

## PATIENT-PHYSICIAN RELATIONSHIP AND THE INFORMED CONSENT

### Original Article

## HASTA HEKİM İLİSKİSİ VE BİLGİLENDİRİLMİŞ ONAM

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### ABSTRACT

Medical informed consent is essential to the physician's ability to diagnose and treat patients as well as the patient's right to accept or reject clinical evaluation, treatment, or both. Each patient has the right of receiving treatment freely following being informed appropriately and keeping the information related to himself/herself as a secret. Bali declaration was published in 1995 by reviewing Lisbon Declaration of World Medical Association with the sentence of "while a physician should act according to his/her conscience and the best interests of the patient, physician must guarantee patient autonomy and rights". Consent is required for both diagnostic procedures and treatment. Acceptance or refusal of treatment by the patient also requires an informed consent. Information and consent provides finding a common pathway between the patient and the physician by sharing ideas. It is fundamental to the patient-physician relationship that each partner understands and accepts the degree of autonomy and the patient takes responsibility in the decision-making process.

**Key words:** *Informed consent; patient physician relationship; autonomy; patient rights.*

### ÖZET

Hekimlerin hastaların rahatsızlıklarını teşhis ve tedavi etmelerinde ve hastaların yapılan klinik değerlendirmeleri ve tedavileri kabul etmelerinde tıbbi işlem için alınan onamların büyük önemi vardır. Hastaların yeterince bilgilendirildikten sonra özgürce tedaviyi kabul veya red etme ve kendisiyle ilgili olan tıbbi bilgiyi gizli tutma hakkı vardır. Dünya Sağlık Örgütü'nün Lizbon deklarasyonunu revize etmesiyle 1995 yılında yayınlanan Bali Deklerasyonuna göre "Hekim hastanın yararı için kendi vicdanına göre davranırken hastanın otonomisini ve haklarını da garanti altına almalıdır." Bilgilendirilmiş onam hem teşhis için

gereken prosedürlerde hem de tedavi için mutlaka alınmalıdır. Hastanın tedaviyi kabul etmesi ve hatta reddetmesi de onam alınmasını gerektirir. Hastanın bilgilendirilmesi ve onam alınması hastayla hekimin arasında hastanın sağlığı lehine ortak bir yol bulunmasını sağlar. Bu şekilde fikirler de paylaşılabilir. Hasta hekim ilişkisinde her iki tarafın da özerkliğe, yani bir insanın kendisiyle ilgili konularda kendi değerlerine dayanarak karar vermesine saygı göstermek gerekir. Karar verme aşamasında hasta da yer almalı sorumluluğu paylaşmalıdır.

**Anahtar kelimeler:** *Bilgilendirilmiş onam; hasta hekim ilişkisi; özerklik; hasta hakları.*

## INTRODUCTION

Medical informed consent is essential to the physician's ability to diagnose and treat patients as well as the patient's right to accept or reject clinical evaluation, treatment, or both. Medical informed consent should be an exchange of ideas that buttresses the patient-physician relationship. (1, 2).

Patient-physician relationship was carried out by "Mutual Confidence" and its limits were determined via Medical Ethics up to 1970's. There were no objective standards for patient education and informed consent. After 1970's, patient rights has started to be articulated. Thus, it was aimed to put the patient rights related to medical treatment applied on a legal basis. Therefore, declaration on patient rights of American Hospital Association was published in 1972.(3) Declaration of Lisbon on the rights of the patient was published by World Medical Association in 1981. Declaration of Lisbon formed the basis of patient rights that we use routinely now (4). At the same time this declaration also mentioned physician rights while protecting the patients. It was referred that each patient has the right of receiving treatment freely following being informed appropriately and keeping the information related to himself/herself as a

secret. Patient has the right for selecting his/her physician freely. With the purpose of completion of missing sides of this declaration comprising six articles, Bali declaration was published in 1995 by reviewing Lisbon Declaration of World Medical Association (5). In its preamble, with the sentence of "while a physician should act according to his/her conscience and the best interests of the patient, physician must guarantee patient autonomy and rights", it has explained the fundamentals of patient rights substantially. The scope of these rights have been extended by stating that persons involving in biomedical researches regarding people -including researches without treatment purpose- is subject to the same rights owned by any patient. These rights have been detailed through adding the refusal right of participation to clinical studies or medical education to the rights of freely deciding, information disclosure duty and refusal of treatment stated in Lisbon declaration.

## CONFIDENTIALITY

Patient has the right of access to medical records about himself/herself and the information disclosure completely about the health status including related medical conditions. However the information referring to a third party and found in patient records should not be given to patients without taking approval of that person. If it is believed that the information to be disclosed to patient has serious harms on his/her life or health, patient may not be informed. The information about health status, medical situation, diagnosis, prognosis, treatment of patient and all other personal information should be protected confidentially even after death. If a situation arisen from existing disease threatens patient's relatives, they may have access rights to these records and information. Information can be disclosed if distinct consent of patient and the binding request of court are available.

## RESPECT FOR AUTONOMY

One of the Main Principles of Medical Ethics is "Respect for Autonomy". Autonomy is defined as giving decisions based on his/her own values about the subject regarding himself/herself and make applications in this direction by a human.

