EDITORIAL

ISSUES INVOLVED IN PRE-OPERATIVE CONSENT

Surgery today has become extremely complex to the extent that the oath we took "To do no harm" needs to be re-enforced in practically everything we do in the management of patients. It is therefore necessary and mandatory to document the process of informed consent which is a freely shared decision between the attending doctor and the patient, arrived at voluntarily and without coercion(1-3). The prerequisite and requirements which must precede the signing of this legal document are many and have been necessitated by ethical, social and medico legal dimensions cognisant of the patient's legal rights and his right to information and the surgeon's duty not only to do no harm but to carry out the surgical procedure responsibly and competently in order to achieve the expected and promised outcome(1,3,4).

Many questions arise regarding the issues involved in the pre-operative consent. First and foremost there must be a crystal clear indication for the surgical procedure which can only be arrived at after thorough medical history, medical examination and thorough investigations using all the available investigative techniques(5-7). The surgeon must make sure that the patient understands the nature of the disease, the planned surgical intervention including the risks and benefits and any other implications of the surgical procedure. This must be done in a language the patient understands, using interpreters if necessary, and all reasonably foreseeable consequences of the decision to carry out the surgery as well as decision not to carry out surgery must be made clear to the patient. The patient must also be made aware of any available alternatives to the operation and the reasoning why the operation is better than the alternative(4,5). It is the duty of the surgeon/consultant who is planning to carry out the operation to ensure that the process of obtaining informed consent from the patient is carried out by him or somebody of his level of training. This should be the gold standard although in many teaching institutions it is very often necessary to indicate that the procedure might be carried out by an alternative surgeon. The language used in the pre-operative consent form should be simplified and easy for an ordinary person to understand; even when dealing with the educated people explanations of the details of the operation are always mandatory.

The issues of litigation for medical malpractice have become enormous and it is today unthinkable for anybody who carries out surgical procedures to work without insurance cover for malpractice. To strengthen the understanding of the issues related to informed pre-operative consent, it is necessary in this day and age for all medical schools to include in their curricula forensic medicine and medical jurisprudence(5-7).

For consent to be informed, free and voluntary as well as valid one has to consider cultural, social, economic characteristics and literacy level of the person giving that consent. Additional consent should be obtained for any unexpected procedures that are in the interest of the patient but not mentioned in the standard hospital consent form. Special considerations must be given for certain types of patients who may not be able to legally fulfill the above mentioned criteria(1,3,4,6):

- Consent for emergency treatment as a life saving procedure for an unconscious patient or a patient who due to severe physical distress may not be able to communicate could be obtained from next of kin, legal guardian or an independent senior doctor.
- Consent for those under 18 years of age has to be obtained from parents or legal guardians as required by the law though the patient in most of these cases should also be involved in the discussions regarding the planned surgical procedure and in this situation the doctor should carefully counsel both the under age patient and the parents.
- Consent for the elderly and other dependent patients who traditionally might be under the care of their sons and daughters should nevertheless be obtained from the patients themselves unless he or she is mentally incapacitated.
- Although the law makes no legal requirement to inform or seek consent from husband for the wife to have family planning services and vice-versa, this is an issue which could bring conflict and legal proceedings later on so it is wise for the doctor to counsel couples together.
- In case of to give consent because of religious and other reasons, the patient should be asked to sign a disclaimer exonerating the doctor thus making the refusal legally valid in case of future litigation. Public health and legal consideration should override individual religion and other beliefs. In case of persons under 18 years of age where the parents have refused to sign consent on religious reasons, a resident magistrate should be requested to sign a consent in which case the state temporarily acts as a guardian for the under-age patient in need of surgery.
- For the mentally incompetent consent should be provided by the next of kin or the legal guardian. However the doctor should scrutinise each case in detail and if necessary involve other members of the family.

All issues involved in the pre-operative consent for surgery must be treated with utmost confidentiality which means keeping all information received from the patient confidential between the doctor and the patient only or within members of the group of medical and dental practice. Doctors must therefore understand and acknowledge the special position in which they are when they receive such information and always be guided by ethical considerations.

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