# Editorial

## The Goals of Informed Consent

With almost fifteen years between us and the *Miranda* decision, it is difficult to remember what all the shouting was about. Police officials and others were certain that disclosing their rights to suspects (e.g., the right to remain silent) would lead to a breakdown of law enforcement and was a victory for criminals. Today, a similar argument is still made by some in the medical profession who believe that informed consent is a lawyers' invention designed to encourage litigation, and that information disclosure does nothing to protect patients' rights.

This argument is often bolstered by reference to "studies" that allegedly show patients *cannot* give informed consent. For years a New York study of postoperative cardiac patients was cited for this proposition, even though the authors of that study stated explicitly that they personally were convinced that all patients in the study *did* give their informed consent (the study showed that they could not remember the details of what was discussed with them[1] six months later). Now a new study, published in the NEW ENGLAND JOURNAL OF MEDICINE, allegedly shows that the current consent forms are "legalistic" and have "adversarial" and other "negative connotations" such that they interfere with the patient's ability to make an informed decision.[2] While this may often be the case, the authors' own study does *not* prove it; instead it provides strong evidence about how perceptive patients really are. For example, eighty percent properly indicated that consent *forms* "protect physicians' rights." The authors were shocked at this finding, but only because they themselves did not understand the *purpose* of the forms. One must, of course, distinguish between informed consent as a *process*, and the forms that are later used as *evidence* (by the physician) to prove that the process took place if the validity of it is ever challenged. The purpose of informed consent is two-fold: (1) to promote individual autonomy, and (2) to promote rational decision-making.[3] The authors apparently misunderstood the purpose of the process, and therefore could not understand the *function* of the forms.

Other significant findings that indicate the extent to which patients understand and appreciate the consent process are: 80 percent thought the forms were necessary; 76 percent thought they contained just the right amount of information; 84 percent understood all or most of the information; 75 percent thought the explanations given were important; and 90 percent said they would try to remember the information contained on the forms. To me, this suggests that the patients surveyed understood and appreciated the informed consent process much better than the researchers did. Their data is certainly not flawless, but one can conclude from it just the opposite of what they did: for almost all patients, the current process works well.

Of course, current consent forms should be made more readable,[4] and a policy of always providing the patient with a copy of the form should be implemented. But physician attitudes on this issue are at least as important as police attitudes on the rights of suspects. Unless physicians believe that the information they are conveying is important for the promotion of patient autonomy and rational decision-making, they are unlikely to take the process seriously. A change in behavior will, of course, take years. But the proper approach to the problem of imperfect doctor-patient communications is that advocated so articulately by Dr. Drummond Rennie in a NEW ENGLAND JOURNAL OF MEDICINE editorial on the subject:

> I suggest that the physician accept far more than simply the duty to improve consent forms. . . . They should accept education of the patient through the process of consent as a worthwhile therapeutic goal. To deny the possibility of informed consent is to ensure that it will never be achieved — an attitude that is immoral and . . . illegal.[5]

MEDICOLEGAL NEWS applauds Dr. Rennie's approach, and looks forward with him to the day we all begin to concentrate on *how* to make informed consent effective, instead of fighting to eliminate the doctrine altogether.

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**References**


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2. Cassileth, B.R., Zupkis, R.V., Sutton-Smith, K., March, V., *Informed Consent — Why are Its Goals Imperfectly Realized?* NEW ENGLAND JOURNAL OF MEDICINE 302 (16): 896 (1980).
3. ANNAS, G.J., GLANTZ, L.H., KATZ, B.K., INFORMED CONSENT TO HUMAN EXPERIMENTATION: THE SUBJECT'S DILEMMA (Ballinger, Cambridge, Mass.) (1977).
4. Grundner, T.M., *On the Readability of Surgical Consent Forms*, NEW ENGLAND JOURNAL OF MEDICINE 302 (16): 900 (1980).
5. Rennie, D., *Informed Consent by 'Well-Nigh Abject' Adults*, NEW ENGLAND JOURNAL OF MEDICINE 302(16): 916 (1980).


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