

Informed Consent

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INFORMED CONSENT

A fundamental requirement of both ethics and the law is that medical treatment cannot be given to competent patients without their "informed consent." This represents a rejection of more traditional authoritarian or paternalistic accounts of the physician/patient relationship in which the physician had decision-making authority in favor of a process of shared decision making between physicians and patients. In this respect informed consent helps shape the nature of nearly all health-care treatment decision making. Informed consent also has special importance in a narrower class of cases in which patients and their physicians are unable to agree on a course of treatment. In these cases a competent patient is given the right to refuse any recommended treatment, even including life-sustaining treatment, no matter how strongly the physician or others believe that the treatment should be undertaken.

There are two principal moral values that are served by and justify the informed-consent requirement in health care. The first is patient well-being—arguably the fundamental goal of all health care. The concept of patient well-being, as opposed to the apparently more objective goals of protecting and promoting patients' health and lives, signals the important respect in which what will best serve a particular patient's well-being is often to a significant degree a subjective determination that depends on the particular aims and values of the patient in question. Increasingly, there are medically acceptable alternative treatments (including the alternative of no treatment), no one of which is best for all patients with a particular medical condition. The patient's participation in decision making is therefore necessary in order to select the treatment that best fits his or her aims and values. The other fundamental moral value that undergirds the informed-consent requirement is individual self-determination or autonomy. Self-determination in this context is the moral right of ordinary persons to make significant decisions about their lives for themselves and according to

their own aims and values. Requiring that health care not be rendered without a competent patient's informed consent respects this right of self-determination. The informed-consent requirement reflects the fundamental moral point that it is the patient and the patient's body that undergo the treatment, and so it should be the patient who is morally entitled to authorize or refuse the treatment.

Three conditions are necessary for ethically valid informed consent—that the patient's decision be informed, voluntary, and competent. The requirement that the decision be informed places a responsibility on the patient's physician to provide the patient with information, in an understandable form, about the patient's condition or diagnosis and the prognosis if no treatment is provided, together with the alternative treatments that would improve that prognosis, along with their risks and benefits. This typically does not require that the physician provide, or that the patient understand, complex medical and scientific information, but rather information about how the various alternatives would likely affect the patient's pursuit of his or her plan of life. Legal requirements regarding how much and which information must be provided vary, but the ethical ideal is to provide the information that the particular patient would reasonably want to know in order to make his or her decision.

The requirement that the consent be voluntary means that treatment must not be rendered against the patient's will, either by force or by coercing the patient's choice. More important, it also forbids physicians from manipulating the patient's choice through selective provision of information, playing on the patient's fears, and other means. Ethically objectionable manipulation, as opposed to appropriate informing and persuasion, aims to produce a different choice from what a competent patient would have made if fully informed and freely choosing.

The third requirement of competence is the most complex. Usually, patients are either clearly competent, with their normal decision-making capacities intact, or

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clearly incompetent, unable to make any decision. In borderline cases in which there is significant, but not total, impairment of the patient's decision-making capacities, the competence determination is often controversial. The competence evaluation should address the process of the patient's decision making in order to determine whether there are significant impairments, limitations, or mistakes in that process that have resulted in a choice different from what the patient would have wanted in the absence of those impairments, limitations, or mistakes. The proper standard of

competence in borderline cases is controversial but increasingly understood to be a variable standard, requiring a higher level of understanding and reasoning when the patient's well-being would be seriously affected by the decision in question and a lower level when there would be only limited impact on the patient's well-being. While treatment refusal may reasonably trigger an evaluation of the patient's competence, it should not serve as any evidence of the patient's incompetence—that evidence must come from impairments or limitations that cannot be remedied in the process of the patient's reasoning. When the requirements for ethically valid informed consent (that is, informed, voluntary, and competent) are met, the patient's choice should be reasonably in accord with his or her well-being, and his or her self-determination will have been respected.

When the patient has been determined to be incompetent to make his or her own treatment choices, a surrogate or proxy, typically a close family member, should substitute for the patient in the decision-making and consent process. The patient's informed consent is also not required in emergency conditions, when taking time to obtain consent would involve serious risks to the patient's well-being, or when the patient has waived his or her right to give consent and has authorized another to make the treatment decision.

See also Applied Ethics ; Bioethics ; Biomedical Ethics; Euthanasia ; Medical Ethics .

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Highlighted Passages:

Text: *Three conditions are necessary for ethically valid informed consent—that the patient's decision be informed, voluntary, and competent.*

Notes: 3 conditions are necessary for competence of the patient to consent--highlights in yellow explain these 3 conditions

Text: *A fundamental requirement of both ethics and the law is that medical treatment cannot be given to competent patients without their "informed consent."*

Notes: Patients need to give their consent for medical treatment

Text: *There are two principal moral values that are served by and justify the informed-consent requirement in health care. The first is patient well-being—arguably the fundamental goal of all health care.*

Notes: 2 reasons for informed consent--this is the first

Text: *The other fundamental moral value that undergirds the informed-consent requirement is individual self-determination or autonomy. Self-determination in this context is the moral right of ordinary persons to make significant decisions about their lives for themselves and according to their own aims and values. Requiring that health care not be rendered without a competent patient's informed consent respects this right of self-determination.*

Notes: this is the 2nd reason for informed consent

Text: *information about how the various alternatives would likely affect the patient's pursuit of his or her plan of life.*

Notes: Physician must inform patient of how treatment will affect patient's life

Text: *The requirement that the consent be voluntary means that treatment must not be rendered against the patient's will, either by force or by coercing the patient's choice.*

Notes: treatment must not be given against a person's will

Text: *The third requirement of competence is the most complex. Usually, patients are either clearly competent, with their normal decision-making capacities intact, or Page 680 | Top of Article clearly incompetent, unable to make any decision. In borderline cases in which there is significant, but not total, impairment of the patient's decision-making capacities, the competence determination is often controversial. The competence evaluation should address the process of the patient's decision making in order to determine whether there are significant impairments, limitations, or mistakes*

in that process that have resulted in a choice different from what the patient would have wanted in the absence of those impairments, limitations, or mistakes.

Notes: 3rd area of competence deals with the times when a patient is partially competent and a decision must be made with regard to what the patient might have wanted to do if they were fully competent. Competent means the patient can fully understand treatment options and can make a rational decision.

Text: *When the patient has been determined to be incompetent to make his or her own treatment choices, a surrogate or proxy, typically a close family member, should substitute for the patient in the decision-making and consent process. The patient's informed consent is also not required in emergency conditions, when taking time to obtain consent would involve serious risks to the patient's well-being, or when the patient has waived his or her right to give consent and has authorized another to make the treatment decision.*

Notes: Patients can designate someone to make decisions for them if they become unable to do so.