Informed consent

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All health practitioners would be well aware of their requirements to obtain informed consent from their patients before assessment or treatment takes place.

What is informed consent?

There is an explanation about informed consent in the Code of Conduct for each of the professions regulated by AHPRA. In this document, informed consent is defined as 'a person's voluntary decision about healthcare that is made with knowledge and understanding of the benefits and risks involved'. This statement highlights the difference between consent and informed consent. If a patient hasn't been made aware of the benefits and risks, their consent isn't informed.

Informed consent isn't just required for treatment. Depending on the nature of the healthcare being provided, informed consent should also be obtained for assessment.

Informed consent and insurance claims

Informed consent can feature in insurance claims against practitioners in a couple of ways.

It's not uncommon when a patient is unhappy following treatment for them to allege they weren't made aware of the risks when they consented to treatment. Quite often they will allege the treatment was negligent and has resulted in harm or suffering. They then add that had they been informed of the possible risks, they wouldn't have consented.

In other cases, patients may not make any allegation about consent, their complaint might solely focus on the clinical outcome, yet when their claim is being managed it's found that they didn't give their informed consent prior to treatment being provided. When this occurs, it makes it challenging for Guild to prove that the practitioner has treated appropriately and met their requirements.

The informed consent conversation

Informed consent requires a conversation between the treating practitioner and the patient. This conversation needs to occur prior to assessment and treatment.

The conversation must:

- detail the recommended assessment and treatment as well as alternate treatment options
- include the expected benefits of that treatment
- provide information about the risks of the treatment
- allow time for the patient to ask questions
- be held in language which can be understood by the patient which means practitioners should avoid technical clinical language.
- take place in a private area where the patient will feel comfortable being open and honest about their health situation.
- be tailored to that individual patient and their unique clinical needs

Recording informed consent

It's imperative that practitioners make a note in the clinical record regarding the patient providing their informed consent. This needs to be more than 'IC given'. The record needs to show what treatment

options and risks were discussed as well as any questions asked by the patient. The record should also show what the patient consented to as well as what they didn't consent to where relevant.

The informed consent form

One area which leads to some confusion about informed consent is how to use an informed consent form. Having a patient sign a form is seen as a quick and simplified way of having a patient provide their informed consent and keeping a record of that. However, they are unfortunately too often used inappropriately.

Signed forms aren't a requirement. While recording consent is required, this doesn't need to be done using a form. Notes in the clinical record are sufficient. However, signed forms do provide additional evidence if there is an allegation that informed consent wasn't given.

Forms can't be used to replace the informed consent conversation. A patient can not read a form and gain the same level of understanding as they would from a conversation with the practitioner. Nor can they ask questions of the form.

A form should only be signed after the conversation with the practitioner has been had and the patient understands what it is they're consenting to. Patients are occasionally asked to sign consent forms at reception before they've seen the practitioner. As there has been no assessment or discussion about treatment at this stage, this can't be considered informed consent as the patient hasn't been informed.

Some practices combine new patient forms with the consent form. This isn't ideal as the two forms serve different purposes. Also, having them on the one form encourages patients to sign the consent form at

reception before they've seen the practitioner. Therefore, they should be divided into two separate forms.

Informed consent is not a one-off event

Practitioners regularly ask how often their patients need to give informed consent. There is no set time frame for when informed consent conversations or signed forms need to be repeated. The requirement is that when a patient is receiving any assessment or treatment, they need to have given their informed consent to this. Therefore, informed consent should be an ongoing process; it's a continual conversation with patients during consultations. And when there is any change in the treatment being provided, or if the patient has returned following a period of absence, informed consent needs to be revisited. A general 'consent to all treatment' for the life of the therapeutic relationship is not appropriate.

Informed financial consent

As well as consenting to assessment and treatment, patients should also give their informed financial consent. This means they need to be provided with information about the expected cost of treatment before this treatment commences.

In summary…

There is no one right way to undertake an informed consent conversation and process. Practitioners must adapt what's discussed for the patient they're treating and that patient's unique circumstances. However, what must occur in all cases is that the patient is informed of and understands the proposed treatment, alternate treatment options and the risks involved. Only with this information can they give their informed consent. The practitioner

must also be sure to make a record of this informed consent discussion in the clinical record.