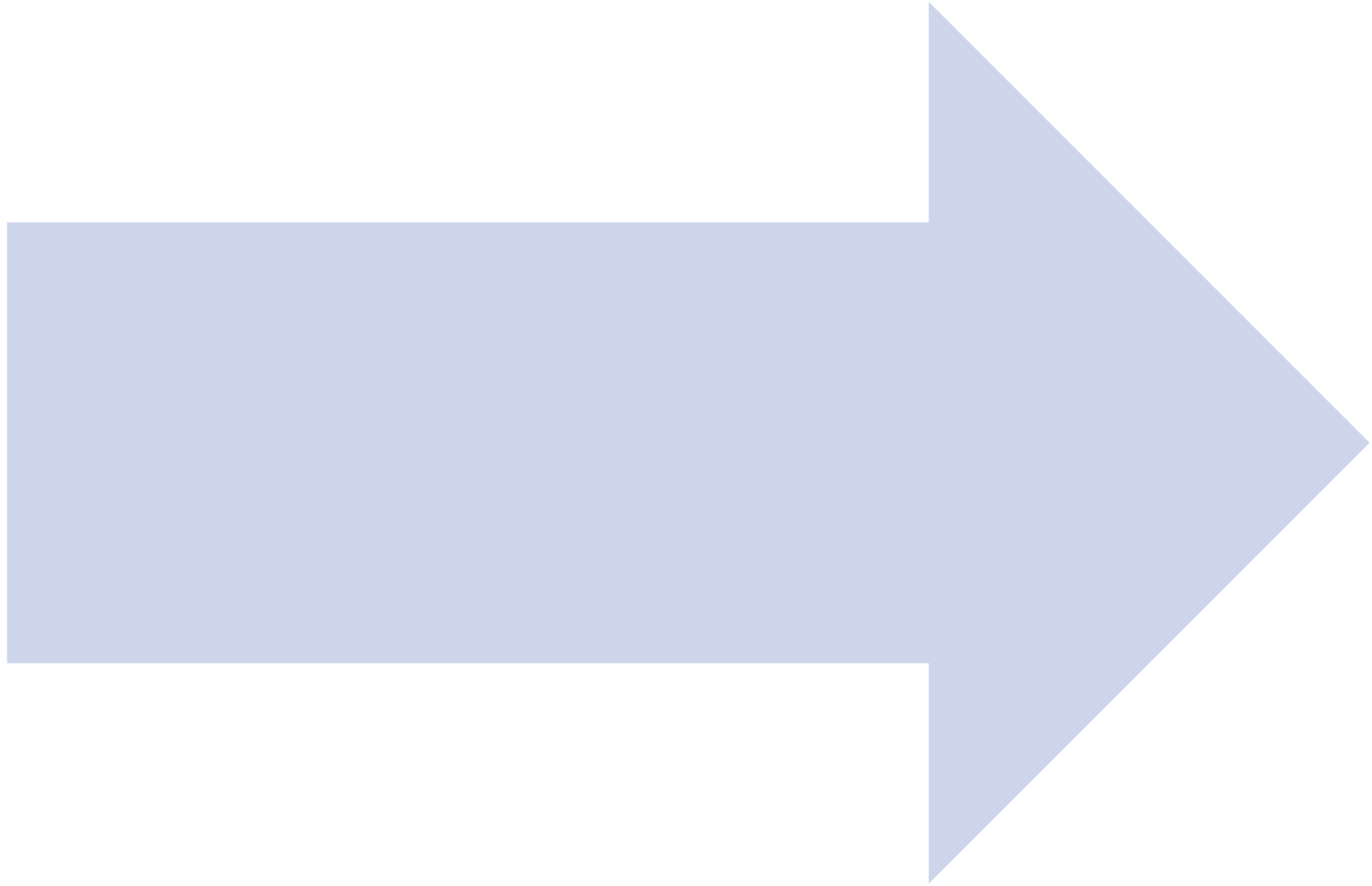


Consent in Medical Practice

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2019



Aim of the medical profession



Aim of the medical profession



preserve
lives

cure
diseases

prevent
suffering

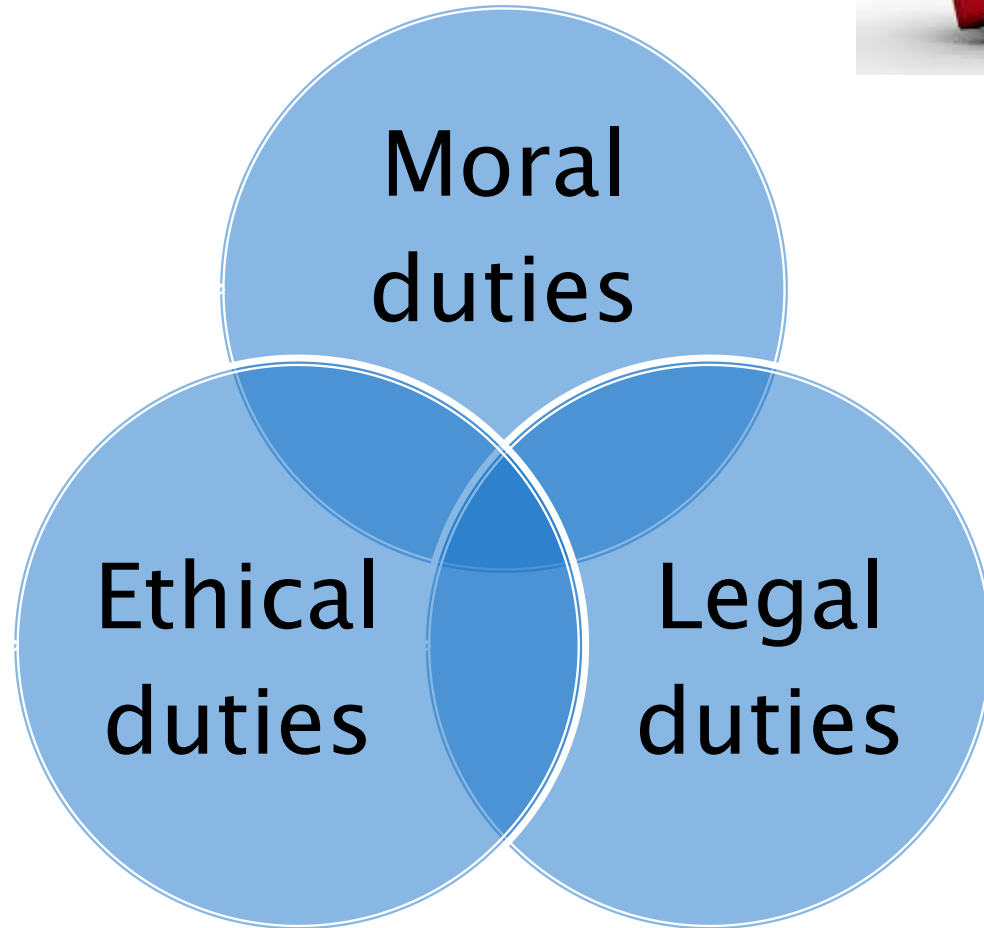
Aim of the medical profession



Service
to
humanity

Not the
personal
gain

Duties of a doctor as a professional



Ethical duties

Code of conduct

A light blue downward-pointing arrow with a subtle gradient and a slight shadow, indicating a flow from the first box to the second.

Voluntary accepted

A light blue downward-pointing arrow with a subtle gradient and a slight shadow, indicating a flow from the second box to the third.

By group of people

Medical ethics

No right or wrong answer

provide a useful framework
for understanding conflicts

Who guides

Hippocratic Oath

SLMC – code of ethics

The declaration of Geneva (1948)

The declaration of Helsinki (1978)

