

# Informed Consent: A Cornerstone of Ethical and Legal Orthopedic Practice

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## Abstract

Informed consent is a fundamental ethical and legal requirement in orthopedic surgery, where procedures often involve significant risk and complexity. Obtaining valid informed consent is essential for patient-centered care and medico-legal safety. This article explores the ethical imperatives, legal precedents, components of a valid consent process, challenges specific to orthopedic practice, and strategies to improve consent quality and patient understanding. It emphasizes that consent is not just a legal formality but a crucial tool for shared decision-making and fostering trust between orthopedic surgeons and their patients.

## Introduction

Informed consent stands as a non-negotiable cornerstone in the practice of medicine, particularly within the realm of orthopedic surgery. It embodies a deep respect for patient autonomy, empowering individuals to make voluntary and informed decisions about their health-care journey. Given the spectrum of orthopedic interventions, ranging from minimally invasive techniques to intricate reconstructive surgeries with inherent risks, ensuring a robust and ethically sound consent process is paramount for legal probity, the cultivation of trust, and the promotion of collaborative decision-making.

## Point-Wise Discussion

### 1. Ethical foundations of informed consent:

- The principle of respect for autonomy acknowledges the patient's inherent right to make decisions concerning their own body and health care.
- Beneficence (acting in the patient's best interest) and non-maleficence (minimizing harm) necessitate that patients understand the potential benefits and risks associated with proposed treatments.
- Justice in health care is supported by informed consent, ensuring fairness and equity in the delivery of care.

### 2. Legal aspects of consent in orthopedic practice:

- The doctrine of informed consent legally mandates that orthopedic surgeons must disclose information that a reasonable patient would deem necessary to make an informed decision about their treatment.
- Significant legal precedents, such as *Canterbury v. Spence* and *Samira Kohli v. Dr. Prabha Manchanda* (India), have been instrumental in shaping the current understanding and application of informed consent.
- Various types of consent are recognized:
  - Implied consent may be assumed in emergency situations where immediate intervention is required.
  - Express consent, which can be either written or verbal, is typically obtained for elective surgical procedures.
  - Proxy consent is necessary when patients lack the capacity to make decisions themselves, requiring consent from legal guardians or representatives.

### 3. Components of valid informed consent: A valid consent process encompasses several key elements that must be present:

- Disclosure: The orthopedic surgeon must clearly explain:
  - The nature of the proposed procedure
  - The expected benefits of the intervention
  - The potential risks and complications, which can be significant in orthopedic surgeries such as spinal fusions and joint arthroplasties
  - Available alternatives, including non-

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operative management or different surgical approaches

- Post-operative expectations, including rehabilitation protocols and potential limitations.
- Understanding: The patient must genuinely comprehend the information disclosed. To facilitate understanding, orthopedic surgeons are encouraged to use visual aids, provide information in the patient's primary language (utilizing translators when necessary), and employ simple, lay language.
- Voluntariness: The patient's decision to proceed with the proposed treatment must be made freely, without any form of coercion or undue influence.
- Competency: The patient must possess the mental capacity to understand the information, appreciate its relevance to their condition, and make a reasoned decision. Assessing competency can be particularly challenging in elderly and cognitively impaired patients.
- Documentation: Thorough documentation of the consent discussion, including the information provided, the patient's questions, and their demonstrated understanding, along with the signed consent form, is essential.

4. Challenges in orthopedic surgeries: Several factors present unique challenges to obtaining informed consent in orthopedic practice:

- Many orthopedic procedures, such as spinal surgeries, joint replacements, and trauma surgeries, inherently carry significant risks and potential complications.
- In emergency situations, time constraints may limit the extent of the consent discussion, requiring a careful balance between providing necessary information and acting promptly.
- Obtaining valid consent from elderly and cognitively impaired patients necessitates special approaches to assess their decision-making capacity or involve legal guardians.
- Language and literacy barriers, common in diverse patient populations, require customized communication strategies and the use of interpreters to ensure genuine understanding.

5. Special considerations in orthopedics: Certain contexts within orthopedic surgery require specific attention to the consent process:

- In pediatric orthopedics, obtaining assent from the child, when developmentally appropriate, in addition to consent from parents or legal guardians, is ethically important.
- Consent for anesthesia is a distinct but related process, often requiring a separate discussion and consent form, detailing the risks and benefits of the anesthetic plan.
- When involving patients in research or innovative procedures, the consent process must be exceptionally thorough, transparent, and strictly adhere to the ethical guidelines set forth by institutional ethics committees.

6. Strategies to improve the consent process: Several strategies can be implemented to enhance the quality and effectiveness of informed consent in orthopedic practice:

- Utilizing structured consent forms that are specific to the orthopedic procedure and clearly outline the risks, benefits, and alternatives can ensure comprehensive disclosure.
- Incorporating multimedia tools, such as videos and diagrams, can significantly improve patients' understanding of complex surgical procedures and anatomical structures.
- Implementing consent checklists can serve as a useful reminder for surgeons to cover all essential elements of the consent discussion.
- Investing in training and simulation for residents and junior doctors on effective communication and consent-taking techniques is crucial.
- Conducting periodic audits of consent practices can help identify areas for improvement and ensure adherence to established standards.

7. The critical role of documentation: Thorough and accurate documentation is paramount in the informed consent process:

- Comprehensive records should include detailed notes on the discussions with the patient, their specific questions, and the surgeon's assessment of their understanding.
- Electronic consent systems offer several advantages, including improved accessibility, enhanced traceability, and a reduced risk of omissions.
- In the event of litigation, properly documented informed consent serves as a crucial element of medico-legal defense.

