

THIRD PARTY INDEPENDENT CHIROPRACTIC EVALUATIONS



Draft Standard of Practice S-018
Quality Assurance Committee
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Note to readers: In the event of any inconsistency between this document and the legislation that affects chiropractic practice, the legislation governs.

INTRODUCTION

Chiropractors are permitted to perform many types of third-party evaluations in their professional capacity as a chiropractor, including but not limited to, independent chiropractic evaluations/examinations, file reviews, functional capacity evaluations, in-home assessments and ergonomic assessments. Evaluations of this nature may be requested by a third party and require a report to be prepared and provided to the third party. These evaluations, examinations and/or reports often include a review of clinical data and the answering of questions concerning diagnoses, impairment, functional capabilities, causal linkage and plan of care/management.

INTENT

The purpose of this standard of practice is to:

- clarify CCO's expectations regarding the role of members in conducting evaluations, examinations and/or reports for third parties;
- provide guidance to members conducting evaluations, examinations and/or reports for third parties;
- ensure that independent chiropractic examiners have the appropriate education, skill and training to perform the specific type of evaluation requested; and
- ensure members communicate clearly their role to the patient being assessed.

DEFINITIONS

- An independent chiropractic examiner (ICE) is a chiropractor performing any evaluation and/or a third-party report at the request of a third party. An ICE is not the treating chiropractor of the patient.
- A treating chiropractor is the chiropractor with whom the patient has an on-going doctor-patient relationship.

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- A third party is any person or organization other than the treating chiropractor and/or patient, including but not limited to, an insurance company, lawyer, employer, worker's compensation organization, regulatory college or educational institution.

DESCRIPTION OF STANDARD

An independent chiropractic examiner (ICE), like all members of CCO, has a primary duty to serve and protect the public interest as set out in the *Regulated Health Professions Act, 1991 (RHPA)*, the *Chiropractic Act, 1991* and its regulations, and CCO standards of practice, policies and guidelines.

All parties involved in this type of independent chiropractic evaluation, examination, file review, or preparation of a third-party report should recognize that the process may be inherently adversarial in nature. Since an ICE does not develop an ongoing doctor-patient relationship with the patient being assessed, this may result in a more impersonal and stressful experience for that patient. An ICE shall treat the patient being assessed with dignity and respect as befits his/her status as a professional healthcare provider.

Communication and Conduct with Patient Being Assessed

An ICE shall:

- take the necessary care to act in a professional and caring manner, and communicate his/her role clearly to the patient being assessed;
- communicate to the patient being assessed that he/she has a separate obligation to a third party and that the evaluation is being performed at the request of a third party;
- communicate to the patient being assessed that no ongoing doctor-patient relationship will be established and that if ongoing care is necessary, he/she will not be providing ongoing chiropractic care to the patient;
- allow ample opportunity during the interview portion of any evaluation for the patient to share information that he/she feels is relevant to the evaluation and have any of his/her questions answered concerning the purpose and procedures of the evaluation; and
- adhere to professional cooperation and timely communication with the treating chiropractor, as necessary; and
- ensure that a chaperone is present during the examination of a patient being assessed, when requested by that patient. If an ICE chooses to have a chaperone present on his/her behalf, the ICE shall notify the patient being assessed that a chaperone will be present for his/her examination in a timely manner before that patient's appointment with the ICE.

Consent

- An ICE shall obtain consent to every third party independent chiropractic evaluation (excluding a file review) as outlined in Standard of Practice S-013: Consent. Consent to any examination must be:
 - fully informed
 - voluntarily given
 - related to the patient's condition and circumstances
 - not obtained through fraud or misrepresentation
 - evidenced in a written form signed by the patient or otherwise documented in the patient record.
- An ICE performing any evaluation shall take necessary care to ensure that the patient being assessed understands the purpose of the evaluation, what questions will be answered as a result of the evaluation, how the evaluation will proceed, and where the report will be sent.
- An ICE shall take care to avoid causing undue harm to the patient. During a physical examination, an ICE shall inform the patient being assessed that physical symptoms may be elicited or aggravated due to the nature of functional evaluations, which may challenge the individual's physiological limits.
- An ICE shall answer all questions to the best of his/her ability relating to the process and purpose of any evaluation.

Record Keeping

- An ICE has an obligation to create a file and maintain a proper patient health record as outlined in Standard of Practice S-002: Record Keeping.

