Consent in General Practice

Jas Harrar
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Learning outcomes

- Understand what we mean by the term consent
- Acquire a greater understanding of the issues and policies surrounding patient consent in general practice
- Appreciate the legal and statutory requirements regarding consent including the requirements of the Care Quality Commission
Definition of Consent

Permission for something to happen or agreement to do something

Oxford dictionary
1. Individually consider each of the 15 statements
2. Circle your answer, “true” or “false” to each statement
3. You have 5 minutes
Statement 1

It is a legal requirement to obtain a signed consent form prior to any surgical procedure

Answer:  FALSE
Answer 1

1. Not a legal requirement
2. Ensure patient understands
3. They are differing forms of consent implied, verbal and written
4. Obtain written consent if:
   - The treatment is complex or involves significant risks
   - There may be significant consequences for the patient’s employment, or social or personal life
   - The treatment is part of a research programme
Statement 2

A patient’s signature on a consent form automatically means they have given valid consent.

Answer: FALSE
Answer 2

- For consent to be valid:
  1. The patient must have the capacity to make the decision in hand
  2. The patient must have sufficient knowledge and information on which to base a decision
     - Aim of procedure
     - Risks and benefits
     - Alternatives
     - What the procedure entails
  3. There should be no coercion
If a patient is provided with an information leaflet about the procedure there is no need for you to provide further explanation

Answer: FALSE
Information leaflets are a valuable adjunct to counselling prior to treatment but must never be seen as a replacement for adequate discussion between doctor and patient.

It is best practice to attach any patient information leaflets into the patients record.

GMC states: You may need to support your discussions with patients by using written material, or visual or other aids. If you do, you must make sure the material is accurate and up to date.

GMC Consent: patients and doctors making decisions together 2008
Patient Decision Aid

These 65 people will not have a stroke whether or not they take warfarin.

These 21 people will be saved from having a stroke by taking warfarin.

These 14 people will have a stroke, even though they take warfarin.

National Prescribing Centre 2007
Statement 4

A patient has a right to refuse treatment or withdraw consent to treatment during a procedure

Answer: TRUE
Answer 4

- It’s the patient’s choice
- If after the discussion of treatment options, a patient refuses treatment, the discussion and decision should be clearly documented in the notes
- The patient should be informed that they can change their mind
A patient with capacity is entitled to withdraw consent at any time, including during the procedure.

If stopping the procedure at that point would genuinely pose a risk to the patient, the practitioner may be entitled to continue until this risk no longer applies.

A consent withdrawal should be recorded in the medical records.
Patients can legally appoint someone to take over decisions about their care should a time come where they are unable to decide for themselves.

Answer: TRUE
The Mental Capacity Act 2005

A Lasting Power of Attorney (LPA) allows people to nominate someone they trust to make decisions on their behalf, either:

- In case they later lose the capacity to do so themselves
- In preparation for a time when they may not be able to make decisions themselves

If there is no LPA, doctors must act in the best interest of the patient
A child under 16 years cannot consent to medical or surgical treatment

Answer: FALSE
Answer 6

- Children can consent to medical interventions if they are Gillick competent i.e. they understand the:
  - Nature of the treatment proposed
  - Risks
  - Benefits
  - Alternatives

- A competent child is legally entitled to withhold consent to treatment, but:
  - Can be overridden by those with parental responsibility
  - If doctor believes that the withholding of consent may be detrimental to the patient’s wellbeing, legal advice may be required
**UNDER 18?**

**KNOW UR RIGHTS AT THE DOCTORS**

- What you say is confidential
- Doctors shud ask b4 sharing information about you
- U can c ur medical records
- Doctors have the questions
- U can decide 2 c the doctor on ur own
- U can complain
- U’ve got the answers
- Doctors shud talk 2 u, not just ur parent or carer
- This should be taken seriously
- Adults = 100% respect
- Children & Young People = 100% respect
- General Medical Council
- The GMC provides doctors with guidance on how 2 treat u
- Doctors shud treat u with the same respect as adults

This poster was designed by young people from England, Wales, Scotland and Northern Ireland. The National Children’s Bureau led its creation and design with the help of Children in Northern Ireland, Children in Scotland and Children in Wales.
Statement 7

If a patient tells you, in confidence, that they are HIV positive, but does not want you to document this in their medical records, you can comply with the request

Answer: FALSE
Answer 7

- You must document this information in the medical records and inform the patient that you are obliged to do so.
- You should document that the patient did not wish this information to be disclosed without express permission.
- Record in a ‘private’ area.
Statement 8

A father can only give consent to treatment for his child if he is married to the mother

