



Informed Refusal in the Physician Office

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Disclosure

Ann Carter has no relevant financial relationships to disclose.

Objectives

- Identify common barriers for patient non-compliance with medical treatment
- Specify three important components of informed refusal
- Describe four abilities to assess when evaluating a patient's medical decision-making capacity

Informed Consent: What and Why

What:

- Patient engagement strategy
- Shared decision-making opportunity

Why:

- Effective provider-patient communication results in:
 - More realistic patient expectations
 - Increased patient satisfaction
 - Decreased malpractice claims

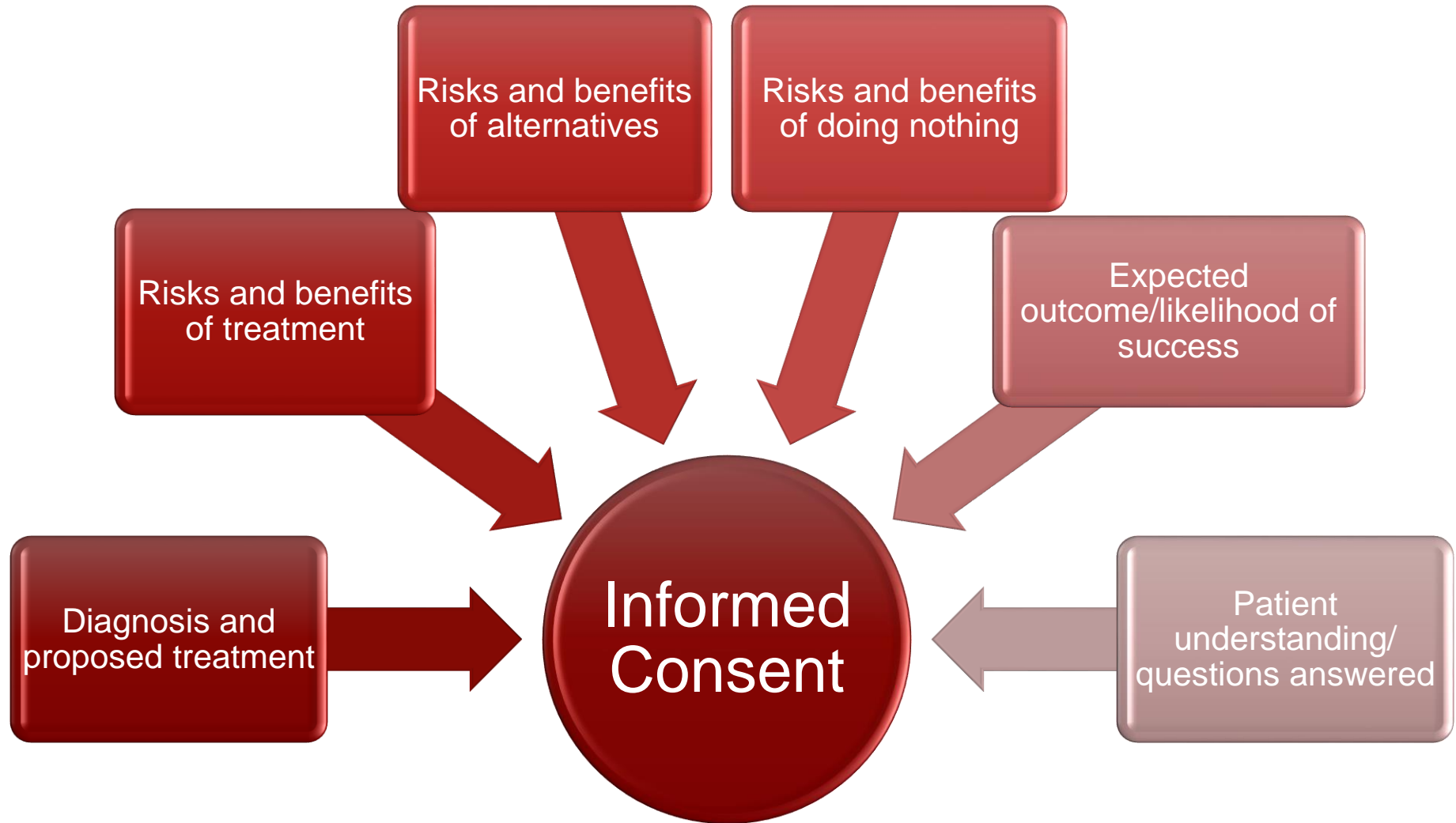
When Should You Obtain a Signed Consent?