Privacy

- An ICE shall not disclose personal health information, as defined in the *Personal Health Information Protection Act, 2004*, to a third party without proper consent from the patient, unless required by law.
- In circumstances where the patient gives limited consent with respect to his/her patient records, an ICE shall ensure that only personal health information to which the patient consents is disclosed to a third party. If limited consent affects the preparation of a report, the ICE shall include a notation that certain personal health information has been excluded from the report due to limited consent.

Preparation of Report

- An ICE shall provide a professional opinion in an accurate, impartial and objective manner that is substantiated by fact and sound clinical judgment and defensible through the identification of objectives related to the issues under dispute.

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- An ICE report shall:
 - include: relevant qualifications, extent of evaluation, source and purpose of evaluation conclusion and recommendations as requested re: diagnoses, impairment, functional capabilities, causal linkage and plan of care/management.
 - be based on all relevant health information available to the ICE.
- An ICE shall, when in the best interest of the patient and if permitted by law, take measures to ensure that the treating chiropractor and patient receive copies of the original report prepared by the ICE.

Assessor Qualifications

An ICE shall:

- be registered in the ‘General’ class of registration and be providing clinical care in Ontario;
- only perform independent chiropractic evaluations and file reviews within his/her area of expertise and within the scope of practice of chiropractic as defined in the *Chiropractic Act, 1991*;
- have necessary and relevant education, training, experience, and expertise to offer an opinion regarding the issue in dispute;
- maintain professional liability protection as outlined in Regulation R-137/11 R-003: Registration, and CCO By-law 16: Professional Liability Insurance;

It is strongly recommended that an ICE maintain a reasonably balanced practice and not solely perform third party independent chiropractic evaluations.

Conflict of Interest

An ICE shall not allow his/her responsibility to prepare a report for a third party or any fee received from a third party to compromise his/her paramount duty to act in the best interests of the patient being assessed, and his/her obligation to practise chiropractic in accordance with the *RHPA, the Chiropractic Act, 1991* and its regulations, and CCO standards of practice, policies and guidelines.

Continuing Education

An ICE shall participate in ongoing continuing education. There are many continuing education courses specific to independent chiropractic evaluations/examinations that are offered, including clinical sciences, accident reconstruction, independent chiropractic evaluations, rehabilitation, radiology, functional capacity evaluations, disability and impairment rating, and treatment protocols. To serve and protect the public interest, it is important that an ICE remain current with his/her training.

LEGISLATIVE CONTEXT

Quality Assurance

Health Professions Procedural Code, Schedule 2 to the Regulated Health Professions Act, 1991

Section 1(1): “quality assurance program” means a program to assure the quality of the practice of the profession and to promote continuing evaluation, competence and improvement among the members.

Section 3(1): The College has the following objects:

3. To develop, establish and maintain standards of qualification for persons to assure the quality of the profession.

Scope of Practice

The scope of practice of chiropractic is defined in section 3 of the *Chiropractic Act, 1991*.

“The practice of chiropractic is the assessment of conditions related to the spine, nervous system and joints and the diagnosis, prevention and treatment, primarily by adjustment, of:

- dysfunctions or disorders arising from the structures or functions of the spine and the effects of those dysfunctions or disorders on the nervous system; and
- dysfunctions or disorders arising from the structures or functions of the joints.”

Authorized Acts

The authorized acts for chiropractors are outlined in section 4 of the *Chiropractic Act, 1991*, and are as follows:

1. Communicating a diagnosis identifying, as the cause of a person’s symptoms,
 - i. a disorder arising from the structures or functions of the spine and their effects on the nervous system, or
 - ii. a disorder arising from the structures or functions of the joints of the extremities.
2. Moving the joints of the spine beyond a person’s usual physiological range of motion using a fast, low amplitude thrust.
3. Putting a finger beyond the anal verge for the purpose of manipulating the tailbone.

Unfair and Deceptive Acts and Practices in the Business of Insurance

Insurance Act, 1990

Definitions, Part XVIII

438. For the purposes of this Part,

“person” includes an individual, corporation, association, partnership, organization, reciprocal or insurance exchange, member of the society known as Lloyd’s, fraternal society, mutual benefit society or syndicate;

“Superintendent” means the Superintendent of Financial Services appointed under the *Financial Services Commission of Ontario Act, 1997*

“unfair or deceptive acts or practices” means any activity or failure to act that is prescribed as an unfair or deceptive act or practice.

Unfair or deceptive acts, etc., prohibited

439. No person shall engage in any unfair or deceptive act or practice.

Superintendent may investigate

440. The Superintendent may examine and investigate the affairs of every person engaged in the business of insurance in Ontario in order to determine whether such person has been, or is, engaged in any unfair or deceptive act or practice.