WHO guide lines

History – Medical Paternalism



Doctor's
decision was
imposed on
the patient



Patient
couldn't
decide
appropriately



Treatment
was justified
even with the
objection of
the patient

Hippocratic era –Greece



religious
discipline



Greece–
500 B.C

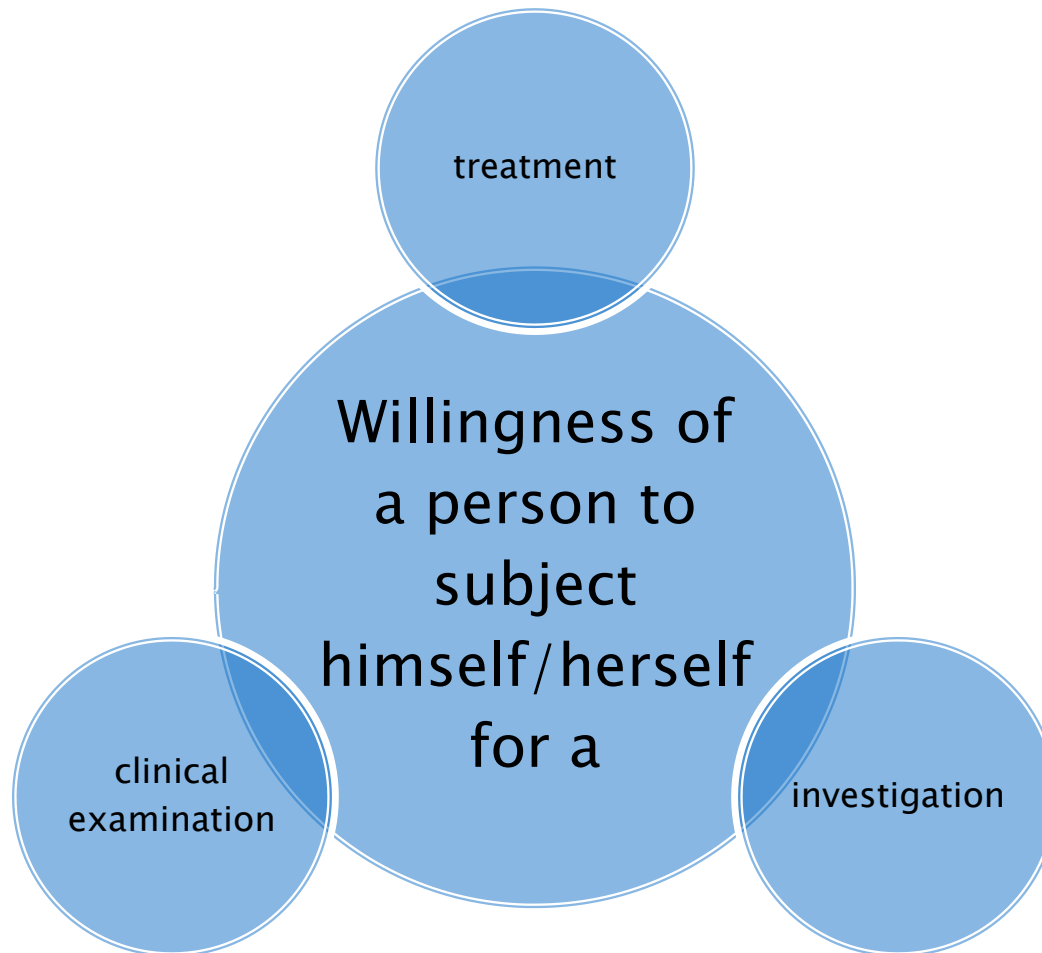


Philosoph
ers were
taken over

What is “consent” in medical Practice ?



Consent in Medical practice



Concepts related to consent

Three basic ethical principles

- **Autonomy**
- Beneficence/Non maleficence
- Justice

Right to treatment

- Basic human right

Right to refuse treatment

- Adult competent person has the right

Legal decision in consent

Justice CARDAZO – US (1914)

Doctors
cannot treat,
examine or
investigate a
patient

Without
consent

Otherwise
amount to
'assault' or
'battery'.

How do you obtain valid consent ?



Valid consent should be given

Freely

Voluntarily

By a competent person

Competent person



Sound mind



Consenting age



Able to comprehend the facts presented to the person

Consent is invalid

Obtain under threat/duress

Obtain offering incentives

from a person of unsound mind

from a intoxicated person

From a minor below 18 years

Types of consent



Implied consent



Expressed consent



Informed consent

Implied Consent



50-year-old man comes to the OPD with cough and fever.



What are the elements to say consent is implied?

Implied Consent



voluntarily comes to hospital/clinic



voluntarily seeking treatment



behavior, demeanor indicates willingness for examination, investigation and treatment



Only apply for ordinary forms of consultation

How do you get expressed consent ?



Expressed Consent

Doctor has to get consent from a
'competent' patient

explain the patient as to what you
are going to do

the implications of your actions

after listening to the doctor patient
can clarify doubts

patient must express his/her
willingness for such examination,
investigation and treatment.

Types of expressed consent

Gesture

Oral

Written

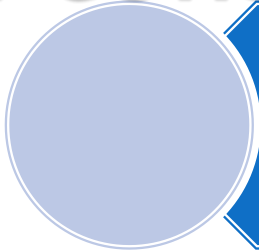
Written and witnessed

Gesture

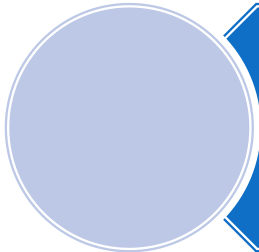
Patient may say yes or no by movements of his head, hands or lower limbs.