Answer: **FALSE**
Answer 8

- For children whose births were registered from:
  - 1 December 2003 in **England** and **Wales** parental responsibility rests with both parents, provided they are named on the birth certificate, regardless of whether they are married or not
  - Prior to these dates, the father would only automatically have parental responsibility **if he was married to the mother**
  - He could acquire parental responsibility through a Parental Responsibility Agreement with the mother
    - or a Parental Responsibility Order through the courts
  - A married step parent or civil partner may also obtain parental responsibility in this way
Answer 8

- For children whose births were registered from:
  - 15 April 2002 in **Northern Ireland** parental responsibility rests with both parents, provided they are named on the birth certificate, regardless of whether they are married or not
  - Prior to these dates, the father would only automatically have parental responsibility **if he was married to the mother**
  - He could acquire parental responsibility through a Parental Responsibility Agreement with the mother
    - or a Parental Responsibility Order through the courts
  - A married step parent or civil partner may also obtain parental responsibility in this way
For children whose births were registered from:

- 4 May 2006 in **Scotland** parental responsibility rests with both parents, provided they are named on the birth certificate, regardless of whether they are married or not
- Prior to these dates, the father would only automatically have parental responsibility **if he was married to the mother**
- He could acquire parental responsibility through a Parental Responsibility Agreement with the mother
  - or a Parental Responsibility Order through the courts
- A married step parent or civil partner may also obtain parental responsibility in this way
Statement 9

A healthcare professional must comply with a patient’s valid Advance Decision to Refuse Treatment (ADRT)

Answer: TRUE
A valid advance decision should be seen as having the same force as a contemporaneous decision.

It will only apply in circumstances when the patient no longer has capacity.

A valid advance decision is legally binding.

An advance decision can only be made by a person with capacity aged 18 or over and it relates to the refusal of specific treatments in specific circumstances.
Answer 9 cont.

An advance decision may be invalid in the following circumstances:

- The decision was withdrawn when the patient had capacity
- After the advance decision was made, an LPA was appointed and given authority to make treatment decisions that were covered by the advance decision
- The patient has taken action that contradicts the advance decision i.e. they may have changed their mind
- The circumstances are not specific to those set out in the advance decision
You do not need the patient’s consent for a student to be present at a consultation if they are only observing.

Answer: FALSE
Prior to the consultation explain to the patient:

- that an observer would like to sit in on the consultation
- who the observer is
- the purpose

Take care if allowing work experience or sixth form students to work at the practice
Statement 11

For blood screening you do not need to inform the patient of all the specific tests being done

Answer: FALSE
Answer 11

- Inform the patient of all tests being undertaken
- Obtain consent for all tests
- Certain tests require specific consent and counseling
Statement 12

As a clinician I have the right to refuse a patient's request to film or record our consultation.

Answer: FALSE
Answer 12

- You can request that it isn’t filmed or recorded
- It is inadvisable to refuse to continue with the consultation if the patient insists on recording it though
- Ask for a copy to go in their medical records
- Ensure you obtain specific consent if you wish to film or photograph any part of your patient or their consultation.
Your practice is planning to use text messaging to remind patients of their forthcoming appointments: you need to obtain specific consent to contact patients via text.

Answer: TRUE
Answer 13

- Do not assume consent
- Only send text messages if consent recorded
- Document text message in patient’s record

MPS factsheet May 2013 Communicating with patients by text
Statement 14

If a patient has provided written consent for their medical information to be given to a solicitor, it is acceptable to send a photocopy of all the patient’s medical record

Answer: FALSE
Any release of a record must only be with the consent of the patient

The solicitor must demonstrate consent has been given; this is not the responsibility of the GP the onus is on the solicitor

Remove any reference to third party information

If the request is for the complete record, check with the patient that they understand what this means
Statement 15

Only intimate examinations require specific consent

Answer: FALSE
Consent is needed for all clinical examinations, investigations and treatment
Answers
Compliance with CQC Fundamental standard Regulation 11

- Consent policy
- Train staff
- Document evidence
- Provide sufficient information to patients to enable valid consent to be obtained – leaflets and patient decision aids
- Ensure documentation of consent ie READ codes, consent form, free text etc
- Ensure you obtain consent for children – identifying parental responsibility
- Identify patients who are unable to give consent
Summary

- Consent is needed for all clinical examinations, investigations and treatment
- Decision-making should be a partnership between the clinician and patient
- Signed consent forms alone are not proof that consent was valid
- A significant proportion of clinical negligence claims include allegations of failure to obtain valid consent
- Consent rarely forms a whole claim, but it is often a significant part
Chaperoning in General Practice

Jas Harrar
2016
Overview of today’s session

1. Introduction
2. Video scenario part 1 – why and when
3. Video scenario part 2 – who and how
4. Video scenario part 3 – what next following the consultation
5. Summary
Learning objectives

- Identify clinical situations that require a chaperone.
- Appreciate the implications for healthcare professionals when undertaking intimate clinical examinations.
- Understand the role of a chaperone and training requirements.
- Identify risk management strategies to minimise potential risks, regarding intimate examinations.
- Understand compliance requirements regarding CQC Outcome 1, Regulation 17.
General Practices will need

- A license to operate
- The overall registration process began in July 2012
- Register by April 2013
- Comply with regulations
  - 16 essential standards
Essential standards of quality and safety

- Personalised care, treatment and support
- Involvement and information
- Safeguarding and safety
- Suitability of staff
- Quality of management
Respecting and involving service users

- People have their privacy, dignity and independence respected
What is a chaperone?

