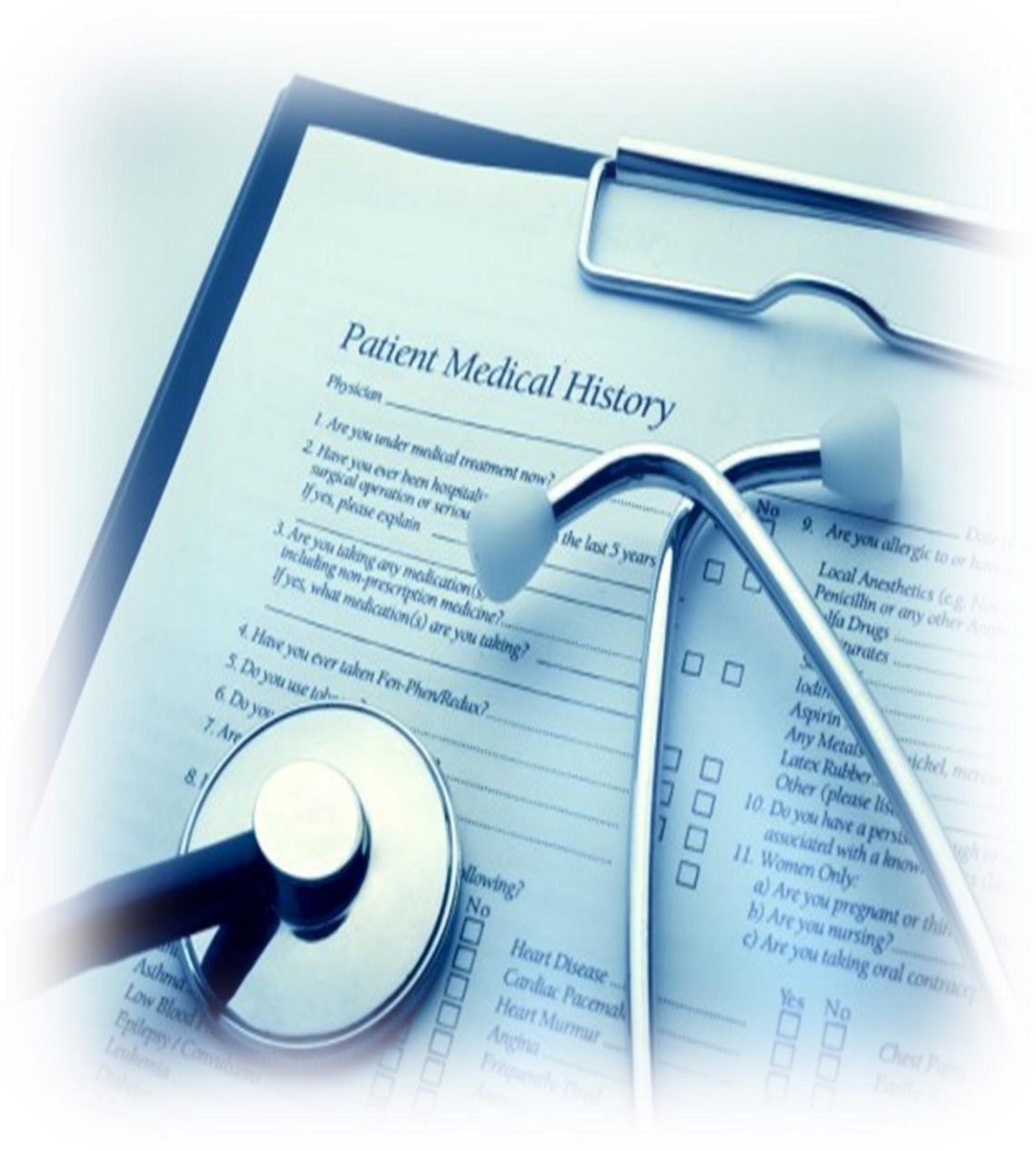
The consent in health care



International Institute of Health Sciences

Assignment

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Defining Consent

Consent to treatment is the principle that a person must give their permission before they receive any type of medical treatment.

