

Not Another Boring Informed Consent Lecture.

David J. Satin MD

Assistant Professor, Dept. Family Medicine & Community Health
Post Doctoral Fellow, Center for Bioethics
dsatin@umphysicians.umn.edu



Financial Conflicts of Interest

- None

Following this session,
participants will be able to:

1. Describe the 3 elements of informed consent.
2. Explain the standard of care with regard to pediatric informed consent.
3. Cite the **7** Deadly Exceptions to confidentiality.

Case #1

Consent Forms

Is possible to have a discussion about
**consent forms for laser procedures
and cone beam CT scans?**

Informed Consent vs Informed Choice

A Hierarchy of Legally Defensible Consent Documentation

- Video with hostage-style newspaper dating
 - Form with personalized documentation
 - Personalized documentation in chart
 - Signed form in chart
 - » “Consent” in chart

Now back to the question...

consent forms for laser procedures and cone beam CT scans?

Objective #1

Describe the 3 elements of informed consent.

Informed Consent Requires:

1. Full Disclosure
2. Capacity
3. Voluntariness

Full Disclosure

What would a reasonable person in this patient's position want to know?

What does a reasonable person want to know?

- Risks that are common or dangerous
- Often nothing until they disagree
- Sometimes a lot

How do you know what this person wants to know?

- Have a discussion (Two-way info exchange)
- “Ask, tell, ask”
- Q&A



Documenting Consent



- (1) Discussed indication for Rx
- (2) Discussed risks & benefits of Rx, no Rx, and alternative Rx, including...
- (3) Q & A period: x concerns discussed
- (4) Patient demonstrated understanding and appreciation of above info
- (5) Patient chose: y
- (6) If diagnostic test: document agreed upon method of giving results.



Case #2



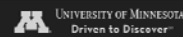
Does mom get it?

- As you explain the risks and benefits of treatment, non-treatment, and alternative treatments to the mother of an 11 year old patient, you get the feeling she doesn't really understand.
- You're not sure whether it's appropriate for her to be the one to consent even though it's a straightforward case.



Informed Consent Requires:

1. Full Disclosure
2. Capacity
3. Voluntariness



Capacity

Does the patient understand and appreciate the risks and benefits of treatment, non-treatment, and alternative treatments to the level of the community standard?



Case #3



Mature Minor?

- 17 year old John wanted his braces off early and didn't want me to tell his parents even though they paid in full.
- He was living in an apartment and managing his own affairs and was estranged from them.
- He didn't tell me if it was an official court emancipation.
- Because of the Mature Minor statute, I took the braces off and did tell his parents, believing that he is in charge of his own body and decisions even though he was below the age of 18.
- He reluctantly agreed to allow us to inform his parents, and they agreed.



Mature Minor?

- BUT, an ethical dilemma COULD have occurred if he hadn't let me.
- Who is in charge of what to do with his body at this age - him or his parents?!!



Mature Minor

Consent
Vs.
Confidentiality





Objective #2

Describe the standard of care with regard to pediatric informed consent.



Informed Consent for Minors

- “Does John have the capacity to understand and appreciate the benefits and burdens of the proposed treatment, non-treatment, and alternative treatments?” 
- The law reflects morality. 



Legally Consenting a Minor 1

A minor (< 18 y.o.) may legally consent if (s)he has the capacity to understand ... AND

- #1. (S)he fulfills one emancipated minor criterion:
- Lives separately from parent/guardian & manages own finances
 - Is married
 - Has borne a child



Legally Consenting a Minor 2

A minor (< 18 y.o.) may legally consent if (s)he has the capacity to understand ... AND

- #2. (S)he requests one of the following:
- Emergency care
 - Contraceptive and Pregnancy related care
 - STD diagnosis/treatment
 - Alcohol or drug use evaluation
 - Inpatient mental health treatment (> or = 16yo)

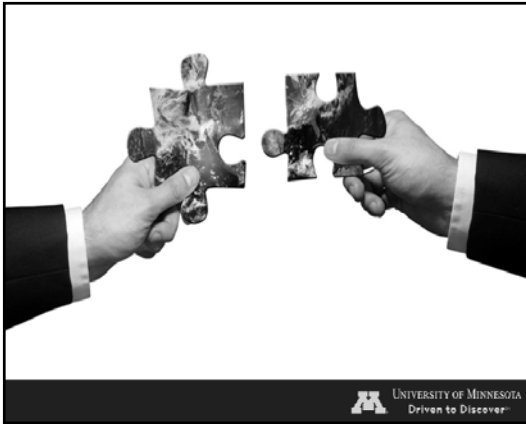


Legally Consenting a Minor 3

If # 1 and #2 do not apply, the “Mature Minor” doctrine can be used, if all of the following criteria apply:

- Parental involvement is impractical or problematic
- Minor is 15 years of age or older
- Proposed treatment is for minor's benefit
- Proposed treatment is deemed necessary
- Proposed treatment does not involve complex high-risk procedures/surgery.





Mature Minor?

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Objective #3

Cite the **7** Deadly Exceptions to confidentiality.

The **7** Deadly Exceptions to Confidentiality

1. Suspected abuse (not assault)
2. Mandatory reporting laws: infections, fresh gunshot/stab
3. Court-orders
4. Duty to warn
5. Substitute decision-maker required
6. Insurance bill
7. In Minnesota, minors (<18) are subject to a clause allowing parental involvement if needed for the child's safety



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Bonus Objective

What informed consent cannot do.



Bonus Case



Pontius Pilate Fallacy

Thirty years ago (when I was reluctant to say “no”) I agreed to single arch treatment for a child whose parents wanted to save expense.

Twice during the course of treatment I sat with the parents and advised that lower appliances should be placed to avoid a poor occlusal result.

Even though they continued to decline the additional work and knew its importance, they later threatened legal action when over a year later they decided they were not happy with the result.



Pontius Pilate Fallacy

- Be slow to compromise treatment at the patient’s request.
- Patients cannot give you permission to provide poor results.
- You cannot contract out of negligence.



The release of atomic energy has not created a new problem. It has merely made more urgent the necessity of solving an existing one.