8. Responsibilities of the surgeon and surgical team: Ensuring valid informed consent is a collaborative effort, although the primary responsibility rests with the operating surgeon:

- The operating surgeon bears the ultimate responsibility for ensuring the patient is adequately informed and has given voluntary consent.
- Effective team communication is essential, with nurses and anesthesiologists playing a supportive role in reinforcing information and addressing patient concerns.
- Re-consenting is mandatory if there is any significant change in the patient's diagnosis or the planned surgical procedure.

9. Cultural and regional considerations in India: Within the Indian context, specific cultural and social factors influence the informed consent process:

- The influence of joint families often means that family members play a significant role in health care decision-making.
- Language diversity necessitates the availability of multilingual consent forms and access to competent interpreters.
- A potentially high degree of trust in physicians may sometimes lead patients to sign consent forms without fully

comprehending the information. This places an even greater ethical obligation on the orthopedic surgeon to ensure genuine understanding.

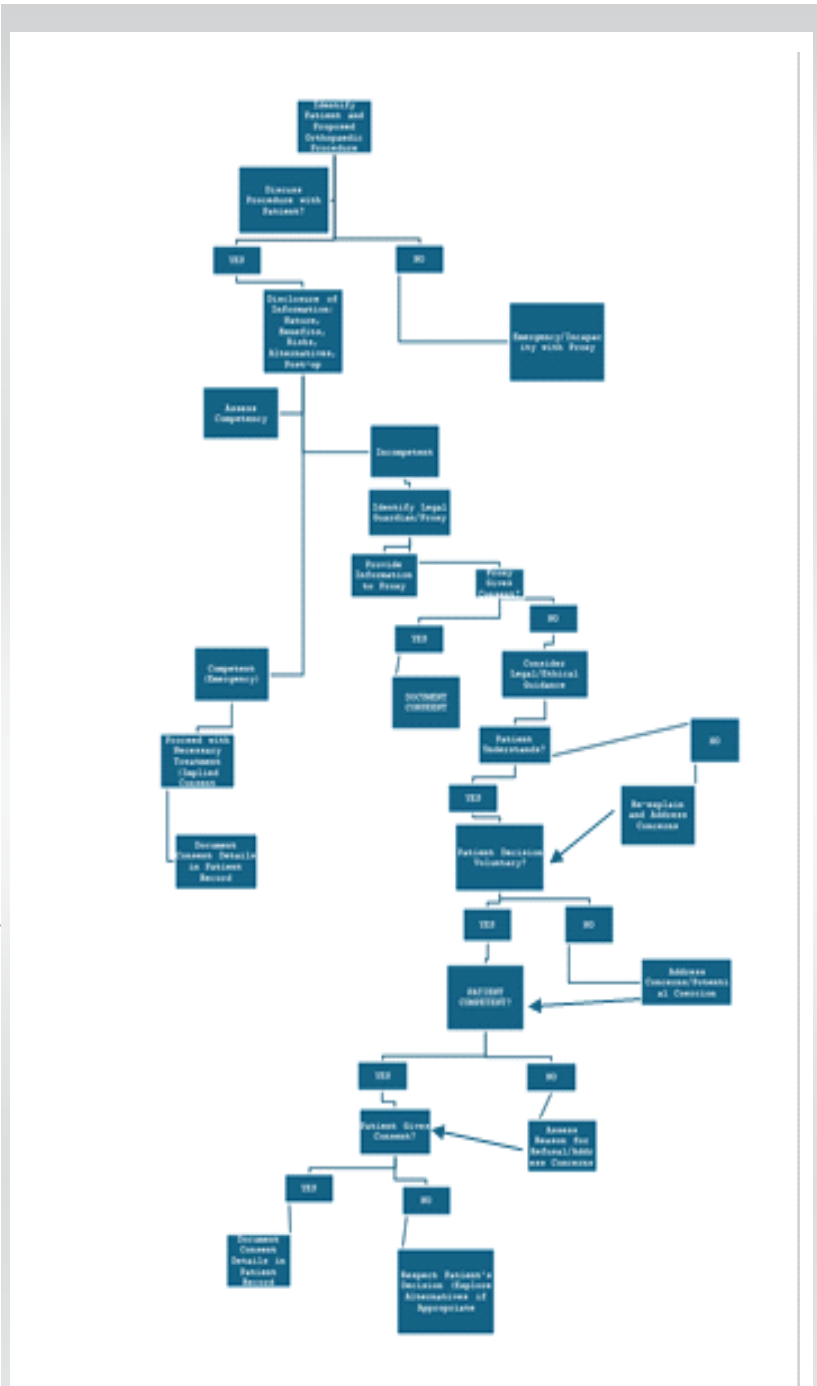
10. Future directions in informed consent: The field of informed consent is continually evolving:

- AI and digital consent tools have the potential to automate aspects of the consent process and tailor information delivery to individual patient needs.
- Augmented reality and 3D models can offer innovative ways to visualize complex anatomical structures and surgical procedures, enhancing patient understanding.
- Mobile health platforms can provide valuable pre- and post-operative education, supporting the consent process.
- The introduction of patient-reported understanding scores could provide a quantifiable measure of patient comprehension and satisfaction with the consent process.

Flowchart of the informed consent process:

**Conclusion**

Informed consent in orthopedic surgery transcends a mere legal formality; it is a dynamic and continuous process of communication that lies at the heart of ethical and patient-centered care. Given the potentially significant impact of orthopedic interventions, a comprehensive, empathetic, and individualized approach to obtaining consent is paramount. Orthopedic surgeons must embrace their responsibility to prioritize informed consent, not only to meet legal obligations but, more importantly, to foster trust, enhance patient satisfaction, and mitigate the risk of litigation. Ongoing education, a commitment to innovation in communication strategies, and robust institutional support are essential for the continuous improvement of consent practices in modern orthopedic care.



**Figure 1: Flowchart of the informed consent process.**

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