Dictionary definitions:

*a person, especially an older married woman who accompanies a young unmarried woman in public*  
*Oxford dictionaries online*

*a female nurse who is in the same room when a female patient is examined by a male doctor, or a police officer who protects a person injured by a criminal when they are in public*  
*Cambridge dictionaries online*

GMC definition: *an impartial observer*  
*Maintaining boundaries - Guidance for doctors 2006*
1. Female patient complained that she had undergone an inappropriate vaginal exam

2. Male patient very upset following a rectal examination for haemorrhoids, by a female doctor

3. Out-of-hours setting - female patient understood she was to have a rectal exam, but alleged that a vaginal examination took place
Top key risks in UK general practice 2013

- 75.6% Chaperones
  - 40% no training of staff
  - 39% protocol issues
  - 21% inconsistent use of chaperone
  - 17% not always recorded
- 1.3% Dignity & respect

MPS analysis of CRSAs undertaken during 2013
Overview of the session

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Video scenario part 1

Why and when?

Hannah visits Dr Middleton
Considering the scenario....

1. Would you offer a chaperone at this stage?

2. What is the purpose of having a chaperone?

3. What are your options if the patient declines a chaperone or there isn’t a chaperone available?
What are the benefits of using a chaperone?

- Protects a clinician
- Acknowledges a patient’s vulnerability
- Provides emotional comfort and reassurance
- Assists in the examination
- Assists with undressing patients
Ayling inquiry 2004, recommendations:

- Chaperone policy
  - communication with patients
- Identified lead
  - implementing policy
  - training
  - *the use of untrained administrative staff as chaperones, is not acceptable*
- Not family and friends
- Patient has right to decline a chaperone

DH Committee of Inquiry 2004
When to use a chaperone

- When examining breasts, genitalia and rectum
- Consider also for any examination where it is necessary to touch or be close to the patient eg
  - palpitating the apex beat
  - conducting eye examinations in dimmed lighting
In addition - consider a chaperone if a patient:

- Is confused/disorientated
- Has barriers to communication
- Is a vulnerable adult
- Is intoxicated with alcohol or has taken drugs or substances known to have an hallucinogenic effect
- Has a history of abuse, or where abuse is suspected
And in the case of a child who:

- Is undergoing examination for child protection procedures
- Requires examination of the genitalia
- Pubertal or post-pubertal teenagers
- Is not accompanied by an individual with parental responsibility
What are the potential risks to not using a chaperone?
General Medical Council 2006:

- When you carry out an intimate examination, you should offer the patient the option of having an impartial observer (a ‘chaperone’) present wherever possible.

- This applies whether or not you are the same gender as the patient.
GMC guidance

Professional responsibilities of a nurse

Nursing and Midwifery Council 2008:

- **People in the care of nurses and midwives have the right to request a chaperone when undergoing any procedure or examination**
- **Nurses and midwives must ensure they are familiar with local policies regarding chaperoning**
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Video scenario part 2

Who and how?

The clinical examination
Considering the scenario.....

1. Who should act as the chaperone?

2. Does the patient need to consent to having a chaperone?

3. Where should the chaperone stand?

4. What training should potential chaperones receive?
Training for chaperones

- What is a chaperone
- What is an intimate examination
  - i.e. what the examination entails
- Why chaperones need to be present
- Role and responsibilities of the chaperone
- The rights of the patient
- Confidentiality
- Policy for raising concern
- Where to stand when acting as a chaperone
During the examination

- Provide:
  - undisturbed warm environment
  - privacy to undress
  - facilities to maintain patient’s dignity
- Don’t leave the patient too long
- Reassure the patient, be courteous
- Discuss relevant details only
  - don’t make personal comments
- Encourage the patient to ask questions
- Continue to explain the assessment
- Be alert to patient distress
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Video scenario part 3

What next?

Following the consultation
Considering the scenario.....

1. What further actions should the doctor take?
Record Keeping

- Document:
  - if chaperone offered
  - if chaperone present
  - if chaperone declined
  - who the chaperone was
- Use Read Codes if available
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Summary

- Develop an agreed practice chaperone policy, ensure that this is reviewed and updated regularly
- Provide written information for patients on the policy
- Ensure non-clinical staff receive appropriate training
- Provide screens or curtains around the examination couches
- Communication – explain the purpose and nature of the examination
- Consent – obtain before proceeding
- Record the use of a chaperone, including the identity
Any Questions?