

FCLB PowerPolls  
Informed Consent Updated 3/11/2011

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Question 5: If informed consent is required does it apply to all aspects of chiropractic care or is it limited to select areas such as the use of unproven treatment procedures?

Question 6: If limited, please specify:

| Bd               | Q1  | Q2   | Q3        | Q4      | Q5      | Q6   | Updated |
|------------------|-----|--|-----------|---------|---------|--|---------|
| Alabama          | No  | No   |           |         |         |  | 2011    |
| Alaska           | No  | No   |           |         |         |  | 2008    |
| Arizona          | No  |  |           |         |         |  | 2008    |
| Arkansas         | No  | No   | Suggested |         |         |  | 2011    |
| California       | No  | No   |           |         |         |  | 2007    |
| Colorado         |     |  |           |         |         |  |         |
| Connecticut      |     |  |           |         |         |  |         |
| Delaware         | No  |  |           |         |         |  | 2008    |
| Dist of Columbia | No  | No<br>(part of<br>standar<br>d of<br>care) |           |         |         |  | 2007    |
| Florida          | Yes | No   | Required  | Written | Limited | Written informed consent is required only when it would involve a therapy that, by the prevailing standards of chiropractic medicine in the community, would amount to "experimentation on human subjects" | 2011    |
| Georgia          | No  | No   |           |         |         |  | 2007    |
| Hawaii           |     |  |           |         |         |  |         |

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| Idaho     | No  | No |   |                  |    |  | 2011    |
| Illinois  |     |    |   |                  |    |  |         |
| Indiana   | No  |    | suggested   |                  |    |  | 2007    |
| Iowa      | No  | No | Iowa code address a provision for informed consent in section 147.137 applicable to medical and surgical procedures |                  |    | The statute does not require informed consent; it provides a definition for interest parties.  | 2007    |
| Kansas    | Yes |    | Required  | does not specify |    | Unprofessional conduct includes both (1) "assisting in the care or treatment of a patient without the consent of the patient, the attending physician or the patient's legal representatives" AND (2) "using experimental forms of therapy without proper informed consent." | 2008    |
| Kentucky  | No  | No |   |                  |    |  | 2011    |
| Louisiana | No  | No | Suggested   |                  |    |  | 2011    |
| Maine     |     |    |   |                  |    |  |         |
| Maryland  | No  | No |   |                  |    |  | 2008    |

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|---------------|-----|----|-----------|------------------|-----|--|---------|
| Massachusetts | Yes |    | Required  |                  | All | Question #4 is poorly worded. In our state we require "written" documentation of Informed Consent but the consent process may be verbal or written.  | 2011    |
| Michigan      |     |    |           |                  |     |  |         |
| Minnesota     | No  | No | Suggested | does not specify |     |  | 2008    |
| Mississippi   |     |    |           |                  |     |  |         |
| Missouri      | Yes |    | Required  | Written          | All |  | 2011    |
| Montana       | No  | No | Suggested |                  |     |  | 2008    |
| Nebraska      | No  | No | Suggested |                  |     | Our regulation does not use the term informed consent. It is not that specific it states (9) Failure to assure that the patient possesses enough information to enable intelligent choices in regard to proposed chiropractic treatment; This is not informed consent but it gets to it in a round about way | 2011    |
| Nevada        |     |    |           |                  |     |  |         |
| New Hampshire |     |    |           |                  |     |  |         |

