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Bridging the know-do gap in dentistry: rethinking informed consent

Abstract

The change in attitude of patients with emphasis on being involved and informed of every aspect of care is not only apparent in adults but also when providing care for children and young adults. It is important for the dentist to be well informed of the fundamental process of informed consent, which exists under the law in order to provide care within the legal framework. The important issue when obtaining consent is competence of the patients to give consent. The burden is on the dental professional to ensure that the patient understands the treatment options. Informed consent decreases the practitioners liability from claims associated with miscommunication. It does not shift the whole responsibility to the patient but should be a partnership between a clinician and a patient in which each has rights and defined responsibilities.

Keywords: consent, informed consent, dentistry, ethics, good clinical practice

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Introduction

Informed consent forms an integral aspect of health care service provision. It is also an ethical and legal requirement as per the codes of ethics of different professional bodies. Informed consent is a process rather than a one-off event and the essential elements constitute effective communication, full information, and freely-given competent consent.[1–7] The Chapter 7 of the Medical Council of India (MCI) Code of Ethics Regulation, 2002 defines consent as follows: MCI: 7.16: Before performing an operation the physician should obtain in writing the consent from the husband or wife, parent or guardian in the case of minor, or the patient himself as the case may be.[8] The concept of consent derives its root from the ethical issue of respect for autonomy, individual integrity and self determination. The term consent in simpler terms implies voluntary agreement, compliance, or permission.[9–11] It is the legal aspect that protects each and every patient's right not to be touched or in any way treated without the patient's authorization. The issue assumes that it is a right of mentally competent adults and of sound mind to determine what should be done with their body and the doctor who performs such thing without patient's consent commits assault for which the doctor is liable in damages".[12,13] Dental professionals also deal with human rights and situations requiring judgment based on ethical principles and thereby guided by an ethical code of conduct.[14] Ethics pertaining to dental science were formulated in accordance with medical ethics and are regulated by a set of principles, which include autonomy, veracity, beneficence, non-maleficience and justice that dictate clinical dental practice.[15–17] What are the components of consent?[18] Consent should include:

1. Disclosure
2. Capacity
3. Voluntariness

a. Disclosure: Providing of all relevant information.

b. Capacity: Level of understanding of disclosed information and also of foreseen consequences.

c. Voluntariness: Last but not the least; right of making a decision without coercion and manipulation.

Difference between real and informed consent?

There is a difference between 'Real' consent in the United Kingdom (UK) and as 'Informed' consent in the United States (US).

Consent is considered to be valid and 'real' when:

A. It is voluntarily without any coercion

B. The patient is competent and has the capacity to provide consent

C. Minimum of adequate level of information about the nature of the procedure is provided to the individual to whom he is consenting to. Contrary, the concept of 'informed' consent developed by the courts in the US includes only the duty of the doctor to disclose only the necessary information to the patient to secure his consent.[18–20]

Which consent is applicable in India: real or informed?

In India, real consent and not informed consent is applicable and legally valid. The components of real consent as stated by the Hon'ble Supreme Court of India are: "A doctor has to seek and secure the consent of the patient before commencing a 'treatment' (the term 'treatment' includes surgery also). The consent so obtained should be real and valid, which means that it should abide by constituents of real consent".[8,20]

Conditions when consent is not valid11–22

a. Provided by a person less than 18 years of age.

b. Given by a person of unsound mind or under fear, fraud or misrepresentation of facts.

c. If individual is ignorant of the implications of the consent or harmful consequences of treatment.

d. Procedure for illegal surgical procedure.

But a very important thing to bear in mind in regard to treatment, which are performed in the absence of consent, IPC 92 states that any act which may cause harm to a person, but done in good faith and for persons benefit can be done without consent under certain circumstances.[11]

Conclusion

Obtaining correctly informed and culturally relevant consent is of particular eminence in developing countries. Although obtaining informed consent may at first seem awkward, cumbersome, and time-consuming, it may very well save a clinician countless hours in the courtroom and a large amount of rupees as legal fees should some mishap occur. While a written and witnessed process for documenting informed consent remains the norm, alternative methods that are more user-friendly and can be verified, must be considered.

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Conflicts of interest

The authors declare there is no conflict of interests.

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