

Informed Consent in Aesthetic Surgery

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The importance of taking proper and detailed informed consent from patients before undertaking medical procedures cannot be overemphasized. Even now, it is not uncommon to find our doctors obtaining consent in a way that is at best perfunctory and ritualistic. Often, the written consent comprises a couple of lines and may even amount to what is called blanket consent. It is also not uncommon to find medical procedures being conducted without any written consent whatsoever.

We need to realize that times have changed. The mutual trust between doctors and patients has been considerably eroded over the years.

The paternalistic doctor-patient relationship is now a thing of the past, and the current relationship is based on what is called "patient autonomy," wherein various options are presented to the patient, from among which he/she must make an informed choice. In any case, the patient has to be a partner in the decision-making.

In the USA, not taking informed consent constitutes negligence *per se*. In addition, a mere signature on a preprinted consent form does not amount to informed consent.

What are the ingredients of informed consent? Informed consent ensures that the patient has understood the following:

1. The exact nature of his/her medical condition.
2. The nature of the proposed treatment or procedure.
3. The alternative treatments or procedures that are available for his/her condition.
4. The risks of the proposed and alternative treatments or procedures.
5. The probable chances of the success or failure of the treatment.

Importantly, this discussion must be documented in the hospital record or in the consent form itself.

Standards for informed consent for cosmetic procedures ought to be more stringent.

A few points about consent that need to be stressed:

1. The consent form must be signed by the patient himself/herself if he/she is an adult.
2. Consent signed by a patient aged below 18 years is legally invalid; it must always be signed by a legal guardian.
3. All blanks in a preprinted consent form must be duly filled. In one case, even the blank space asking for the nature of the procedure/operation was unfilled and the court asked, "What sort of a consent is this?"
4. In addition to the signatures of the patient, or the guardian in case of a minor, and the doctor, it should also be signed by a witness.
5. Non-English-knowing patients should be made to sign a consent form written in a language they understand. Translation in the commonly used regional languages must be available with the physician.

In a number of cases, patients have claimed before courts that they were merely asked to sign on the dotted line and they did not understand what they signed because the form was written in English, a language they did not understand. The courts tend to support the contention of the plaintiff. It is thus advisable to have consent documents composed in the major regional languages. It would be a one-time exercise, but it is definitely worth

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the effort. This can possibly be done at the level of your professional Association.

It is important to note the following with respect to consent taking:

Written consent should be obtained even for minor procedures. Theoretically, the only thing you can do without such consent is examination of a patient. The consent is implied as the patient has come to you voluntarily for the specific purpose of examination. Consent should be obtained for any procedure you may conduct irrespective of how minor it is. The great surgeon Hamilton Bailey told his fellow surgeons: "There is nothing like minor surgery. There are only minor surgeons!"

Any refusal of consent or "denied consent," as some call it, must be duly recorded.

Courts in India are now frequently faulting doctors for not taking informed consent. In the event of operating on a patient without the valid consent of the patient, it is even possible that a criminal charge of assault and battery can be invoked under the Indian Penal Code (IPC) against the doctor.

Hence, informed consent must become an important part of your protocol because absence of it would be taken advantage of by the advocate of the patient in the event of something going wrong in the treatment and ensuing malpractice litigation.

Another precaution you should take while taking informed consent: Do not overpromise about the results of the procedure and then underperform. It is better to have it *vice versa*!

Finally, I would strongly recommend that cosmetic practitioners adopt the practice of taking procedure or operation specific informed consent formats and cease using general consent forms.

For instance, there should be separate consent forms

for Botulinum toxin treatment, laser-based procedures, chemical peels, hair transplant, and so on.

To begin with, the procedure must be explained in a layperson's language, and the various minor and major side effects and risks should be listed and explained in a nonintimidating manner. Quantification of the risks, where possible, is advisable. For example, one may state that complication "x" can occur in 1 out of 200 cases or that complication "y" is extremely rare. All other ingredients of informed consent, as listed earlier, such as alternative treatments, must also be incorporated in the consent form.

The patient and his/her relatives must be encouraged to read all this carefully. The last sentence must read something like the following: "I acknowledge that I have read this form and have understood the contents. I have been given the opportunity to ask questions, and my questions have been answered to my satisfaction. The risks and benefits of this treatment have been explained to me."

This should be followed by the signatures of the patient and a witness.

A word of caution: I would like to dispel a notion some doctors harbor about informed consent. Many of us feel that having taken such a comprehensive informed consent, we are protected from any malpractice action in case things go wrong. The fact is that should a documented complication actually occur, we would still need to establish that this occurred despite having followed the standard of care and that there was no deviation from the conduct of a reasonable, competent practitioner.

To conclude, the best way to deal with medicolegal problems is to avoid them. It is better to be safe than sorry.