



Bioethics: Autonomy & Health (Fall 2012)

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O'NEILL ON THE TRIUMPH AND LIMITS OF INFORMED CONSENT

CONTEMPORARY PHYSICIAN-PATIENT RELATIONSHIP

- More impersonal interactions among many medical professionals within complex organizational structure of a hospital
 - More formalized reporting in litigious society
 - Doctors “find themselves to be accountable rather than to be communicative, to conform to regulations rather than to enter relations of trust” (39)
- Given these setbacks to trust in medicine, informed consent has to accomplish many ethical goals that would otherwise be achieved in more personal physician-patient relationship

WHAT DO INFORMED CONSENT FORMS CAPTURE?

- Protect identifiable decision points, when there are clear choices available (or choices that should be made available)
 - Struhkamp: can expand informed consent by considering daily, small-scale decision-making; reference baseline before entering medical facility



- “we *make it possible* for individuals to choose autonomously” (O’Neill 37)
 - *Full* autonomy as unrealistic, unattainable goal—instead aim for securing *sufficient* decision-making capacities

WHAT DO INFORMED CONSENT FORMS CAPTURE?

- Given particular *description* (not all available descriptions)
 - Description only provides us with *propositional content*
 - E.g.: “This study aims to study the effects of _____ on condition _____. It has the following side effects: _____, _____, _____.”
- In consenting, we are signing off on a particular description of a procedure/protocol
 - **Problem of opacity:** “I may see no further than the specific descriptions that it contains” (43)
 - Implications, entailments, consequences, competing concerns, viable alternatives, meaning of treatment/research for me or for the community...all of these might be outside the scope of my comprehension

PRACTICAL LIMITATIONS

- Cannot easily improve informed consent
 - Competence vs. capacity (can have one without the other)
 - Inherent complexity of medical information
 - Scarcity of resources and time to answer all possible questions
 - Illness can make all of us vulnerable, desperate, dependent (even more than usual), more accepting of paternalism

CONSUMERISM & MEDICINE



- Supports preeminence of autonomy in bioethics
 - Informed consent generally seen as sufficient and necessary in the consumer arena
- Inflates the importance of individual autonomy at the expense of other values
 - Also privileges particular conception of autonomy (as almost equivalent to liberty, where noninterference is most appropriate)

PROTECTION AGAINST COERCION & DECEPTION

- Informed consent makes explicit relevant information and key obligations on the part of physician/researcher
 - Should also emphasize authoritativeness of patient's/subject's consent and refusal
- How much information is necessary to prevent these harms?
 - “the demands of audit culture and hopes of restoring trust are in tension” (157)

INSTITUTIONALIZATION OF TRUST



- “If these procedures are properly set up and followed, patients will be able to consent where they are willing to place their trust, and to withhold consent when they are not willing” (153)
- Empowers and encourages patient/subject to reflect on where and how they trust
 - Stresses importance of cultivating and maintaining trust in clinical medicine and research

TRUST & SOLIDARITY IN CONSENT

- Overly burdensome, check-mark style informed consent forms will not promote trust
 - Complete explicitness and comprehensiveness do not have ethical backing
- “Genuine consent has to be based on information that is not only correct, but also accessible to patients and relatives under some stress” (158)
 - Assure patient/subject that ethical scrutiny is justifiable at crucial stages of treatment/research
- In research: *gift relationship*
 - Duties of gratitude and recognition



DISCUSSION QUESTIONS

- If the general public endorses a consumer model of medicine, should the institution alter its policies and procedures accordingly?
- Do you agree with O'Neill that the primary ethical justification for informed consent is to protect against coercion and deception?
- How central do you think trust is to the physician–patient relationship today? If it is not central, do you find this morally problematic?



QUESTIONS? COMMENTS?

