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INFORMED CONSENT: THE NURSE'S DILEMMA

Nili Tabak*

SYNOPSIS: Therapy, Experimental therapy requires the patient's "informed consent". If the information given him is inadequate, the nurse may face a conflict of loyalties. A work sheet is presented to help solve her dilemma.

Abstract The author builds upon the concept of informed consent whereby the patient agrees to undergo experimental medical procedures. Ideally, the doctor will inform the patient fully on the proposed treatment so as to assure the patient's right to participate intelligently and freely in the decisions regarding his treatment. The nurse is drawn into the doctor-patient relationship in cases where the patient seeks her counsel because he feels insufficiently informed by the doctor, or because the nurse becomes aware of inadequacies in the information-giving process. She is then faced by the nurse's dilemma: a conflict between the loyalties she owes to her patient and to her physician team mate. A work sheet is presented which can help the nurse decide upon the proper course of action in solving this dilemma, guided by her personal and professional beliefs and by specific ethical concepts in the Code for Nurses. Solution of the dilemma and attainment of informed consent requires willing cooperation between doctor and nurse. Both can develop the skills for imparting information to the patient under difficult conditions and for verifying its comprehension by the patient. Both must learn to respect the patient's decision and to temper their professional skills with sensitivity, a strong moral sense and a deep respect for their fellow human beings.

KEY WORDS; Code for Nurses, decision-making process, informed consent, patients' rights, work sheet.

THE CONCEPT OF INFORMED CONSENT

In the context of this paper, the term "informed consent" (IC) refers to a process whereby a patient gives his formal agreement to undergo experimental medical procedures, combined with concomitant professional treatment. In giving his consent, the patient acknowledges that he has received, and understood, adequate explanation from the doctor regarding these procedures. The patient's signed consent must be given freely, without any pressure or concealment of information on the part of the doctor.

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Recognition of the need for IC has evolved from discussions concerning medical negligence in the medical and the legal literatures. Once recognized as a necessary instrument for protecting the patient, informed consent was conceived as a moral principle which developed into an autonomous tenet in medical practice ¹. The IC concept refers to one component in the doctor-patient relationship designed to foster interaction based on cooperation. It is an imperative which, according to Faden and Beauchamps ² is related to the element of faith and trust required in normal interpersonal relationships. Or, specifically, the need for IC is seen by Ramsey ³ as a declaration of trust between the doctor providing the treatment and the patient receiving it.

Consent establishes the relationship between the treatment giver and the treated. It is a special case of social compact whereby people are joined through contract and consent in establishing a community, in this case a community in which the decision making of all individuals involved is such that the patient's rights are protected. ⁴.

From the concept of man as an autonomous being flow two moral principles upon which the concept of informed consent is based on:

- 1 The individual's endowment with human dignity.
- 2 The individual's right to strive for what is best for himself. ⁵

These principles, represented schematically in Figure 1, relate to the patient's freedom of will and his right to privacy and result in his ability to make free choices and to participate in making decisions regarding this treatment.

In keeping with this model of the individual's rights and abilities, the model in Figure 2 is proposed to represent the factors governing the relationships between patient and doctor which will assure or defeat informed consent.

