What's Involved in Getting Informed Consent for Treatment?

written by Nancy Brent | August 31, 2012

Avoiding Liability Bulletin – June 1, 2013

The last Bulletin spelled out your role in obtaining informed consent for treatment from a patient who is undergoing treatment or about to have a surgical procedure. What was not presented was what constitutes informed consent-or informed refusal-when it is sought by the treating health care professional, including an advanced practice nurse.

It is important to note that giving informed consent is a process, an interpersonal exchange of information and questions and answers between the health care provider and the patient. It is NOT a unilateral experience wherein the health care provider simply tells the patient what will take place and the patient silently listens and then signs the consent form. Rather, there are specific elements of informed consent that must be shared before the consent or refusal given is truly "informed".

The first element of informed consent is to discuss with the patient the name of the procedure/treatment and an explanation of what it entails. Secondly, the patient must be informed about what is hoped for if the treatment/procedure is successful. Any alternatives to the suggested treatment/procedure need to be explored. Fourth, the individual needs to know what the risks of the procedure/treatment are. Last, the patient needs to evaluate what risk or risks are faced if the procedure/treatment is not undertaken. 1

It is clear that the process of obtaining the informed consent of the patient is not a quick event. Some patients will have more questions than other patients will, but it is essential that any questions the patient has are answered as completely as possible.

When the treatment or procedure is part of a research project and/or investigatory drugs are used, additional elements of informed consent are required. 2

The patient may ultimately decide that the treatment or procedure is not something he or she wants to experience. If so, an informed refusal takes place. Such a refusal needs to be documented in the medical record just as an informed consent for treatment would be done. Generally speaking, a patient has the right to refuse the treatment/procedure, with some exceptions that we will explore in a future Bulletin.

Some facilities have an informed refusal form that is also required to be filled out by the health care provider and signed and dated by the patient. You as a nurse may be asked to witness the patient's signature on the refusal form like you would when he or she signs the form for treatment and then

document that event in the nursing notes.

Remember, too, that a patient may initially give his or her informed consent for treatment and then later decide not to go forward with the plan of care.

Remember, too, that informed consent or refusal cannot be coerced. In both situations, it must be a voluntary choice of the patient.

FOOTNOTES

1. Del Carmen and Jofee (2005), "Informed Consent For Medical Treatment And Research: A Review", 10(8) Oncologist, 636-641. Available at: http://www.ncbi.nlm.nih.gov/pubmed/16177288 (free full text of article). Accessed 5/30/13.
2. Id.

THIS BULLETIN IS FOR EDUCATIONAL PURPOSES ONLY AND IS NOT TO BE TAKEN AS SPECIFIC LEGAL OR ANY OTHER ADVICE BY THE READER. IF LEGAL OR OTHER ADVICE IS NEEDED, THE READER IS ENCOURAGED TO SEEK SUCH ADVICE FROM A COMPETENT PROFESSIONAL.