Informed Consent: Patient-Professional Relationships

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Objectives: At the end of this session, participants should be able to:
1. Describe the purpose of the informed consent process;
2. Describe eight elements necessary by law for a valid informed consent process;
3. Identify ethical values that support the practice of informed consent;
4. Describe the legal exceptions to the informed consent process;
5. Describe the evidence, procedure and professional standard of care that Colorado Courts apply to resolve informed consent cases;
6. Describe the process for proxy decision makers for incapacitated adults in Colorado;
7. Describe a process of informed consent that is sensitive to the patient’s cultural beliefs;
8. Describe informed consent for minors; and
9. Identify ethical issues raised by DNR orders in the OR.

Required Readings:
1) Eight Elements Necessary for Valid Informed Consent - an outline of the material for this session
2) Legal and Ethical Myths About Informed Consent by Alan Meisel, JD, and Mark Kuczewski, Ph.D.
3) Informed Consent in Clinical Care by Yael Schenker, MD, MAS and Alan Meisel, JD
4) ASA Ethical Guidelines for the “Anesthesia Care of Patients with Do-Not-Resuscitate Orders”
5) Colorado Informed Consent Case: Gorab v. Zook with a background sheet provided by Dr. Erin Egan
6) University of Colorado Hospital Assessing Capacity Document
7) Informed Consent Decision for Adult Patients and Minor Patients by Patrick T. O’Rourke, JD

Required Written Assignment
1. Read the required readings.
2. Identify a patient story/case of your own that you have experienced on this rotation that includes a lesson about informed consent.
3. Choose one element of the eight elements in your reading and explain how this element was or was not met in your chosen story/case.
4. Discuss the ethical implications of the process of informed consent in your story/case. (What ethical values were involved? What are the tensions, if any, between/among values?)
5. Discuss the legal implications of the process of informed consent in your story/case. (Did the health care professionals involved put themselves at risk for legal action? Why or why not?)
6. Please number your pages. Double-space the paper. Use a font in a size comparable to this font (Times New Roman, size 12).

Required Discussion
Held the last Thursday of the course, 8:30 a.m. to 11 a.m. Check the course schedule for building and room number.
**Grading Rubric - Components**

1. Selection of an element of informed consent.
2. Identification and Discussion of ethical implications.
3. Identification and Discussion of legal implications.
4. Participation in class discussion

**Poor – 0 to 5 Points**

1. No Element or Incorrect Element selected that does not match the facts of the story/case.
2. No discussion of ethical values or incorrect identification of values
3. No discussion of legal implications or incorrect identification of legal issues.
4. No attendance at class discussion

**Acceptable – 6 or 7 Points**

1. Superficial description of facts in a story/case that matches an element of informed consent.
3. Correctly identifying and assessing the facts in the case that would or would not expose the health care professionals to informed consent liability.
4. Attendance at class discussion with little or no participation.

**Very Good – 8 points**

1. Includes a fuller description of the facts in a story/case and demonstrates an understanding of why the element of informed consent was or was not met.
2. Includes a fuller description of the values involved and demonstrates an understanding of more subtle complexities and the possible value conflicts between/among different stakeholders.
3. Demonstrates an understanding of how the elements of a case involving lack of informed consent would or would not be proved in court – using what is learned from the Zook case.
4. Attendance at class discussion with participation.

**Outstanding – 9 or 10 points**

1. Includes a very full description of the facts in a story/case and demonstrates an understanding of why the element of informed consent was or was not met.
2. Includes a very full description of the values involved and demonstrates an understanding of more subtle complexities and the possible value conflicts between/among different stakeholders. Includes references to the required readings.
3. Demonstrates an understanding of how the elements of a lack of informed consent case would or would not be proved in court – using what is learned from the Zook case. Includes references to the required readings.
4. Attendance at class discussion with participation.

**Common Problems Resulting in Loss of Points**

1. No clear and distinct discussion of the ethical values of the stakeholders.
2. Referring to malpractice elements in general – and not in reference to the lack of informed consent.
3. Not using the Zook case to demonstrate understanding of how a lack of informed consent case would be brought, argued, and won.
4. No references to the readings.