Figure 1: Model of patient as autonomous individual

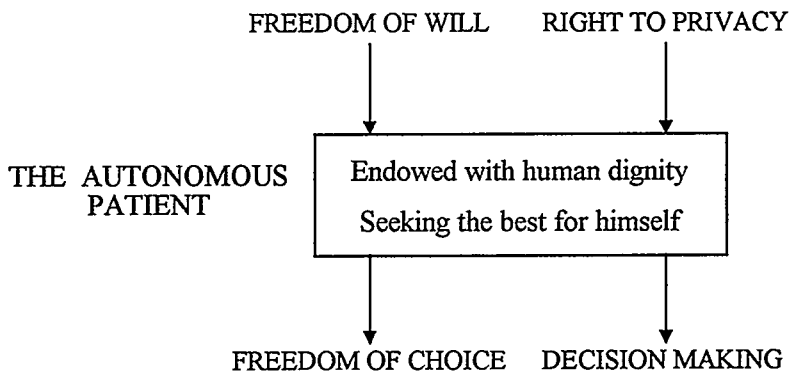
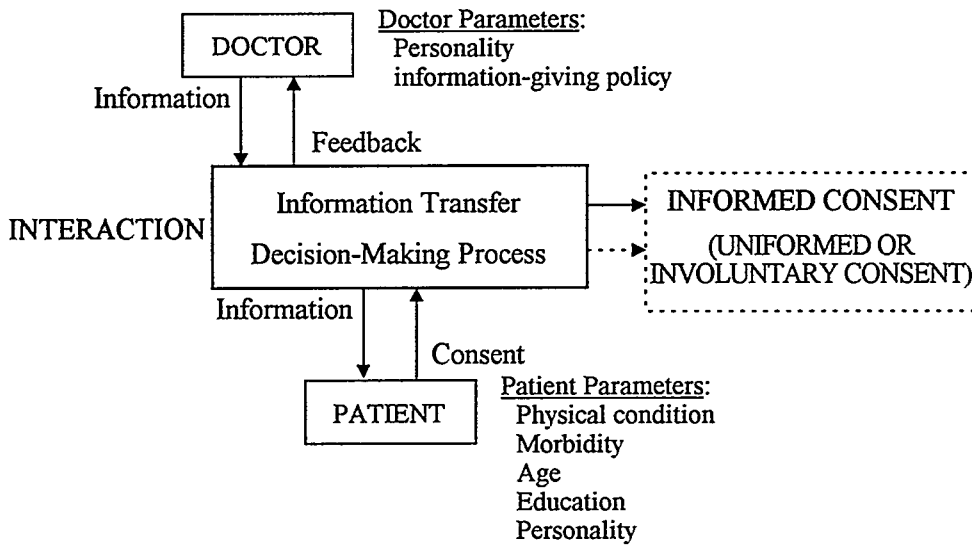


Figure 2: Model of Doctor-Patient interaction



According to the Kantian Doctrine of Measures ⁶, human beings, by virtue of being human, are valuable in themselves. And the perception of man as a purpose, according to Kant, imposed the demand to act in such a manner that humanity will be the purpose of one's action, and not a means for satisfying one's individual purposes.

Perceiving one's fellow-man as a purpose implies relating to him as an autonomous being whose understanding governs his will and actions through self-legislation. He is logical, consistent and independent. Man is an independent being and therefore no man has the right to interfere in another man's life.⁶ The need for informed consent, particularly when treatment by experimental drugs is contemplated, flows naturally from these considerations. As indicated in Figure 2, IC comprises two elements:

- 1 Information supplied by the doctor;
- 2 Consent given by the patient.

The consent given by the patient requires the following inputs:

- Full explanation of the procedure to be used in the proposed experimental treatment and of its intended purpose;
- Description of possible undesirable side effects and risks;⁷
- Description of anticipated benefit to the patient;
- Explanation concerning the estimated duration of the procedure;
- Explanation of the patient's prerogative to withdraw consent without prejudicing his relationship to the doctor and the institution;
- Prognosis of the patient's medical condition if he refuses treatment.

Subsequent to supplying the above inputs to the patient, the consent process requires the doctor to receive feedback from the patient indicating his understanding of the information he has received.⁸ The patient's response must be expressed as full consent, given freely and voluntarily and, warns Frenkel⁹ to obtain it, the doctor must not play down possible risks in the treatment.

If the patient's consent is to qualify as "informed", it must satisfy the following four conditions.¹⁰

The consent should be -

- **free** - the patient chooses to participate in a medical experiment without being under pressure or coercion;
- **voluntary** - the patient is legally capable of giving voluntary consent; and the explanations provided to the patient must be informative.

THE GOALS OF INFORMED CONSENT

In keeping with Katz and Capron¹¹ the purposes to be achieved by informed consent may be summarized as follows:

- promotion of the patient's right to self-determination and privacy, assurance of his mastery over his own destiny, and securing his awareness of his illness.
- Protection of the patient's status as a self-respecting, autonomous, thinking human being, rather than an object easily swayed and controlled by others.
- Minimizing the possibilities for error, coercion, deception, inconsiderateness and negligence in the decision-making process concerning medical treatment.
- Securing a rational decision-making process based on full information.
- Enhancing the quality of the doctor-patient relationship while protecting the quality of the treatment.

HOW NOT TO OBTAIN INFORMED CONSENT

An example of what cannot be termed informed consent is given by Pappworth¹² who reported that patients had blood taken, for examination, under anaesthesia through a catheter into the heart, rather than in the usual manner from a vein. However, these patients had not been told how the blood was to be withdrawn "in order not to cause them needless anxiety". The patient, then, is not always aware of what is being done to him ...

The patient's right to receive information is often countered by the doctor's tendency to conceal information, possibly for what he considers "the patient's own good". In respect to the latter tendency, two extreme attitudes exist: one demands that all risks, even minor ones, be fully exposed by the doctor, while the other waives the giving of information if the patient does not demand it.

