

Considerations for Obtaining Informed Consent For Research



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Origins of the Requirement for Informed Consent

- ▶ William Beaumont (1833)

 - Perhaps the oldest American document dealing with research

 - Research is needed

 - Voluntary consent is necessary

- ▶ The 1900 Prussian Directive

 - Unequivocal consent required after explanation of the experiment and possible adverse consequences

- ▶ Reich Health Council Regulations (1931)

 - Informed consent necessary

Origins of the Requirement for Informed Consent

- William Beaumont (1833)
 - Perhaps the oldest American document dealing with research
 - Research is needed
 - Competent investigator
 - **Voluntary consent is necessary**
 - Discontinue if causes distress
- The 1900 Prussian Directive
 - Unequivocal consent required after explanation of the experiment and possible adverse consequences
- Reich Health Council Regulations (1931)
 - Informed consent is necessary

Origins of the Requirement for Informed Consent (Cont.)

- ▶ Nuremberg Code of Medical Ethics

 - True informed consent; freely given; prior to experimental procedures

- ▶ Dr. Henry Beecher - NEJM (1966)

 - Insisted that informed consent was essential
 - Criticized the lack of sincerity in implementing the basic concepts of informed consent
 - Was not convinced that informed consent was an effective measure for protection of research subjects (didn't think it was obtainable, realistically)

- ▶ Belmont Report (1979)

 - Respect for Persons (autonomy)

 - Individuals should be treated as autonomous agents
 - Persons with diminished autonomy are entitled to protection
 - Beneficence
 - Justice

Informed Consent

“The doctrine of informed consent is founded on the premise that self-determination ought not to be blind. That is, patients’ interests and well-being are best served when patients understand their medical situation and participate in deciding on treatment or care.”

The President’s Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research, Vol. II, 1982.

Informed Consent

- Informed consent is founded on the legal and ethical principles of **autonomy**, the right to self-determination and non-maleficence (From Belmont Report)
- It is the outcome of a process in which information is shared between the patient/subject and the practitioner. The patient/subject is the ultimate decision-maker in accepting or rejecting proposed medical treatment or research.
- It is the exercise of making informed choices and giving permission for others to act on those choices.

Regulatory Requirements for Informed Consent (Research)

- “... no investigator may involve a human being as a subject in research ... unless the investigator has obtained the legally effective informed consent of the subject or the subject’s legally authorized representative.”
- Basic Elements
 - State that the study involves research
 - Reasonably foreseeable risks
 - Reasonably expected benefits
 - Alternative procedures
 - Confidentiality protections
 - Compensation/treatment for research-related injuries
 - Who to contact for research questions and questions about their rights as research subjects
 - Participation is voluntary

Regulatory Requirements for Informed Consent (Research)

- Additional Elements
 - Pregnancy risks
 - When can their participation be terminated by the PI
 - Additional costs
 - Consequences of early withdrawal/orderly termination
 - Significant findings will be relayed to subjects
 - Approximate number of subjects

Regulatory Requirements for Parental Permission and Assent (Research)

- Subpart D (45 CFR 46, 21 CFR 50)
 - Deals with children as a vulnerable population
 - Requires assent of the child and permission of the parent(s) for all approvable categories of research
 - Assent means a child's affirmative agreement to participate not a failure to object
 - Age, maturity and psychological state must be considered
 - A least one parent must give permission
 - Research with a prospect for benefit needs only one parent's permission
 - Research with no prospect for benefit needs both parents unless one is deceased, unknown, incompetent, or not reasonably available or when one parent has legal custody

Ethical Elements of Informed Consent, Assent and Permission

Disclosure - What would a “reasonable person” would want to know in a similar situation.

Capacity - The ability to understand and appreciate the nature and consequence of health care decisions and to reach an informed decision.

Voluntariness – The decision arrived at is voluntary and not reached because of undue influence.

Comprehension – Thorough understanding of risks and potential benefits.

Permission – Active affirmation to participate.

Factors Affecting the Informed Consent or Assent Process: Research Subjects

- values and priorities
- religious beliefs
- personality and coping style
- gender, age, race
- culture
- education
- desire for information and control
- roles of the spouse, parents, child, guardian
- degree of dependence upon and trust in the patient-professional relationship

Factors Affecting the Informed Consent or Assent Process: Investigators

- Experience/knowledge
- values and priorities
- communication style
- gender, age, race
- culture
- religious beliefs

Communication Process for Informed Consent

Investigators are responsible for providing the potential subject (and/or their legally authorized representative/parent) with a set of facts regarding the interventions being considered.

- The process should facilitate active participation by the subject in the exchange of information, rather than unilateral disclosure.
- Disclosure of information should be provided in a way that facilitates the potential subject's understanding.

