Avant Learning Centre
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OSCE revision fact sheet: requirements for patient consent

To help you prepare for your objective structured clinical examinations (OSCEs), Avant's medico-legal experts have created this revision fact sheet on the requirements for obtaining patient consent.

In this fact sheet we outline the key requirements around obtaining patient consent to enable the patient to make an informed decision about their healthcare. This includes disclosure of the benefits and risks of the procedure or treatment and capacity to provide consent.

Requirements for patient consent cover:

- Capacity to make a decision
  Patient capacity to make a decision about their medical treatment is the ability to reason out their decision, understand the facts involved and their main choices, and evaluate and weigh up the consequences of their choice. A person may lose the capacity to make decisions permanently or temporarily, due to accident or illness, pain or medication. Only a competent adult (i.e. someone who is 18 years or older) or a mature minor (who has sufficient understanding and maturity to enable them to understand fully what is proposed) can give consent to medical treatment. If the patient does not have capacity, obtain consent from the appropriate substitute decision maker.
- Disclosure of information – informed consent
  Unless patients have sufficient information they are not in a position to make an informed decision. Fundamental to the consent process is an explanation of the benefits, alternatives, risks and complications that may occur with a procedure or treatment. It is important to mention the possibility of no treatment as an alternative.

  Consent must be obtained for the specific procedure or treatment.
- Voluntary consent
  Patients must give their consent voluntarily and free from undue pressure or coercion.

The discussion

If necessary, use an interpreter when discussing the procedure or treatment with the patient and document this.

You are expected to give the patient information about (as per the National Health and Medical Research Council Guidelines):

- The proposed approach to investigation, diagnosis or management:
  - what the approach entails
  - the expected benefits
  - common side-effects and risks of any intervention.
- General, procedural specific and material risks to a particular patient (what risks, if any, would be of special importance to a particular patient, taking into account the patient's individual circumstances).
- Whether the intervention is experimental or conventional.
- Who will undertake the intervention.
- Other options for investigation, diagnosis or treatment.
- The degree of uncertainty about the therapeutic outcome.
- The likely consequences of not choosing the procedure or treatment, or of not undergoing any procedure or treatment at all.
- Any significant long term physical, emotional, mental, social, sexual or other outcome which may be associated with the intervention.
- The time involved (including expected recovery time and limitations within this period).
- The cost involved, including any out-of-pocket expenses. It is preferable to obtain financial consent separately.

Explaining the risks

When explaining the risks of a procedure or treatment, ensure the patient understands what the risks mean for them. For example, 'bleeding' might require a transfusion and longer hospital admission; 'nerve damage' might affect the patient's mobility (such as foot drop). Avoid expressing the risks in a generic fashion; explain them in a meaningful way so the patient can gain a real understanding of how a potential complication would impact them.

Ensure each specific risk that is discussed is documented in the

patient's medical record or consent form.

Make sure the patient understands what you have discussed – ask them to paraphrase the information and ask open questions. It can be useful to have a family member or friend present if the patient wishes. If so, document the people present, as well as details of the discussion, including any questions raised by the patient and the responses. Allow the patient time to digest the information and have a further discussion with them at later date.

Checklist

- ✓ Have you disclosed the benefits, alternatives and risks that may occur with the procedure or treatment?
- ✓ Have you discussed the general, procedure specific and material risks?
- ✓ Does the patient understand their particular material risks?
- ✓ Have any issues with the patient's capacity been addressed?
- ✓ Have you documented the discussion and any questions raised in the patient's medical record?
- ✓ Has the patient signed the consent form or has verbal consent been documented?

Want more?

Read our fact sheet: **avant.org.au/Resources/Public/20130809-Consent-in-difficult-situations/** or **avant.org.au/Resources/Public/20160531-children-and-consent/**

For more advice, call Avant's Medico-legal Advisory Service on **1800 128 268.**

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