RACGP

Royal Australian College *of* General Practitioners

Information sheet: Informed patient decisions

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We acknowledge the Traditional Custodians of the lands and seas on which we work and live, and pay our respects to Elders, past, present and future.

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Purpose

This information sheet has been prepared to provide additional information and guidance regarding informed patient decisions and the consent process in the general practice setting (including informed financial consent). This resource does not include additional information regarding the consent process for the presence of a third party during a consultation or general practice research activities.

What does the *Standards for general practices* (5th edition) say?

Informed patient decisions	C1.3►A Our patients receive information about proposed investigations, referrals and treatments, including their purpose, importance, benefits, and risks. C1.3►B Our patients receive information to support the diagnosis, treatment, and management of their conditions.
Costs associated with care initiated by the practice	C1.5►A Our patients are informed about out-of-pocket costs for healthcare they receive at our practice. C1.5►B Our patients are informed that there are potential out-of-pocket costs for referred services.

What is informed consent?

Patients have a right to make informed decisions about their health and the healthcare they receive. Informed consent is the process whereby a patient makes a voluntary decision about their medical care (including proposed investigations, treatments and care management) with knowledge and understanding of the benefits and potential risks involved.[1,2]

A patient can only make an informed decision regarding a proposed treatment, procedure or care plan (eg chronic disease management plan, team care arrangements, health assessment and GP mental health treatment plan) when they have been provided with sufficient information.[3]

General practitioners (GPs) are required to provide patients with an overview of what is involved when developing a care plan and any benefits, associated risks and alternative management options for physical treatment and/or procedures.

Subsequently, a GP must only undertake a medical procedure, provide treatment or develop a care plan when a patient has provided their consent. Failure to obtain a patient's consent may increase the risk of medico-legal action.[4,5]

What constitutes valid informed consent?

Valid patient consent must be:

- freely given and without duress
- given by someone who is legally capable (competent) of consenting
- specific and cover the intervention or procedure to be performed
- informed.[6]

A patient must have the legal capacity to be able to provide consent – for example, an infant or person with cognitive impairment may not have such capacity.

Where appropriate, a parent or legally appointed guardian may provide consent on behalf of your patient.[4]

Each Australian state and territory has specific guardianship (and other) laws about the type and hierarchy of substitute decision-makers and what must be considered during this process.

These organisations are listed in the RACGP's *Privacy and managing health information in general practice*.

Risk disclosure

Medical practitioners proposing medical treatments or procedures must inform their patients of the risks associated with the suggested treatment or procedure so they are able to make an informed decision about their healthcare. A medical practitioner must disclose any known risk to a patient when:

- an adverse outcome is common, even if the detriment is minimal
- an outcome is severe, even if its incidence is rare.

A risk is material if a 'reasonable' person (in the same position), if warned of the risk, is likely to attach significance to it, or if the medical practitioner is or should reasonably be aware that the particular patient, if warned of the risk, would be likely to attach significance to it.[7]

Inferred or express consent

Consent may be:

- express – when a patient signs or clearly articulates their agreement
- inferred (or 'implied') – where the circumstances are such to reasonably infer the patient has consented.

Express consent needs to be sought wherever practical and/or where significant clinical risk is likely; for example, for a procedure or surgery. A signed form is an example (and is easier to demonstrate), but an informative and well-documented discussion with a patient may equally satisfy this requirement.

Documentation of consent needs to refer to the information provided, the nature of the discussion and the patient's response.

Inferred consent is when a patient cooperates with the healthcare professional's treatment or routine procedure, such as taking medication given, extending an arm for a blood sample, or attending a follow-up appointment to receive information or advice regarding the management of a condition.[8]

Care must be taken not to overestimate the scope of inferred consent.

Obtaining and recording consent

Obtaining a patient's informed consent is a key guiding principle for GPs.

A GP is legally and ethically required to obtain a patient's consent before undertaking a medical procedure or providing treatment and care management.

For significant elective, surgical or cosmetic treatments and procedures, a GP needs to allow the patient time to digest the information provided to them. It may be appropriate in such circumstances to ask the patient to read the written information at home and return for a second consultation. There are specific consent guidelines to which medical practitioners must adhere for cosmetic medical and surgical procedures.[9]

Once satisfied that the patient has a good understanding of the proposed treatment and the material risks and benefits involved, GPs need to record how the patient's consent was obtained, including any written information provided, specific issues raised by the patient, an overview of the options considered and general and specific risks relating to the patient.

Obtaining and recording consent for non-procedural GP services is also important.

GPs must have a suitable discussion with the patient when preparing a care plan (eg chronic disease management, team care arrangements, health assessments and GP mental health treatment plans). Patient consent to the preparation of these plans must be recorded in the patient's file.[10,11]

GPs may use existing technology in the practice software to record the patient's consent to the preparation of the plan (eg tick box in a digital template). A copy of the plan must be offered to the patient for their individual records.[8,9]

Where consent is withheld

When a patient withholds consent, this needs to be noted in the patient record.

GPs must be mindful when treating patients who refuse to provide certain health information or withhold consent for particular treatment.

This is particularly problematic where the possibility of detrimental outcomes exists if certain information is not provided by the patient. The potential consequences of withholding information must be clearly explained to the patient and a record of the explanation and the patient's response noted in their records. Where this refusal may conflict with the GP's recommendations for medical care, this must be carefully explained to the patient and documented.

Informed financial consent

You can help patients to make an informed decision about their healthcare by providing information in advance about costs that they will or might incur (including costs in addition to consultation fees). Informed financial consent can help remove any surprises about medical costs, and help a patient understand where medical fees come from.[12] Members of a general practice team must inform patients:

- of the possible cost of additional treatments or procedures before beginning the treatment or procedure, considering their comprehension and communication abilities and needs
- that referred services *could* attract additional out-of-pocket costs, explaining the extent to which the service will be covered by Medicare and whether the patient can expect to pay a gap payment or private fee.

GPs must declare if they have a financial interest in any external services, facilities or specialists to which they refer.

More information on informed financial consent is available in:

- the *Standards for general practices* (5th edition), Criterion C1.5 – Costs associated with care initiated by the practice
- the Australian Medical Association's *Informed Financial Consent – A collaboration between doctors and patients: Assisting patients to understand their health care and its costs*

Patients' rights and expectations

Patient charters explain a patient's rights and responsibilities in relation to the care and treatment received, empowering consumers to take an active role in their healthcare.

The *RACGP General practice patient charter* sets out patients' rights and responsibilities in relation to care and treatment received from their GP in a general practice setting. This includes access, safety, respect, communication, participation, privacy and comments about their care.

The Australian Commission on Safety and Quality in Healthcare's *Australian Charter of Healthcare Rights* provides a similar resource for patients across healthcare more broadly, including public and private hospitals, day procedure services, general practice and other community health services.

Further information

Contact standards@racgp.org.au for further information, or contact your medical indemnity insurer for information and advice regarding informed consent specific to your state or territory.

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