiographic examination at the doctor’s discretion.

As of this date, I have the legal right to select and authorize health care services for the minor child named above. (If applicable) Under the terms and conditions of my divorce, separation or other legal authorization, the consent of a spouse/former spouse or other parent is not required. If my authority to so select and authorize this care should be revoked or modified in any way, I will immediately notify this office.

**DO NOT SIGN UNTIL YOU HAVE READ AND UNDERSTAND THE ABOVE.
PLEASE CHECK THE APPROPRIATE BLOCK AND SIGN BELOW**

I have read [] or have had read to me [] the above explanation of the chiropractic adjustment and related treatment. I have discussed it with (*insert your name*) and have had my questions answered to my satisfaction. By signing below I state that I have weighed the risks involved in undergoing treatment and have decided that it is in my best interest to undergo the treatment recommended. Having been informed of the risks, I hereby give my consent to that treatment.

Dated: _____

Dated: _____

Patient’s Name

Doctor’s Name

Signature

Signature

Signature of Parent or Guardian (if a minor)