In striking a reasonable balance between these two extreme attitudes, Hull ¹³ would allow each individual physician to determine the quantity and quality of information which is comprehensible, relevant and helpful to each individual patient in gaining understanding and control of his situation, thus making his consent meaningful.

We must remember that consent to any medical experiment involves trust, yet also an element of persuasion. And where is the line to be drawn between fairly common risks, which the doctor is expected to disclose to the patient, and very unlikely complications the disclosure of which would frighten the patient without good reason?

SECURING PATIENT'S CONSENT: THE NURSE'S DILEMMA

While health professionals are in general agreement as to the goals and importance of IC, obtaining the consent is a complex process beset by serious problems.

There are doctors who explain the projected treatment in great detail (its experimental nature, method, risks, benefits, alternative treatments, possible side effects), while other doctors are more sparing in what they divulge - being more introverted, more harried or not relating well to the patient, or believing that the patient should know just so much. The patient himself suddenly hospitalized, in distress and in pain - finds himself in strange surroundings and lacks the time and knowledge to reach decisions regarding his treatment. He therefore turns to the nurse for more information, for clarification and advice. The nurse is thus faced by an ethical dilemma: a conflict between duty toward the patient (P) and loyalty to the doctor (D) who bears the primary obligation for informing the patient. The two conflicting duties are embodied in different sections of the Code for Nurses which we have labelled "(P)" and "(D)", respectively, in the following quotations from the Code.

Nurses and Practice: (P) "... The nurse maintains the highest standards of nursing care possible within the reality of a specific situation.

(P) "The Nurse uses judgment in relation to individual competence when accepting and delegating responsibilities.

(P) "The nurse when acting in a professional capacity should at all times maintain standards of personal conduct which reflect credit upon the profession".

Nurses and Co-workers: (D) "The nurse sustains a cooperative relationship, with all workers in nursing and other fields.

(P) "The nurse takes appropriate action to safeguard the individual when his care is endangered by a co-worker or any other person".

ILLUSTRATIONS OF NURSE'S DILEMMA

The following two situations will serve to illustrate the ethical conflict frequently faced by the nurse in connection with the IC process.

Case 1: The Nurse in the ICCU

In recent years, there has been a dramatic change in the treatment of myocardial infarction. Among the innovative and highly effective experimental techniques today is the treatment with Tissue Plasminogen Activator (TPA). The action of TPA is to dissolve the thrombosis and thereby reestablish the blood flow. The area of the infarct of the heart muscle is what determines the immediate and subsequent prognosis; therefore, minimizing the area of the infarct is the central problem in the treatment. Time is the critical factor: TPA treatment must be given within 4 to 6 hours from the onset of pain.

Upon arrival in the department, the patient suspected of myocardial infarction is thoroughly examined to determine if he is a suitable candidate for TPA, in accordance with the legal and medical criteria checked by the doctor and reported by him on a standard form.

If found suitable for TPA, the patient is given an explanation of the treatment. This explanation may be presented in various ways, according to the doctor's judgment and inclination (see "doctor parameters" in Figure 2). The explanation should cover frequency of administering the treatment, identification of the personnel directly involved, use of medication, oxygen, infusion, ECG, while the "patient parameters" in Figure 2 must be taken into account, i.e. his ability to absorb the information under emergency circumstances.

The ICCU nurse, who may witness deficiencies in the information-giving process, or who is approached for clarifications by the distraught patient, comes face to face with the conflict of loyalties we have termed the "nurse's dilemma".

Case 2: The "Blank-Check" Consent Form

A patient arrives for surgery and is waiting in the reception room. The nurse checks his consent form and finds the form to be completely blank, except for the patient's signature. Details regarding the type of surgery, even the physician's name, are missing. What should she do?

WORK SHEET FOR SOLVING NURSE'S DILEMMA

To solve such ethical conflicts, we have developed a decision-making work sheet. This work sheet (see below) has been integrated into our university nurses' training program and has proved to be a helpful tool in guiding the nurse to an ethically acceptable decision when faced with similar dilemmas.