It's in law, voluntary agreement with an action based on knowledge of what the action involves and its likely consequences proposed by another.

the patient should be previously informed of the nature, risks and benefits of the proposed procedure and given opportunity to seek further information from the clinician or another source in order to grant permission to the procedure freely and without duress or persuasion;

For consent to be valid, it must be voluntary and informed, and the person consenting must have the capacity to make the decision. These terms are explained below.

Voluntary: the decision to consent or not consent to treatment must be made alone, and must not be due to pressure by medical staff, friends or family.

Informed: the person must be given full information about what the treatment involves, including the benefits and risks, whether there are reasonable alternative treatments, and what will happen if treatment does not go ahead. Healthcare professionals should not withhold information just because it may upset or unnerve the person (see below).

Capacity: the person must be capable of giving consent, which means they understand the information given to them and they can use it to make an informed decision. Consent is an act of reason; the person giving consent must be of sufficient mental capacity and be in possession of all essential information in order to give valid consent. A person who is an infant, is mentally incompetent, or is under the influence of drugs is incapable of giving consent. Consent must also be free of coercion or fraud.

If the person has enough capacity and makes a voluntary and informed decision to refuse a particular treatment, their decision must be respected. This is still true even if their decision would result in their death, or the death of their unborn child.

Age of consent

(in medical jurisprudence) the age at which an individual is legally free to act as an adult, without parental permission for activities such as marrying, having sexual intercourse, or giving permission for medical treatment or surgery. The specific age of consent varies from 13 to 21, according to local laws. (I.e. 18 years of age in UK, 21 years in other countries, e.g. USA).

How to give Consent

Consent should be given to the healthcare professional directly responsible for the person's current treatment. For an ex: such as the nurse arranging a blood test, the GP prescribing new medication or the surgeon planning an operation.

It can be given:

- verbally
- non-verbally, for example, raising a hand to indicate they are happy for a nurse to take a blood sample
- in writing, by signing a consent form

If someone is going to have major medical intervention, such as an operation, their consent should be obtained well in advance so they have plenty of time to study any information about the procedure and ask questions.

There are two main ways of giving consent

Verbally informed consent	**Written informed consent**
The patient is informed verbally to obtain the consent in a situation where written information cannot be obtained	In nonemergency situations, written informed consent is generally required before many medical procedures such as surgery, including biopsies, endoscopy, and radiographic procedures involving catheterization.
Verbal consent is obtained only to perform minor medical treatment such as checking pressure, pulls, temperature etc**.**	The physician must explain to the patient the diagnosis, the nature of the procedure, including the risks involved and the chances of success, and the alternative methods of treatment that are available

Written consent

Valid, written informed consent must be completed and incorporated in the patient's clinical record for:

- surgical, medical, radiology, oncology and endoscopy treatments/procedures requiring; general, regional or local anesthesia or intravenous sedation complications
- administration of a blood transfusion or the administration of blood products
- sterilization of a minor and provision of electroconvulsive therapy (special circumstances apply)
- Administration of medications with known high risk complications or new or unusual medications.
- Participation in clinical trials and medical research.

Verbal consent

Verbal consent is where a patient states their consent to a procedure verbally but does not complete a written consent form.

Verbal consent is adequate for procedures or treatments such as,

- suture of minor lacerations
- lumbar puncture
- insertion of chest drains, and
- Sedation (eg-: for a child needing suturing).

Verbal consent must be documented in the patient record

Implied consent

Implied consent refers to when a patient passively cooperates in a process (such as taking medication or giving blood) without discussion or formal consent.

The principles of good communication apply in these circumstances and health professionals need to provide the patient with enough information to understand the procedure and why it is being done.

Implied consent does not need to be documented in the clinical record.

Factors impacting on the ability to make a decision..

Several factors may impact on the ability of a patient to make a decision.

This may include but not be limited to:

- drugs or alcohol
- dementia
- intellectual disability
- progressive neurological disease
- delirium
- communication disability
- mental illness or dysfunction, especially depression, hypomania and phobic states
- The effects of medication (legal or illegal)
- by pain
- emotional shock
- fatigue, and
- Panic and fear.

The ethical and legal framework of Informed Consent..

The principle of consent is an important part of medical ethics and the international human rights law.

