

Topic: Rule confidentiality

The principle of consent is based on the principle of human dignity and human rights

The principle of consent is a practical specification of the principle of autonomy and individual responsibility

If the principle of consent cannot be applied, the provisions of Article 7 ('Persons without the capacity to consent') are applicable

What is the purpose of the principle of consent?

The principle of consent principle aims to achieve several objectives:

- i it asserts the patient's autonomy
- ii it protects his/her status as a human being
- iii it prevents coercion and deception
- iv it encourages the doctor's self-criticism
- v it supports the process of rational decision-making
- vi it educates the public at large

Consent expresses respect for the dignity and rights of each human being

Interrelation between consent and autonomy

- Explanation of the principle
- The article applies to all medical interventions
- What is prior, free and informed consent?
- Consent requires adequate information
- What is express consent?
- Withdrawal of consent

- The patient's right to refuse and right not to know
- Consent of subjects of scientific research.
- Compare the provisions for consent in scientific research with those for medical interventions

Consent by individual, group and community

Exceptional circumstances for the application of the principle of consent

- Emergency situations
- Minors
- Mental patients
- Jehovah's Witnesses
- Euthanasia
- HIV patients

A person's basic rights are established on the recognition of his/her human status, the inviolability of his/her life, and the fact that he/she was born and will always be free. Because human dignity and human rights are to be respected, the person concerned needs to give consent for medical interventions and for participation in scientific research.

Since the autonomy of every person is accepted as an important value, participation in decisions concerning one's own body or health must be recognised as a right.

A decision to treat should be determined by co-operation between the person who treats and the person who is treated, both parties being linked together by mutual trust and reciprocity.

Article 6 of the Declaration states that any medical intervention is only to be carried out with the prior free and informed consent of the person concerned based on adequate information.

The Article also applies to scientific research.

If the provisions of Article 6 cannot be applied (because consent is not possible), Article 7 applies with special provisions for persons not able to consent

The principle of consent has several objectives

The purpose of the informed consent principle is to achieve several objectives. It asserts the patient's autonomy; it protects his/her status as a human being; it prevents coercion and deception; it encourages the doctor's self-criticism; it supports the process of rational decision-making; it educates the public at large.

The principle of consent is also important even if it does not achieve any objective. Article 1 of the Universal Declaration of Human Rights 1948 holds that all human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. Consent therefore expresses respect for the dignity and rights of each human being

Autonomy may be defined as self rule and refers to the right of persons to make authentic choices about what they should do and what shall be done to them.

Autonomous persons can only make decisions and take responsibility for these decisions if they can consent to interventions that affect their lives

The article applies to all medical interventions. Medical intervention includes diagnosis, treatment, prevention, rehabilitation and palliation.

Being informed implies cognition, understanding, willingness, intention, and consideration.

Consenting implies freedom (no coercion). Consent requires adequate information.

The requested information content should concern diagnosis, prognosis, treatment, alternative treatment, risks, benefits, according to relevant circumstances. The information process should specify: by whom; when (in advance); how (oral, writing, expressed); and to whom (patients, relatives, guardians, others).

Consent might be expressed or implied. Express consent exists when a patient agrees in verbal or written forms to undergo a medical procedure. Implied consent maybe concluded or inferred from the surrounding facts and circumstances. A patient has the right to withdraw consent to treatment in any stage unless he or she is not capable of making such a decision. A patient has the right to refuse treatment, unless he or she is not capable of making such a decision. A patient has the right to be treated without being informed if he or she is aware of the implications of such a decision.

Consent of subjects of medical research:

- i The nature of the consent
- ii The adequate information
- iii The withdrawal of consent
- iv The role of domestic and international human rights law Consent by the individual and by the community in appropriate cases of research carried out on a group of persons or a community.

Exceptional circumstances

There are some circumstances in which the application of the principle is difficult or even impossible. For difficult circumstances special care needs to be given to the application of the principle, but it still does apply, even if difficult.

Examples of exceptional circumstances:

- i Emergency situations
- ii Minors
- iii Patients who are mentally or emotionally incapable of rational decision making
- iv Jehovah's Witnesses
- v Euthanasia
- vi HIV patients

Conclusions

The concepts of autonomy and responsibility

Autonomy:

i Different levels and notions of autonomy

ii Different theoretical approaches to autonomy Responsibility: its different

aspects and dual nature Mutual correlation of autonomy and responsibility in ethics

Decision making in medicine

Autonomy and patient's right to self-determination in treatment

i Autonomy and paternalism

ii Autonomy as a right and an obligation Patient autonomy should be respected by physicians

- The patient's right to refuse a health care provider's recommendation

Special measures for protecting the rights and interests of socially and mentally disabled patients

- Patient autonomy and responsibilities in health care.
- The range of patient responsibilities Evaluation of patient's abilities to self-motivation and self-control