## PATIENT RIGHTS IN TURKEY

Except for these international declarations, according to Article 17 of the Constitution of Republic of Turkey, everyone has the right of living, protecting and developing its physical and moral assets(6).The physical integrity of the individual shall not be violated except under medical necessity and in cases prescribed by the law and shall not be subjected to scientific and medical experiments without his or her consent." Pursuant to Article 26 of Turkish Penal Code no: 5237 adopted on 26.09.2004, "1. No one can be penalized for exercising his right. 2. Regarding a right of which a person has full disposal, in case of consent, no one can be penalized." Therefore telling to patient of the risks of medical procedures to be applied and his/her rights in detailed manner is a necessity both for physician and patient. According to the article 25 of Turkish Penal Code, "1. When there is a wrongful violation, an imminent threat or repetition of such violation against oneself or the rights of others, acts of defense in proportion with the violation will not be penalized. 2. In case of grave and certain danger for oneself or an other's right, if not deliberately caused and if there is no other means of recovery, acts of defense performed in proportion with the gravity of the danger will not be penalized. People can not be accused from any act in order to protect human being and prevent certain danger from another one.

## INFORMED CONSENT

The basis of information disclosure is determined by whether or not patient has

the condition to understand and comprehend necessary information. If patient is major and has consciousness, it should be carried out in accordance with cultural, social and psychiatric status of patient. If the same language is not used, translator should be used to provide understanding of information by the patient. Consent of the patient should be explained both orally and in a written form. Patient has the right to give up after acceptance of informed consent. If the legal representative to give consent is unavailable in cases of natural disasters, at the moment of the war, collective accidents, the emergencies that individual is under vital threat, the right of informed consent does not exist. The person who is giving information about the consent should be the physician definitely, and the person being witness should be preferably health personnel. Health status at that moment, diagnosis established, alternative treatment methods, proposed success rate, preventive situations, risks special to the patient and the procedure should be explained clearly and absolutely. The consents taken without information, taken against ethical principles and rules of laws, given for ending pregnancy exceeding a certain period without any medical necessity, given for euthanasia is invalid legally, ethically and medically.

## DISCUSSION

The education needs of the patients are increasing and this will not drastically change in the next century. How do we meet those needs? How we can improve our tasks to improve patient satisfaction? Definitely patient education will change as we apply new learning theories and technologies of teaching.(7-10) One of the crucial point of informed consent is whether the patient properly understood the provided medical information. Consequently, effective communication becomes an inevitable condition of providing informed consent. The results

and insights coming from psychological research (concerning lay understanding of medical information, of the readability of consent forms, and especially of the lay understanding of statistical information, and risk communication) could help to create a better practice of medical communication that could satisfy both ethical and legal requirements(2). Creating more concrete and practically oriented guidelines concerning informed consent would also help to increase the quality of medical information giving. These might help us approach the medical ideal that was conceptualised in the doctrine of informed consent.

According to a study performed in 2008, it is reported that most of consents are taken by uneducated persons. Haddow K et al. have stated that action of taking consent is left to the most junior physician at 80% and even though surgeon to fulfill main surgery gives information to patient, he/she has not documented that (11). Consent is required for both diagnosis and treatment of the patient by the physician. Acceptance or refusal of treatment by the patient also requires an informed consent. Information and consent provides finding a common pathway between the patient and the physician by sharing ideas. Physician should consider informed consent as a training process and know that it is good both for the physician and the patient(1).

Being objective about the present situation, explaining every aspect of the illness, cooperation with patient increases success of physician(7).

With reference to medical procedures to be carried out in our clinic, written informed consent is taken from the patient in every kind of procedure. Neurosurgical procedures are very detailed. Cranial, spinal, peripheral nerve surgeries all have a specific informed consent form and detailed information is present for every unique procedure. The procedure to be applied is explained to the patient

together with all risks and alternative treatments.

It is fundamental to the patient-physician relationship that each partner understands and accepts the degree of autonomy the patient desires in the decision-making process. Informed consent is very important for the safety of the patient. It provides a good relationship with the patient and the physician. Detailed information of the present disease and the options for the treatment can be shared to have the best results.

## REFERENCES

- 1)Paterick TJ, Carson GV, Allen MC, Paterick TE: *Medical informed consent: general considerations for physicians. Mayo Clin Proc* 83:313-319, 2008.
- 2)Kakuk P: *[Informed consent: a pragmatic view]. Orv Hetil* 145:1517-1522, 2004.
- 3)Silver MH: *Patients' rights in England and the United States of America: The Patient's Charter and the New Jersey Patient Bill of Rights: a comparison. J Med Ethics* 23:213-220, 1997.
- 4)Winton R: *The Declaration of Lisbon: patients have rights, too. Med J Aust* 1:101, 1982.
- 5)Fourth Asian and Pacific Population Conference. *The Bali Declaration on Population and Sustainable Development. Popul Bull UN:20-36, 1994.*
- 6)Buken NO, Buken E: *The legal and ethical aspects of medical malpractice in Turkey. Eur J Health Law* 10:201-213, 2003.
- 7)Marsh FH: *Informed consent and the elderly patient. Clin Geriatr Med* 2:501-510, 1986.
- 8)Treacy JT, Mayer DK: *Perspectives on cancer patient education. Semin Oncol Nurs* 16:47-56, 2000.
- 9)Anderson AS, Klemm P: *The Internet: friend or foe when providing patient education? Clin J Oncol Nurs* 12:55-63, 2008.
- 10)McDonald SE, Chadha NK, Mills RS: *Changing practices in the consent process for nose and throat procedures: a three-year study. J Laryngol Otol* 122:1105-1108, 2008.
- 11)Haddow K, Crowther JA: *Consent--who, what, where, when? Health Bull (Edinb)* 58:218-220, 2000.