Midterm

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Care providers must receive authorization from the patient before conducting a surgery, diagnostics, or a procedure. Several types of approval exist. Consent given by a patient can be either express or implied. Another consent type, implied consent, is more about the process of informing the patient (Hammaker, 2020, p. 56-59).

Express consent is a type of consent a patient gives directly through oral or written words. Certain services legally require express consent. Examples are reproduction procedures and STD testing (Hammaker, 2020, p. 57). Express consent is particularly important in invasive procedures. In the event of medical malpractice, the difference between express or implied consent could be critical in winning the case (Stephens, 2016).

Implied consent is a type of consent implied by the patient's conduct. This form of consent is used in emergencies and some diagnostic, surgical, or medical procedures if the patient knows the procedures. During an emergency situation, a patient may not be able to respond and give consent due to incapacitation. In this situation, the patient's consent is implied and assumed that the patient would want to be helped unless the provider has a particular reason to think the patient would refuse it (Hammaker, 2020, p. 58).

Medicare has specific requirements for components and contents of a hospital consent form. Other than these Medicare requirements, consent can be either written or oral to meet express consent requirements. However, verbal consent is difficult to prove, so express consent is preferred even when verbal is adequate (Hammaker, 2020, p. 57-58).

Informed consent is a process of consent. The patient is informed of all benefits and risks for a procedure before agreeing to receive the treatment in this process. The patient merely

signing a form is not satisfactory for informed consent, although a detailed signed form is strong evidence (Hammaker, 2020, p. 58-59). Including details about the conversation in which the provider informed the patient is recommended and provides documentation about the conversation and event occurring. (Hammaker, 2020, p. 67).

Informed consent is not synonymous with simply getting the patient's signature on an authorization form. Receiving the patient's written or oral informed consent is one part of the process. The process involves providing the patient with detailed information. The information should have enough detail for the patient to use to make an informed decision to receive treatment. This process also allows the patient to ask questions and evaluate the patient's understanding of the procedure, benefits, and risks (*FDA*, 2014). Not having informed consent can lead to a claim for medical malpractice, but the patient must prove that not being informed caused the patient harm (Stephens, 2016).

References

FDA. (2014, July). Informed Consent. https://www.fda.gov/regulatory-information/search-fda-guidance-documents/informed-consent

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