This type of consent by gesture is dangerous as the doctor really do not know what the patient actually meant by the gesture.

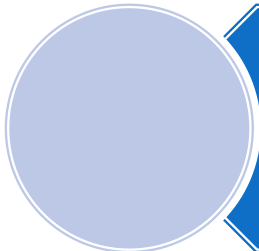
Oral consent



The patient will express verbally willingness for examination, investigation and treatment.



The patient may say yes or no verbally.



However there will be no record of such oral consent



Need a witness from medical staff

Oral consent – instances

drawing of blood

removal of clothing of a female for chest and abdominal examinations

per rectal examinations in both males or females

per vaginal examinations in females

x-ray investigations

Case

- ▶ 20 year old girl is admitted to the ward with accidental cut injury on her arm.
- ▶ How do you take consent from the girl for suturing the wound?



Written consent



The patient will express his/her consent in writing by placing his/her signature on a document.

Written consent is required for all surgical procedures

Witnessed written consent



Patient will express consent by placing his/her signature

witnessed by a 3rd party who will confirm that the consent was free and voluntary

Eg: Medico-legal examinations
 Clinical trials

What is informed consent ?



Informed written consent

This is a special form of expressed, written and witnessed consent obtained after educating the patient.



Informed written consent



Patient is educated about

the illness

its prognosis

type of examination

investigation and treatment

Informed written consent



Patient is educated about

risks and complications

alternative procedures

consequence of not receiving the proposed treatment

the success rates and failure rates

morbidity and mortality rates

Informed written consent



Patient is allowed to

get information in his /her own language

clarify things

refuse or withdraw at any time

have sufficient time to think

make a choice of his own

express willingness to participate

Doctor must not put any pressure on the patient

Informed written consent

Instances where the informed written consent is applicable

Cardiac surgery

Cranial surgery

Chemotherapy

Volenti nonfit injuria

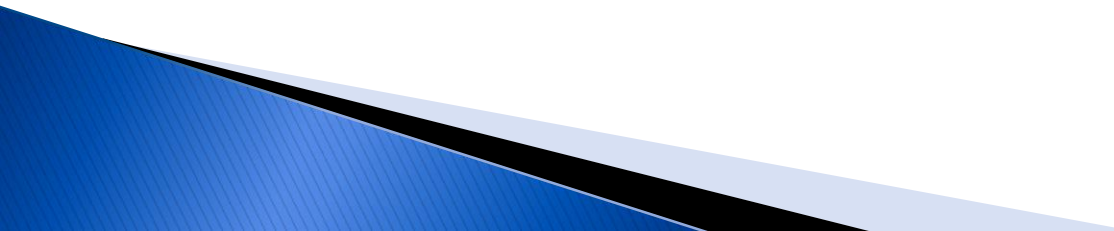
“Volenti nonfit injuria”.

patient voluntarily accepted the risks and complications of treatment after been 'educated' by the doctor.

If there are complications and failure of treatment, then the patient cannot file action against the doctor

because the patient consented to the investigations and treatment after being explained about procedure

Who can give the consent?

- ▶ Patient him self
 - ▶ Consent by proxy
 - Parents
 - Legal guardian
 - ▶ Courts
- 

Consent by next of kin/guardian

consent for treatment must be sought from a person who has the lawful authority to give such consent.

This may be a parent, family member or guardian

ideally appointed by the patient when competent

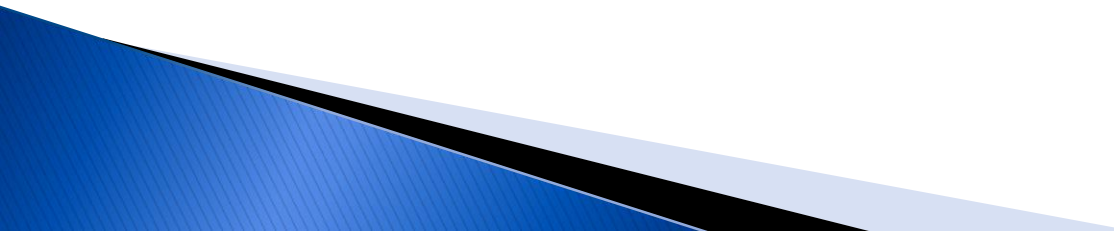
Consent by next of kin/guardian

Instances

Incompetent patients (minors, those suffering from mental disorders or impairment, incapable due to intoxication)