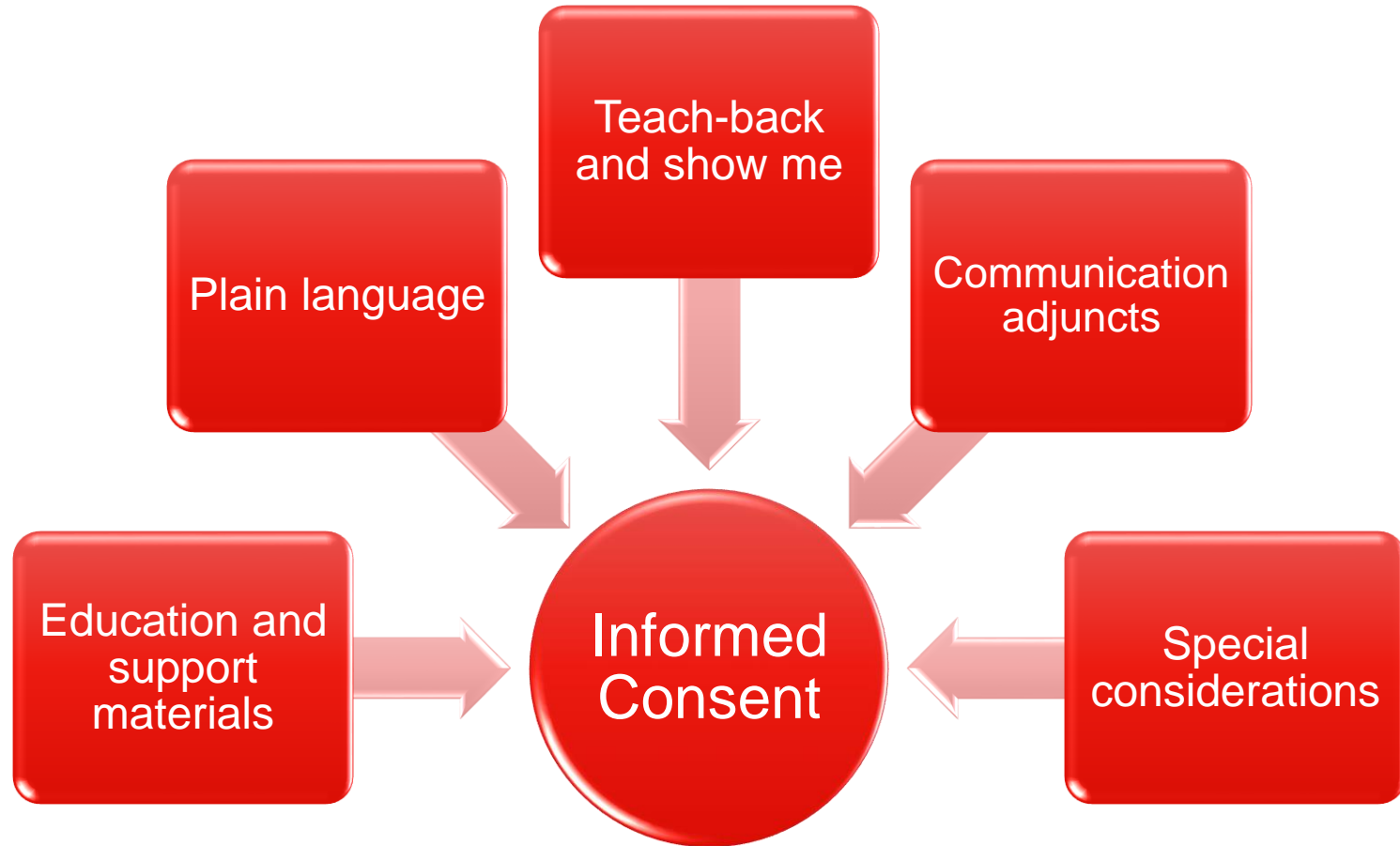
Procedures or treatments that:

- Can be reasonably expected to produce significant pain or discomfort
- Can be reasonably considered to have a significant risk of complication or morbidity
- Examples:
 - Laceration repair
 - Incision and drainage
 - Removal of foreign body
 - Avulsion of nail
 - Cyst removal

Informed Consent: Requirements



Informed Consent: Considerations



Teaching Aids

“Facilitate the Flow” with:

- Diagrams, drawings
- Models, displays
- Written materials, brochures
- Computer-based applications



Document:

List the communication adjuncts you used/recommended (template in the EHR)

Communication Aides: Plain Language

- A plain-language document is one in which people can:
 - Understand what is written
 - Make an informed decision based on the information provided
- Guidelines for well-written documents:
 - List the most important points first
 - Use simple language that a patient can understand
 - Use ample white space so pages look easy to read

Communication Aides: Translation

ASTM Standard Guide:

“The healthcare provider shall also make available written translations of commonly used documents including educational materials, consent forms, and advance directives.”