Informed consent is bound by ethical and legal frameworks, and the processes for obtaining it must be independently scrutinized and approved. Consent of a patient or other recipient of services based on the principles of autonomy and privacy; this has become the requirement at the center of morally valid decision making in health care and research

The key ethical principle s of informed consent in healthcare is the belief that everyone should be treated with respect … simultaneously the following should be taken in to consideration;

- ethnicity
- gender
- disability
- religious beliefs
- culture
- language
- level of understanding

Rights of a patient with regards to informed consent..

- Getting to know the accurate and proper information
- Freedom to choose/ select the best treatment/medical providers
- To get the respectful care
- To take part in decision making about treatments.
- Maintaining the confidentiality
- Right to complain/appeal
- Right to easy access to obtain the necessary facilities when required

Seven criteria's that define informed Consent..

(1) Competence to understand and to decide

(2) Voluntary decision making

(3) Disclosure of material information

(4) Recommendation of a plan

(5) Comprehension of terms (3) and (4)

(6) Decision in favor of a plan

(7) Authorization of the plan

A person gives informed consent only if all of these criteria are met. If all of the criteria are met except that the person rejects the plan, that person makes an informed refusal.

There are several different standards of decision making capacity. Generally you should assess the patient's ability to:

- Understand his or her situation
- Understand the risks associated with the decision at hand
- Communicate a decision based on that understanding

When this is unclear, a psychiatric consultation can be helpful. Of course, just because a patient refuses a treatment does not in itself mean the patient is incompetent.

Who can make health care decisions for an adult who is unable to make their own decision??

The Act sets out a ranked list of decision-makers,

- **A court-appointed committee of person:**

Under the Patients Property Act, the court may have appointed a committee for an adult who is incapable of making health care decisions.

