**Consent: Why It Matters And Why You Should Care**

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**Introduction**

**Consent:**

Powerful tool that empowers individuals to make informed decisions about their healthcare.

- Involves
- Honest communication
- Trust
- Shared decision-making

**To obtain effective consent**

- Analyze how intersecting systemic barriers impede marginalized populations
- Can result in serious professional and personal legal risks and ramifications

**Failure to obtain effective consent**

- Ensures equitable and inclusive care
- Protects right against self-incrimination

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**Why Consent Matters**

**Medical Considerations**

- **Providers:**
  - Licensing board requirements
  - Obligated to uphold standards of care and practice
  - Trust in the medical community

- **Patients:**
  - Empowers to make informed and educated decisions
  - Allows for autonomy and shared decision-making
  - Engages individuals in their healthcare
  - Protects right against self-incrimination

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**Legal Considerations**

**Selected Complexities of Effective Informed Consent**

- Consideration of minor status in relation to relevant state law or emancipation.
- Whether a legal determination of competency is at play.

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**Potential Consequences of Inadequate Consent**

**Court Actions**

- Civil court claims for malpractice, informed consent, and/or battery (state-specific claims that can vary from state to state; law and fact-specific).
- State and/or federal statute or regulation violations (can implicate a variety of potential penalties – law and fact-specific).

**Licensing Board or Conduct Determinations**

- Violations of obligations related to various licensing boards or rules of conduct could affect one's license.
- In some circumstances, licensure or conduct determinations can be used as evidence against healthcare professionals in individual court proceedings.

**Other Harm to Individuals and Institutions**

- Licensure issues or criminal convictions may affect one's employment opportunities.
- Reputational harm and increased scrutiny may come to institutions that continue to employ individuals who have been penalized if such information becomes public knowledge.
- Depending on the circumstances, institutions may be pulled into court proceedings based on the actions of those it employs.

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**Ethical Considerations**

- **AMA & ANA Medical Code of Ethics**
- Hippocratic Oath
  - “First do no harm” (Latin: Primum non nocere)
- **Provide Consent:**
  - In a culturally competent manner
  - According to the patient’s educational level through meaningful discussion
  - With information that respects one's race, ethnicity, profession, gender, etc.
  - Allow opportunities for questions and therapeutic alternatives to guide the patient’s decision on treatment

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**Required Elements for Informed Consent**

(National Institute of Health)

- The patient understands:
  - Nature of the procedure
  - Risks and benefits of the procedure
- The patient is given alternatives; understands the risks and benefits of alternatives

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**Values & Belief Systems**

- Racial / Ethnic bias
- Explicit and Implicit Biases
- Differences in cultural values
- Differences in patients’ preferences for provider-patient relationships

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**Marginalization**

- Sociocultural
  - **Linguistic and Literacy Barriers**
    - Health literacy levels affect a patient’s ability to give informed consent.
    - Up to 8th-grade reading level
    - A non-English platform ensures patients receive certified translations, free from interpreter bias.
    - Non-English speakers should be given a consent document written in their language
- **Cultural Humility and Considerations**
  - Communal decision making
  - Intercultural variations of norms and values

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**Vulnerable Populations**

- LGBTQ+ population
- Individuals with disabilities
- Low-income and/or Homeless individuals
- Certain geographical communities
- Very young and very old

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