From the OCR:

Ensure that vital documents [consent forms] are translated into the non-English language of each regularly encountered, Low English Proficiency group eligible to be served.

Regularly encountered Limited English Proficiency group to be served = 5% of population or 1000 persons, whichever is less

Document: Whether the patient is proficient in English, or another preferred language, and how translation was achieved

Special Consideration: Decisional Capacity

- **Assess Four Abilities**
 - Ability to receive information
 - Ability to process and understand information
 - Ability to deliberate
 - Ability to make a choice and articulate it
- **Documentation**



Special Consideration: Minors

Informed Consent = Informed permission + Assent

Assist minor to understand the illness

Explain tests and treatment

Assess minor's comprehension of situation with consideration to any influencing factors

Assess minor's willingness to accept plan

Be transparent with minor if refusal is not an option

If the minor is unable to give consent or refuse treatment, another person may be authorized to do so

Special Consideration: Minors

Document:

- Discussion with the parent(s) and outcome
- Discussion with the minor and outcome
- Concerns identified and/or expressed



Patients Refusing Treatment

Patients have the right to refuse treatment

Patients refusing a procedure, test, or treatment should not automatically be considered as non-adherent or incompetent

Refusal to comply can be an important cautionary flag

Refusing to accept treatment can be intentional or inadvertent

Case Study

45 year-old male patient presented to PCP with back and flank pain

- Urine tests showed blood; PCP recommended the patient see a urologist and offered to make the appointment
- Patient indicated he would make his own appointment
- Patient returned to PCP eight months later with strep throat
- Provider questioned patient about seeing a urologist and the patient indicated he had not
- A repeat urinalysis was conducted and again showed trace blood

Case Study

45 year-old male patient presented to PCP with back and flank pain

- PCP contacted the patient and again recommended a referral to a urologist, but the patient refused and indicated he didn't want to have a prostate exam
- Provider discussed the importance of the exam and risks of possible kidney or bladder diseases and documented the discussion
- Patient returned several months later with pain and significant blood in his urine
- Patient was subsequently diagnosed with renal cell carcinoma
- Patient and wife filed a claim against the PCP, alleging delay in referral and delay in diagnosis

Case Study

45 year-old
male patient
presented to
PCP with back
and flank pain

- Patient stated in deposition that his provider should have been more insistent on the referral to the urologist, which would have prevented the cancer from reaching stage IV and metastasis
- Provider's documentation showed his efforts in trying to convince the patient to see a urologist
- Expert physicians felt the PCP appropriately informed the patient about seeing a urologist, and the patient had made an informed refusal decision

Barriers to Consent for Medical Treatment

- Memory lapses in the elderly
- Denial of the illness
- Language barriers
- Inadequate health literacy
- Culture differences
- Religious beliefs
- Mentally ill patients or addicted patients who need ongoing psychological or rehab care
- Uninsured or homeless patients
- Patients' fears
- Financial constraints
- Family dynamics; without family and/or caregivers
- Lack of motivation
- Inadequate teaching
- Patients feel they know more than the physician
- Poor communication
- Patients having difficulties understanding or following instructions

Risks to the Provider

“Failure to diagnose” allegations

Delay in treatment

“Loss of chance” allegation

Inappropriate treatment

Incomplete treatment

Obtain **Informed Refusal** When Patients Refuse Treatment

- Elicit the patient's reason for refusal
- Determine the patient's understanding of his/her problem or disease
- Emphasize the seriousness of the condition and urgency of the treatment or test (to the patient's family members as well)
- Include statements such as "hope and worry" in your discussion of refusals
- Explain the risks, including the consequences of his/her refusal
- Offer treatment alternatives, as appropriate