Possible Barriers to Obtaining True Informed Consent

- **Subject Vulnerability**
 - Age/maturity
 - Incarceration
 - Restrictions on liberty/autonomy
 - Privacy
 - Psychological status
 - Physical status
 - Terminally ill patients
 - Mental Capacity/Decisional capacity
 - ICU patients
 - Alzheimer's/Other types of dementia
 - Women in active labor?

Possible Barriers to Obtaining True Informed Consent (Cont.)

- Informed consent process problems
- Informed Consent Readability Problems

Some Recent Attention on Informed Consent

- AAMC Meeting on Informed Consent; May 30, 2007
 - Goal to develop strategy on making consent forms as short and readable as possible
- “Creating Informed Consent documents that are Approachable, Readable and Brief” SACHRP Meeting; July 31, 2007
 - Looked at several issues in informed consent
 - Lack of CFR requirements
 - Reading level
 - Length of consent forms

AAMC Meeting

- Experiences in Simplifying Consent Documents
 - COG – Focus on research question, additional information in supplemental materials, create temple of phrases for different age groups (one thought per sentence)
 - “Toolkit” – designed for low literacy audience, omits non-essential information, uses short words and sentences, uses high-lighting, incorporates “teach-back” (question solicitation)
 - Potential Approach – Treat informed consent as a process with 3 parts: 1) Limit document to research question and essential elements with easy language and format; 2) Supplemental information (all they may need or want); 3) Verification/ certification – teach back or testing and certification that process was carried out

AAMC Identified Obstacles

- **Costs of implementing changes**
- **Institutions and IRBs feel isolated and in need of positive guidance and templates from regulatory agencies**
- **Inertia – easiest to repeat what has worked even if deficient**
- **Writing concise, simple consent documents is difficult and writers lack necessary skills and training**
- **No incentive**

SACHRP Meeting

- Lack of CFR requirements
 - White, et. al., Emergency Medicine, 1996
 - Only 9% of consent forms evaluated addressed all the required elements
 - Mean number of discrepancies = 4.7
 - Silverman, et. Al., Critical Care Medicine, 2001
 - Multi-center trial with 16 sites
 - 3 out of 16 ICFs contained all basic elements

SACHRP Meeting (Cont.)

■ Reading Level

- 1980, Morrow (JAMA) – 60 ICFs from cancer trials only slightly less difficult than medical journals
- 1996, Golstein (J Family Practice) – 284 consent forms from 2 universities had average reading level of 12th grade and less than 10% at 10th grade or less
- 2004, Sharp (Am J Clin Oncol) – 107 ICFs, none at 8th grade or below and only 10.5 % at or below 10th grade
- 2003, Paasche-Orlow (NEJM) – 61 medical school websites provided readability standards from 5th – 10th grade; samples exceeded stated standard by ~ 3 grade levels; average was 10.6th grade

SACHRP Meeting (Cont.)

- Length of Consent Forms
 - The longer the form, the less likely it will be read
 - Time constraints
 - Intimidation
 - Credibility issues – Long forms inconsistent with oral consent process
 - Comprehension inversely related to length (long = 35%; short = 67%)
- Results of shortening forms
 - Removed all non-required information, changed format, simplified words
 - Reduced reading level from 12.0 to 8.7
 - Significantly increased comprehension
 - Teach back (testing out) - correct on 10 of 12 questions VS 3 of 12 on longer forms
 - Only 2% did not completely read the form VS 32% for long forms

Ethical Guideline

Respect for Autonomy

- All competent and informed persons have the right to choose or decline research interventions in conformance with their own values and beliefs.
- The “trick” is giving them all the relevant information and having them understand what they have been given.

Questions

- **Waiver of informed consent**
 - **“The IRB may approve a consent procedure which does not include or which alters some or all of the elements on informed consent ...”**
 - **The research involves no more than minimal risk to the subjects**
 - **The waiver or alteration will not adversely affect the rights and welfare of the subjects**
 - **The research could not practicably be carried out without the waiver or alteration**
 - **Whenever appropriate, the subject will be provided with additional pertinent information after participation**

Questions

- **Waiver of documentation of informed consent**
 - “ Except as provided... informed consent shall be documented by the use of a written consent form approved by the IRB and signed by the subject or the subject’s legally authorized representative.”
 - “An IRB may waive the requirement for the investigator to obtain signed consent form for some or all subjects if it finds either:”
 - The only record linking the subject and the research would be the consent document and the principal risk would be potential harm resulting from a breach of confidentiality.
 - The research presents no more than minimal risk of harm to the subjects and involves no procedures for which written consent is normally required outside of the research context

Questions

- Trauma patients
 - Surrogate (LAR) consent if more than minimal risk
 - Waiver of the requirement for minimal risk studies (chart reviews)
- Non-English speaking potential subjects
 - “The information that is given to the subject or the representative shall be in a language understandable to the subject or representative.”
 - Translated consent form
 - Translator for the process