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| <p>WORK SHEET FOR RESOLVING NURSE'S DILEMMA</p> <p>DEFINE THE PROBLEM:</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>BELIEFS</p> <p>1. My Personal Belief:</p> <p>_____</p> <p>_____</p> <p>2. My Professional Credo as embodied in the Code for Nurses:</p> <p>_____</p> <p>_____</p> <p>POSSIBLE COURSES OF ACTION</p> <p>1. _____</p> <p>2. _____</p> <p>3. _____</p> <p>4. _____</p> <p>SELECTED COURSE OF ACTION:</p> <p>_____</p> <p>_____</p> <p>DISCUSSION:</p> <p>_____</p> <p>_____</p> <p>GENERALIZATION TO SIMILAR SITUATIONS:</p> <p>_____</p> <p>_____</p> |
|---|

The application of the work sheet is illustrated by Case 2, the "blank-check" consent form. In this application, the nurse may, mentally or in writing, make the following entries:

Problem-definition

Conflict between my professional obligation to protect the patient from danger, and the loyalty I owe to my fellow workers, specifically to the doctor who obtained the patient's signature on the consent form.

Beliefs

- 1 *My Personal Belief.* As a nurse, I must protect the patient from harm.
- 2 *My Professional Credo.* The code for nurses obliges me to do everything necessary to protect the patient from harm due to improper treatment, even at the hands of the doctor.

Possible Courses of Action

- 1 Ask the doctor to repeat the information-giving process to the patient and to fill in the consent form properly.
- 2 Alert the nurse who is to prepare the patient for surgery and pass the dilemma on to her.
- 3 Ignore the problem.

Selected Course of Action

No. 1 in the above list: request the doctor to secure IC in the proper fashion.

DISCUSSION

As a nurse, I must use my best judgment in determining my course of action. It is my professional duty to protect the patient and to assure that in his treatment all steps have been taken to protect him against errors by my team mates. It is therefore my duty to direct the doctor's attention to the improperly executed consent form and to insist that he repeat the patient's preparation for surgery in the proper manner.

Breaking Out of the Nurse's Dilemma

In facing the dilemmas that confront her daily, the nurse must act with very high moral judgment, wisdom and consideration, while adhering to all the provisions of the ethical code adopted for her profession. She thereby helps assure that the consent to the treatment given by the patient is not merely a signature on a standard form but represents a mutual understanding by the doctor and his informed patient. The treatment agreed upon is to be appropriate not only to the patient's medical condition in light of the doctor's best professional judgment, but should also do justice to the psychological and social needs of the patient, and the consent is to be obtained with due regard to the patient's dignity and autonomy. Informed consent can be fully achieved only if such comprehensive attitude to medical treatment finally replaces the still-prevalent purely biomedical approach.

The dilemma posed by the conflict of loyalties, frequently presented by the demands of IC, is a source of considerable discomfort to the nurse since it places into question her ability to live up to two great professional imperatives:

- 1 To protect the patient's autonomy and his right to an independent decision;
- 2 To cause no harm to the patient.

In considering the patient's autonomy, many nurses start out from the belief in the patient's responsibility for his own health, as well as in his ability to comprehend the explanations offered him as inputs to his consent and thus in his ability to make rational choices between alternative treatments. In actual fact, the sick individual may be unable to absorb all the information presented, and he may not have the ability - or the time or the strength or even the desire - to make the decision that must be made. In this case, the nurse will be sensitive to the patient's signals even though the quality of the consent may be compromised.

CONCLUSION

In her effort to salvage the IC process under difficult circumstances, the nurse need not feel helpless and isolated. Today, no health professional works in isolation. The nurse has the right to receive from and the duty to extend to the doctor all the cooperation necessary to make IC work and to enable patients to arrive at rational, autonomous decisions. Both doctor and nurse can develop skill in imparting the required information to the patient regarding the recommended treatment, even under pressure and in the face of objective difficulties; and they can also develop skill in verifying the patient's comprehension of the information. But once understanding has been established, the patient's decision must be respected, even if it is a refusal of treatment. The consent must not be exacted under pressure.

There is increasing awareness in both the medical and nursing professions that their professional skills and their striving for efficiency must be tempered with generous measures of humane sensitivity, a strong moral sense, and a deep respect for the rights of their fellow human beings. As for the nurse, her strength must lie in her belief in her vocation as a vital component in the treatment of the patient. Expressing her opinion (even, when necessary, in confrontations with the doctor), the nurse can make invaluable contributions to informed consent, to higher-quality medical treatment, and to honorable service to humanity. To do so, she will often be called upon to resolve a conflict of loyalties vis-a-vis doctor and patient. This, then, is the nurse's dilemma.

The work sheet we have presented is designed to help solve the dilemma in keeping with the professional Code for Nurses and the conscience and personal belief of the individual nurse.

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