Is the Current Consent Process Appropriate for Patients and Fair to Newly Qualified Doctors?

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Dear Sir,

The key steps in obtaining consent involve a competent patient, a clearly communicating doctor, and transfer of focused information about the planned procedure. The Irish Medical Council’s Guide to Conduct and Ethics states that “no part of the consent process should be delegated to an intern unless the procedure is a minor one with which the intern is very familiar and the intern’s medical supervisor has clearly explained the relevant information about the procedure to them”. If this is not possible it is acceptable for the treating doctor to delegate responsibility of part or all of the procedure to another suitably trained and qualified person. If consent is delegated, responsibility remains with the treating doctor to ensure consent has been given¹.

Two recent papers in the Irish literature draw serious concerns regarding the current practice of consent. Rohan et al., reported that 89% of interns obtained consent for a procedure within their first 3 months. 83% reported their supervisors did not explain the procedure to them prior to consent. 92% consented for a procedure which they had not witnessed before. 35% reported that they have obtained signed consent without fully discussing the procedure and the associated risks². In a similarly concerning paper, Heaney et al., reported only 10% of interns had knowledge of ‘all’ the steps of the procedure. 58% reported they knew ‘most’ of the risks while 43% reported that, at some point, the risks of the procedures had been explained to them by a senior colleague³.

The consent process is of paramount importance from a medico-legal perspective. Landmark legal cases dictate the consent process. The Montgomery v Lanarkshire case of March 2015 redefined the standard for informed consent and disclosure⁴. Previously, the Bolam test was used to determine what should be disclosed. The Bolam test asks whether a doctor’s conduct would be supported by a
responsible body of clinicians\textsuperscript{5}. The Montgomery case firmly rejected the Bolam test regarding consent, establishing a duty of care to warn of material risks. A material risk was deemed one which ‘a reasonable person in the patient’s position would be likely to attach significance to the risk, or the doctor is or should reasonably be aware that the particular patient would be likely to attach significance to it.’

The current practice of interns consenting for major procedures is not acceptable. Patients need to be fully informed of the procedure they are undergoing. Furthermore the patients needs to be given time to interpret the information and weigh their options. Consent that is obtained minutes before a procedure in an already nervous patient is neither fair to the patient or the most junior physician. Consent in other jurisdictions is obtained in the clinic weeks in advance- the patient has ample time to ask questions and can go home and research their procedure- contributing to the process of ‘informed’ consent. A more modern two way consent process is urgently required including information leaflets, recommended websites, videos and most precious of all; time.

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**References**