

Consent For Surgery

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Consent has truly become a key word in today's practice for doctors. The rights (autonomy) of the patient have permanently eroded the old model of doctor-patient relationship.

Doctors are no more treated like angels or Gods.

Consent was practically nonexistent till the time "consumer protection act" became applicable to medical profession. Consent refers to the provision of approval or agreement particularly and especially after thoughtful consideration and understanding.

As per medical jurisprudence, prior provision of consent signifies a possible defence against criminal or civil liability by the doctor. Practitioners who use this defence claim they should not be held liable for a tort or crime, as the consequence in question occurred after the prior consent and the permission of the patient, may it be act of omission or commission.

Earliest expression of this fundamental principle based on autonomy can be traced to Nuerenberg code of 1947 which was adopted after the world war II following experimental medical atrocities done during the Nazi regime. Then Helsinki Declaration 1964 was adopted by the world Medical Association in which written consent of the patient or subjects became mandatory for medical research.

Medical Council Of India has also laid down guidelines that are issued as regulations in which consent is required to be taken in writing before performing any surgical procedure. Consent, therefore, is perhaps the only principle that runs through all aspects of healthcare provisions today. It reflects the legal and ethical expression of the basic right to have one's autonomy and self determination. It is a prerogative of any patient to refuse any treatment even if the said treatment may save his or her life. Thus the Hippocratic Oath prevalent for centuries granting rights to the treating doctors to decide in the best interest of the patient has practically become redundant!

Today, consent is seen as more of a legal requirement

than an ethical moral obligation on part of the doctor towards his patient. Patient has now the ability to select or dismiss their doctors and to choose the treatment of their choice from the options available.

Numerous litigations in Medicine occur because of improper and inadequate consent!

Informed consent: It is defined as voluntary acceptance after full understanding, by a competent patient, of a plan of medical care after the physician adequately discloses the plan, its risks and benefits and also the alternate therapies. Decision making capacity should be free from coercion or manipulation both by the doctor or patients' kins.

Informed consent must contain four vital components:

1. Mental capacity of the patient to enter into a contract which also include his ability to comprehend the information given.
2. Completeness of the information given by the doctor.
3. Voluntary acceptance of the procedure by the patient.
4. It should be person and procedure specific.

Contents of the consent:

1. Diagnosis and the status of the patient.
2. Purpose and the nature of intervention.
3. Consequences of such intervention.
4. Any alternatives available.
5. Risks involved.
6. Prognosis in the absence of intervention.
7. Immediate and future cost

Information must be given in the language patient can understand and if it is not possible then in presence of a proxy of the patient who can translate it to the patient. According to one judgement of the hon. supreme court, any complication of common prevalence after a particular procedure must be informed in writing to the patient.

Eligibility for consent:

- Age.
- Soundness of mind.
- Ability to understand.
- Remember the information given.
- Decision making ability amongst various options

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discussed.

-Believes that the information is specific to him and has specific purpose.

There has been a long drawn discussion about implied consent where consent of the patient is presumed by his conduct of keeping an appointment, or getting admitted or allow shaving of operative area, follow instructions of fasting etc but in today's world one must take proper informed consent only.

One may get benefit of not taking consent only in life saving situations where patient's relatives are not around or critical patient is brought by onlookers. Even then it may be safer to take signature of a police constable if available or any third uninterested party.

Express consent or "blanket consent" should be taken in cases where a surgeon may anticipate change of course of action or additional action in complex cases like bone grafting, inoperable tumors, vascular injury which may need help of vascular surgeon or plastic surgeon etc. Not only special consent needs to be taken for amputation of a part but it is ideal to seek additional opinion of a colleague endorsing your advise.

Law demands that separate consent must be obtained for transfusing blood which may describe shortcomings of transmission of blood borne diseases like HIV, various forms of hepatitis and other

infections.

Similarly your anaesthetist can take a separate consent for anaesthesia after explaining type of anaesthesia , its associated risks and ASA grading of the patient.

Never forget to take a consent for recording and relaying or sharing the surgical procedure or clinical photographs even for academic and educational purpose.

Please include a statement by the patient in consent form that he is aware of the facilities available in the set up where surgery is being done and his preparedness to be shifted to ICU or ICCU if need be postoperatively when such facilities do not exist in the set up.

May I conclude my article by additional advice which is relevant today about guarantee of payment of hospital bills even if the cashless claim is rejected by the insurance company and compensation of damages in the event of assault by the kins of the patient for any reason?

The day is not far when we, the doctors, may need to record our consent in camera and predefine quantum of compensation in case of litigation arising out of said surgical procedure!!!

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