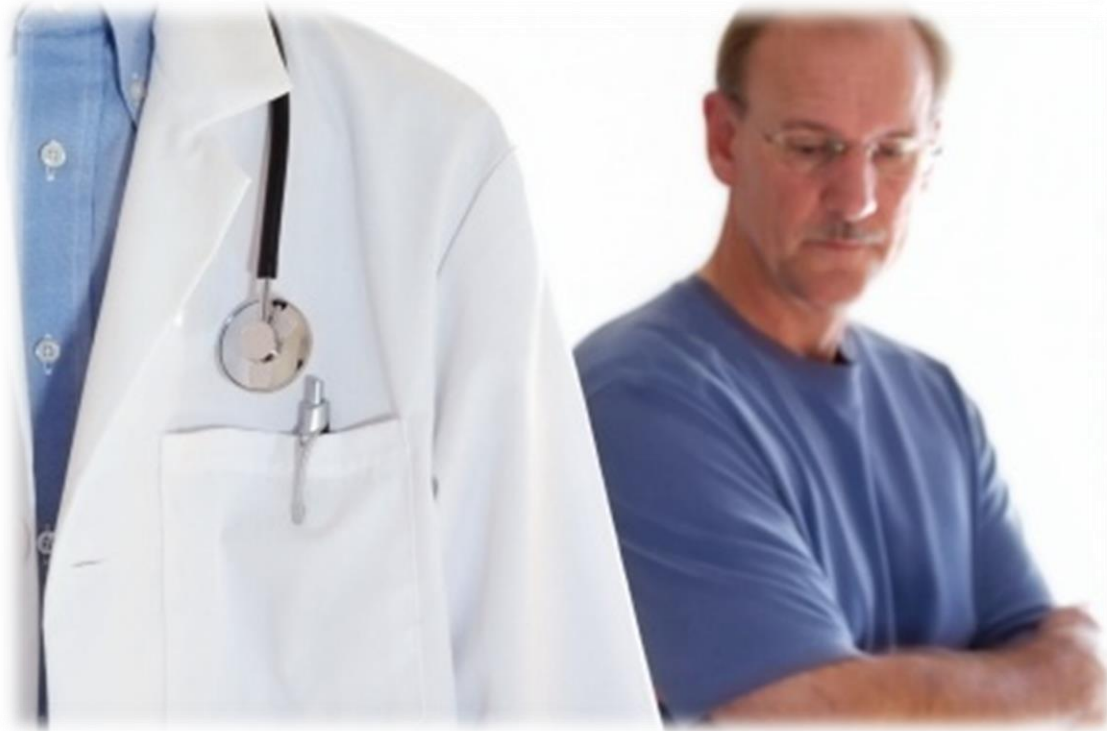


Informed Refusal Documentation

- Use an Informed Refusal form
- When refusal of treatment may result in significant damage or death, the discussions need to be thoroughly documented
- A signed form by itself, without accompanying documentation regarding the potential consequences of the refusal, may be insufficient
- If the patient refuses to sign an informed refusal document, a witness should sign the documentation



Termination of the Relationship



The Professional Relationship

Physicians continue to provide care unless:

- Patient no longer requires services of physician
- Patient elects to end relationship
- Physician gives sufficient notice of intention to withdraw from care (generally 30 days)
- Physician agrees to only treat a specific ailment or injury



Termination of the Relationship

Continuation of the physician-patient relationship may become undesirable because:

- Patient may require a specialist
- Patient is uncooperative/non-compliant
- Patient does not keep appointments
- Patient does not pay bills
- Patient is abusive to staff members
- Patient threatens harm
- Patient sues the provider
- Patient is involved in criminal activities activity



When Termination is Not Recommended

- During diagnostic work up or treatment for a serious medical condition
- Issues of mental competence
- Emergency or urgent medical condition
- Latter stage of pregnancy
- Behavioral issues determined to be related to patient's medical condition or side effects of medication



Termination Guidelines

- Written notice to patient (with reason for termination) via certified letter, return receipt requested
- Check patient's health plan contract
- Agree to treat for 30 days
- Only see the patient for emergencies during the 30 days following notice of termination
- Resolve acute medical conditions



Termination Guidelines

- Specify termination date
- Provide resources for identifying other available physicians
- Offer to transfer records
- Provide a copy of the termination letter to the patient's health plan and any treating specialists
- Place a copy of the termination letter and return receipt in the patient's chart
- Inform front desk staff members

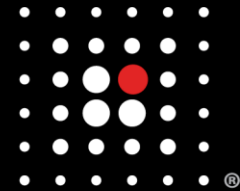


Take Home Points: Informed Consent & Refusal

- Obtaining consent is a partnership and non-delegable duty
- Requires assessing a patient's decision-making capacity
 - Four Abilities
- Requires comprehension
 - Use teach-back and teaching aids
- Patients have the right to refuse treatment
 - Ensure the patient has been educated regarding the risks of refusing treatment
 - Have the patient sign a refusal form
 - Ensure the refusal discussion is documented
- If terminating the relationship with a patient, follow appropriate guidelines



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