

## Obtaining Valid Consent

Consenting within behavioural services includes an individual (or a person consenting on their behalf) agreeing (a) to take part in behavioural services, and (b) to the use of specific procedures within each service component. Consent is also required to obtain or to release information.

Behaviour analysts need to obtain valid consent. Consent must be obtained from the right person, who has been given the right information, and who is permitted to decide freely, and without coercion. Consent is a process, not just a signature on a form.

### Valid Consent

Valid consent includes three conditions. Consent must be:

1. **Legal** - To be valid, consent must be obtained from the right person. The right person is an individual capable of consenting on their own behalf, or a person who is legally permitted and capable to consent on another person's behalf.
2. **Informed** - To be considered valid, the consent source has to be given accurate information about the decision to be made, including a specific explanation of any ABA procedures, any associated risks, and the likelihood of any benefits. They also have a right to know if there are any reasonable alternatives that might be less risky or more beneficial. If there are costs associated, they need to be informed of all costs and if there are more cost effective options.
3. **Voluntary** - To be considered valid, the consent source has to be making the decision without being pressured or coerced. For risky or costly decisions, it may be important that the consent source consult with a trusted advisor to ensure that they are making the right choice for themselves and for the individual who will receive the service.

### Behaviour analysts need to obtain consent for:

- Behavioural service agreement
- Behavioural assessment
- Behavioural treatment plan
- Behavioural re-assessment
- Modifications to behavioural treatment
- To release information to third parties
- To obtain information from third parties

### Documenting Consent

Documenting consent is an important step in record keeping.

1. Having a signed form in the file does not necessarily mean that valid consent has been obtained. Behaviour analysts must document each of the steps taken to obtain consent (see consent checklists that follow).
2. Different forms of consent (e.g., oral, written, or implied) may be accepted for different reasons or under different conditions. But the process of getting consent should always be documented in detail in the clinical record. Behaviour analysts, who are certified by the BACB® are required to get written consent, but the Health Care Consent Act (1996) in Ontario accepts all forms of consent for assessment and treatment procedures.

## Consent Process for Service Agreements

(Follow each step and document)

### 1. Determine the appropriate consent source for the decision at hand.

### 2. Review each section of the service agreement in detail and provide explanations as needed.

- Service description
- Roles and responsibilities
- Obligations under the BACB code
- Privacy policies
- Complaints procedures
- Fee schedules and billing arrangements
- Termination clauses
- Other relevant information in accordance with legislation

### 3. For each section of the service agreement:

- Ask if they have any questions and provide answers
- Check for understanding of content & appreciation of consequences
  - » Ask them to repeat back to you
  - » Ask specific questions
- If desired, ask them to initial the section if they agree
- Note areas for follow up if they disagree or are unsure
- Move to the next section

### 4. When all sections have been reviewed:

- Arrange for follow-up with required parties on outstanding issues (if needed)
- Seek consent
  - » If they agree, have them sign service agreement and document in clinical record
  - » If they are unsure
    - Discuss concerns and ask if they need more time or more information
    - Suggest that they consult with a trusted advisor
    - Plan for follow up to determine consent
  - » If they say no
    - Provide information on other options, provider list, etc.
- Document in clinical record (current/past client) or document in administrative record if no clinical record exists

## Consent Process for Assessment or Treatment

(Follow each step and document)

### 1. Determine the appropriate consent source for the decision at hand.

### 2. Complete the following steps for seeking informed consent for assessment/treatment:

- Step 1. Describe the service component in detail and provide rationale
- Step 2. Describe the risks and benefits of doing the procedure(s)
- Step 3. Describe the risks and benefits of not doing the procedure(s)
- Step 4. Describe any additional costs associated with the service component
- Step 5. Describe any reasonable alternatives and known risks/benefits/costs

### 3. For each step:

- Ask if they have any questions and provide answers
- Check for understanding of content & appreciation of consequences
  - » Ask them to repeat back to you
  - » Ask specific questions

### 4. When all steps have been completed:

- Arrange for follow-up with required parties on outstanding issues (if needed)
- Seek consent
  - » If they agree, accept verbal or written consent (as needed)
  - » If they are unsure
    - Discuss concerns. Do they need more time? More information? Different options?
    - Plan for follow up
  - » If they say no, accept refusal, plan next steps
- Document in clinical record

## Consent Process for Requesting or Releasing Information

(Follow each step and document)

### 1. Determine the appropriate consent source for the decision at hand.

### 2. Complete the following steps for seeking informed consent to release/obtain information:

- Step 1. Describe the specific information in question and rationale for request
- Step 2. Discuss risks and benefits of obtaining or releasing the information
- Step 3. Check for understanding of content and appreciation of consequences
  - » Ask them to repeat back to you
  - » Ask specific questions
- Step 4. Ask if they have any questions and provide answers

### 3. When all steps have been completed:

- Arrange for follow-up with required parties on outstanding issues (if needed)
- Seek consent
  - » If they agree, have them sign consent to release/obtain information form (if needed)
  - » If they are unsure, discuss concerns
  - » If they say no, accept their refusal and follow-up with third-party if necessary
- Document in clinical record

**More information about Consent & Capacity can be found at [www.ontaba.org](http://www.ontaba.org)**