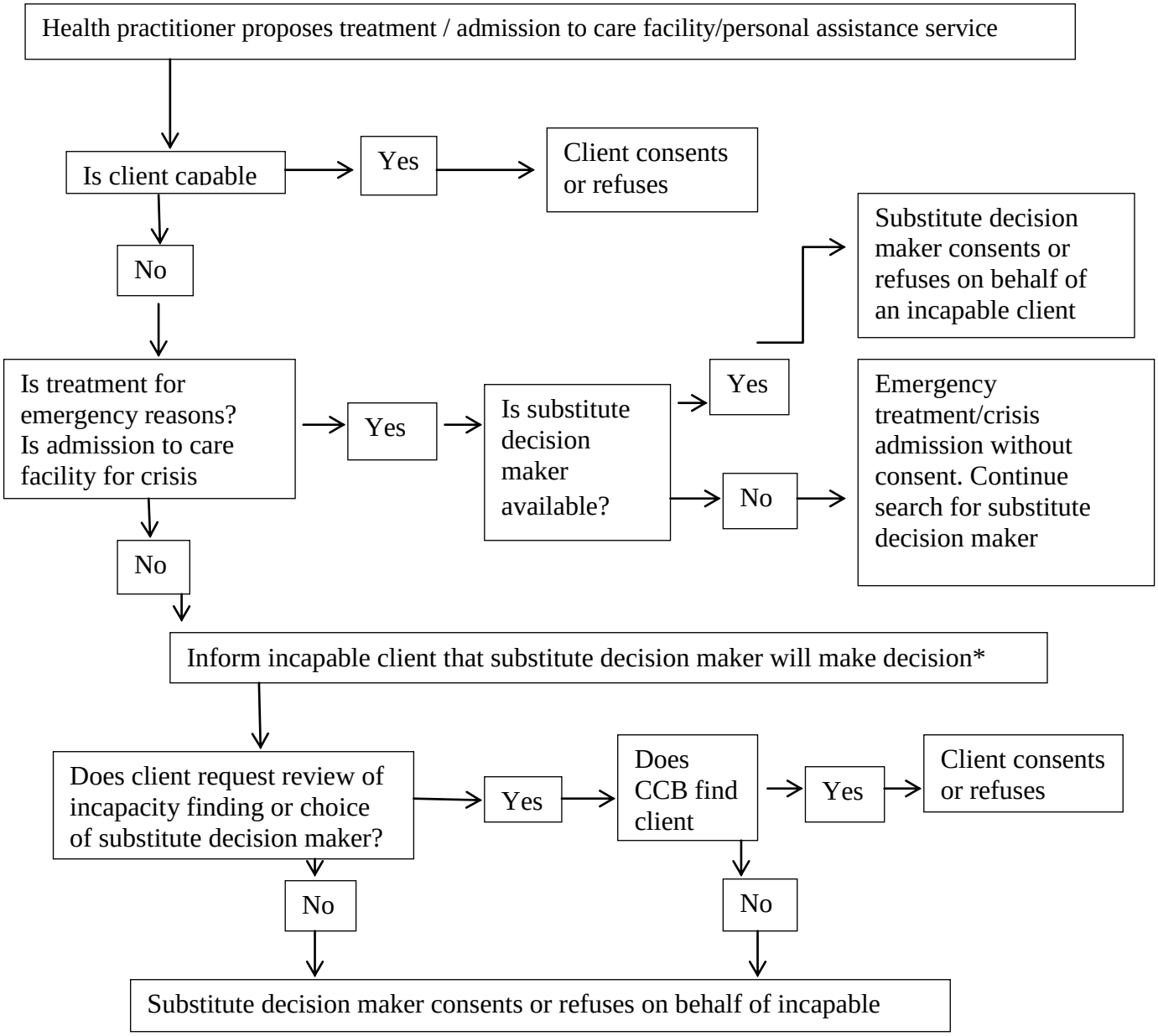
- **A representative:**

  An adult may, when able to do so, have planned for their future by making a Representation Agreement authorizing a representative to make health care decisions on their behalf if they were unable to make their own decisions. If there is no committee of person, a representative may be able to make the health care decision.

- **A temporary substitute decision maker:**

  If there is no representative or court-appointed committee of person, a health care provider must choose the nearest relative, namely, the adult's spouse, adult child, parent, sibling or other relative who qualifies to make a health care decision.

Decision Tree for obtaining Consent..



Withholding information..

The most important goal of informed consent is that the patient has an opportunity to be an informed participant in his health care decisions. To consent to a treatment or procedure, the person needs to be fully informed about the treatment and understand why it is considered necessary.

Healthcare professionals should not withhold information just because it may upset or unnerve the person. Even if the person specifically requests not to be told about the extent or likely outcome of their condition, the healthcare professional has a moral and legal responsibility to provide them with at least:

- a basic overview of their condition
- the likely outcome of their condition
- their treatment options

Complete informed consent includes a discussion of the following elements:

- the nature of the decision/procedure
- reasonable alternatives to the proposed intervention
- the relevant risks, benefits, and uncertainties related to each alternative
- assessment of patient understanding
- the acceptance of the intervention by the patient

Involving the Court of Protection..

There are some circumstances where a decision should always be referred to the Court of Protection if the person cannot give their consent. Situations that should always be referred to the courts include:

- sterilization for contraceptive purposes
- donation of regenerative tissue, such as bone marrow
- Withdrawal of nutrition and hydration from a person who is in a persistent vegetative state
- where there is serious concern about the person's capacity or best interests

When Consent is not necessary..

There are a few exceptions when treatment can go ahead without consent as listed below;

Mental health condition

One main exception is if a person does not have the mental capacity (the ability to understand and use information) to make a decision about their treatment. In this case, the healthcare professionals can go ahead and give treatment if they believe it is in the person's best interests.

Additional procedures

There may be some circumstances when, during an operation, it becomes obvious that the patient would benefit from an additional procedure that was not included in their original consent.

For example, they may be having abdominal surgery when the surgeon notices that their appendix is infected, dangerously close to bursting and needs to be removed.

If it's felt that it would be too dangerous to delay the additional procedure and wake the person up to get their consent, the additional procedure can go ahead if it is considered to be in the patient's best interest. However, extra procedures cannot be done just because it would be convenient for the healthcare professionals. There has to be a clear medical reason why it would be unsafe to wait to obtain the patient's consent.

Emergency treatment

If a person requires emergency treatment to save their life, and they are unable to give consent as a result of being physically or mentally incapacitated (for example, they are unconscious), treatment will be carried out. Once they have recovered, the reasons why treatment was necessary will be fully explained.

Conclusion…

The Health Care Consent Act and the Substitute Decisions Act are complex pieces of legislation. All Healthcare professionals are strongly encouraged to take the time to develop a working Knowledge of this legislation prior to being confronted with complex consent issues in their practice.

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