In school children consent 'in Loco Parentis' is obtained (teacher, principle) and the doctor acts in the best interest of the patients

Ethical dilemmas in consent

- ▶ 5-year-old girl was left on the road by her mother and brought to the hospital for medico legal examination.
 - ▶ How do you proceed with the consent?
 - ▶ If no parent or guardian obtain court order
- 

Consent of spouse

Permanent sterilizations of either sex, termination of pregnancy etc, the consent of the spouse is obtained to preserve family harmony even though it is not legally required

Mature minor

- ▶ 17-year-old girl requests contraceptives from a doctor without knowledge of the parents.
- ▶ Is this girl in a position to give valid consent for treatment ?

Mature minor



If doctor thinks that the child is mature enough to understand the procedure and consequences doctor can consider the child as a “mature minor”

Consent in mature minors

Children below 18 yrs are not **legally** capable of giving consent

Such a person **may be mature** enough and capable to give consent before reaching the age of 18 years.

Such minors are called “Gillick Competent” referred to as 'mature minors' who can give valid consent

Consent in minors

Parental consent

Parents have to give consent

Child has to assent

Consent in minors

Refusal of treatment

Parents/guardian may refuse to give consent for child

Eg; Jehovah's Witnesses' may refuse a blood transfusion

In medical emergency doctor can take decision in good faith of the child/ court order

WHO guidelines– Medical emergency

21-year-old boy who was semiconscious was admitted to the ward with severe bleeding following an road traffic accident. Parents refused blood transfusions due to their religious believes.

WHO guidelines– Medical emergency

Consent is a pre-requisite for any form of medical intervention

Patient has a right to refuse treatment

Patient has a right to halt treatment

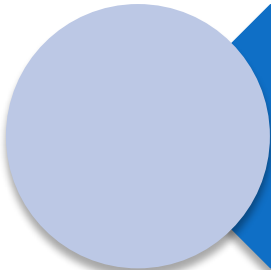
WHO guidelines– Medical emergency

When a patient is unable to express his/her will, the consent for the treatment is to be presumed, unless patient has obviously refused before. Therefore doctor can proceed with the treatment to save the life of the patient.

Medical Examination, Investigation and Treatment without consent



Court order



In emergency situations
which are life saving



Unconscious patients



Medical Examination, Investigation and Treatment without consent

Food handlers and dairymen when requested by Public Health Authorities

Psychiatric examinations under the Mental Health Act

Medico legal examination of those to be admitted to a prison

Those in Quarantine camps

Refusal of consent

'competent patient' (conscious and rational) has an absolute right to refuse treatment even if this meant his or her death.

This is the commitments of the Law to the principle of 'respect for patient autonomy.'

Eg :Jehovah's Witness person refused a blood transfusion after being injured in a car accident.

Terminally ill refuse treatment

Withholding information

In certain cases doctor withholds certain information about the illness or the nature of the treatment or complications in the best interest of the patient.

Balance between risk vs benefit of divulging information

Eg: psychological damage

Ethical dilemmas



Mature minor refusing treatment

In medical emergency parents refusing treatment

Parents abundant the child and medical care is needed – “care of a fit person”

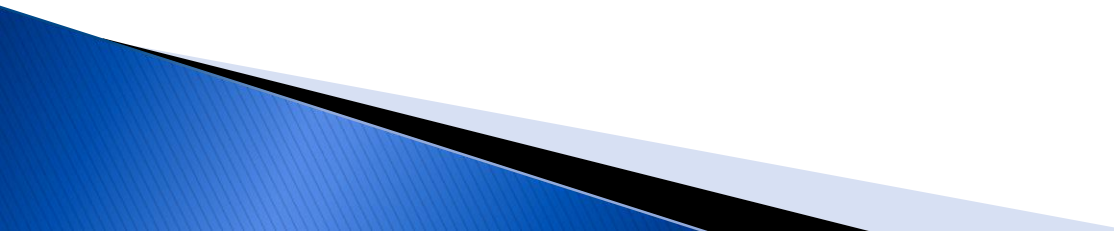
Ethical dilemmas



There may not be necessarily one right answer in medical ethics.

There may be two right answers or more depending on the people involved and the circumstances.

Summary

- ▶ Consent –define
 - ▶ Types of consent and examples
 - ▶ How to obtain consent in medical practice
 - ▶ How to handle Ethical dilemmas related to consent
- 

Thank you