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|----------------|-----|-----|-----------|------------------|---------|--|---------|
| New Jersey     | Yes |     | Suggested | Written          | Limited | 13:44E-3.2 Recognized diagnostic tests; permissible billing (d) Notwithstanding any limitations set forthin (b)above, a chiropractic physician may perform the enumerated diagnostic test, after assuring that written informed consent has been obtained from the patient, but in no case shall the patient or third party payor be billed or charged for the test. | 2008    |
| New Mexico     |     |     |           |                  |         |  |         |
| New York       |     |     |           |                  |         |  |         |
| North Carolina |     |     | Required  | Verbal           | All     | The board has mandated verbal consent and this be documented in the patient's record   | 2011    |
| North Dakota   |     |     |           |                  |         |  |         |
| Ohio           | No  | No  |           |                  |         |  | 2011    |
| Oklahoma       | No  | Yes |           | does not specify |         |  | 2011    |
| Oregon         | Yes |     | Required  | does not specify | All     |  | 2008    |
| Pennsylvania   | No  |     |           |                  |         |  | 2011    |
| Rhode Island   | No  | No  | Suggested |                  |         |  | 2011    |
| South Carolina | Yes |     | Required  | Written          |         | Limited to waiving of x-rays   | 2007    |
| South Dakota   | No  | No  |           |                  |         |  | 2011    |
| Tennessee      |     |     |           |                  |         |  |         |
| Texas          | No  | No  |           |                  |         |  | 2008    |

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|------------------|-----|----|----------|------------------|-----|----|---------|
| Utah             | No  | No |          |                  |     |    | 2011    |
| Vermont          |     |    |          |                  |     |    |         |
| Virginia         |     |    |          |                  |     |    |         |
| Washington       | No  | No |          |                  |     |    | 2011    |
| West Virginia    | No  | No |          |                  |     |    | 2007    |
| Wisconsin        | Yes |    | Required | does not specify | All |    | 2008    |
| Wyoming          |     |    |          |                  |     |    |         |
| Puerto Rico      |     |    |          |                  |     |    |         |
| Virgin Islands   |     |    |          |                  |     |    |         |
| New South Wales  |     |    |          |                  |     |    |         |
| Victoria         |     |    |          |                  |     |    |         |
| Manitoba         |     |    |          |                  |     |    |         |
| Quebec           |     |    |          |                  |     |    |         |
| Saskatchewan     |     |    |          |                  |     |    |         |
| British Columbia |     |    |          |                  |     |    |         |
| Nova Scotia      | Yes |    | Required | Written          | All |    | 2008    |
| Ontario          |     |    |          |                  |     |    |         |

## Lasers In Chiropractic

The Board of Chiropractic Examiners (Board) conducted a random search of laws and regulations of other chiropractic regulatory agencies in the U.S., to see if their laws or regulations addressed the use of lasers. Specifically, the Board looked for safety regulations which specifically authorized or prohibited the use of lasers, outside of the general scope of practice.

Of the 25 chiropractic regulatory agencies reviewed, 7 states had adopted regulations regarding the use of lasers in chiropractic. Two other states had regulations prohibiting invasive procedures that specifically prohibited the use of lasers for cutting tissue. While the other states sampled did not include statutes or regulations that specifically addressed the use of lasers in chiropractic, many of them have discussed this trend in public meetings resulting in opinions or policies. Below is a table identifying the states included in the sampling and the results.

| State          | Statute or<br>Reg. Re:<br>Laser | Other   |
|----------------|---------------------------------|---|
| Alaska         | Yes                             |   |
| Maryland       | Yes                             |   |
| North Carolina | No                              |   |
| New Jersey     | Yes                             | Specifically prohibits lasers for cutting (invasive proc.)                    |
| Alabama        | Yes                             |   |
| Colorado       | Yes                             |   |
| Arkansas       | No                              |   |
| Mississippi    | No                              |   |
| Tennessee      | No                              |   |
| Georgia        | Yes*                            | *Allows electrical therapeutic modalities (Laser not specifically mentioned). |
| South Carolina | No                              |   |
| Kentucky       | No                              |   |
| Missouri       | No                              |   |
| New Mexico     | No                              |   |
| Louisiana      | No                              |   |
| South Dakota   | Yes                             | Specifically prohibits lasers for cutting (invasive proc.)                    |
| Oklahoma       | No                              |   |
| Ohio           | No                              |   |
| Indiana        | No                              |   |
| Hawaii         | No                              |   |
| Hew Hampshire  | No                              |   |
| Oregon         | No                              |   |
| Florida        | Yes                             |   |
| Arizona        | Yes                             |   |
| New York       | No                              |   |