

Practice Advisory #16

Informed Consent and Court Ordered Assessments

DRAFT FOR REGISTRANT FEEDBACK

Practice Issue

For the protection of both clients and registrants, registrants must generally obtain the informed consent of clients before performing psychological services. Where, however, a registrant is providing services to which a client has been ordered by a court to submit, a situation may arise where a client receives services involuntarily, and the registrant must act without the informed consent of the client.

This advisory is intended to clarify registrant obligations in such situations.

For a discussion of obtaining the informed consent of parents and children in family law matters, see Practice Advisory 10.

Relevant and Amended Sections of the Code of Conduct

4.1 No services without informed consent

A registrant must obtain adequate informed consent prior to providing psychological services.

4.1.5 Informed consent where services are court-ordered

Where psychological services are to be provided pursuant to court order irrespective of consent, a registrant must attempt to obtain informed consent prior to providing the psychological services.

4.2 Elements of informed consent

Although the required elements for informed consent may vary depending upon the particular circumstances, a registrant must ensure that the following general elements are satisfied when seeking informed consent:

- (a) the client has the capacity to consent;
- (b) the client has been informed of significant information concerning the psychological services;
- (c) the client has freely and without undue influence expressed consent;
- (d) the client has been informed of the fees for the intended services;
- (e) the client has been informed of the limits of confidentiality, and;
- (f) the consent has been obtained in writing where possible; and
- (g) the consent of the client, or of other appropriate persons where the client is not legally capable of giving the informed consent, has been appropriately documented in the client records or in the registrant's practice records, as appropriate.

ADVISORY

If the provision or receipt of a treatment, assessment or other form of psychological service has been ordered by a court, and the client cannot or will not consent to the service, the registrant should

- a. document in writing why the requirements of section 4.2 of the *Code* cannot be met;
- b. inform the client verbally and in writing of significant information concerning the psychological services to be provided, including but not limited to
 - the relevant expectations of treatment,
 - limitations relating to confidentiality,
 - to whom and for what purpose the registrant may provide reports,
 - the client's rights in the context, and
 - the possible consequences to the registrant of refusing to attend or participate;
- c. attempt to attain the client's "informed assent";
- d. document the client's informed assent, or the lack of such assent; and
- e. state clearly in the record and in any report the ways in which the client's assent or lack thereof may impact on the psychological information resulting from the treatment, assessment or services.