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DOCTORS COOPERATIVE

CLINICAL
A NEWSLETTER FOR SELDOC GP'S
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Informed Consent: What to remember?

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Real Scenario: "In May 2016 the Patient Experience and Quality Team received a complaint from a family representative of a patient. We were informed on first presentation by a family member that the patient had the capacity to sign a consent form for the complaint to be investigated. **It later emerged that the patient did *not* have capacity to sign a consent form.** Despite the absence of 'power of attorney' documentation a decision was made for the complaint to be allowed to progress due to the family member's name documented on the social service capacity care plan as the person who has agreed to act on behalf of the patient."

I (PR) had the pleasure of attending CNA Hardy's (a commercial insurance broker) inaugural Healthcare Conference, 'Avoiding the Risks of Litigation' in May 2016. This has been a thought provoking conference and I wish to share insights from the conference and extend the relevance to OOH care consultations.

The conference heard that a key area of growing litigation relates to informed consent. The law has evolved over the past 40 years and in a recent Supreme Court decision, Montgomery v Lanarkshire Health Board [2015] 2 WLR 768, the right to self-determination was recognised **and patients now have to be provided with sufficient information, which is relevant to them,** in order to enable them to make informed decisions about which treatment to decline or pursue. In this case an expectant woman claimed that she was not given sufficient information 10% risk of shoulder dystocia by the obstetrician.

Although most of the conference dealt with surgical cases, the principles are applicable in all clinical situations, KV has discussed issues of consent on areas of out of hours care with a number of duty doctors. The issues of interest in the out of hours setting are when duty doctors work with the following scenarios:

- Dealing with children (Fraser & Gillick Competencies)
- Carrying out intimate examinations (Chaperones)
- Replying to complaints (Capacity)
- Prescribing: especially to the elderly (Capacity)

The test of what a reasonable clinician may disclose to a patient in order to assist them in reaching a decision is no longer an automatic defence; instead, a clinician is tasked with understanding the needs and wishes of their patient in order to determine what their patient would deem "material". In order to assist, we set out key things to consider when obtaining informed consent.

The patient has the right to self-determination. You must therefore **explore what would be relevant to the individual patient** in front of you to determine what information they may deem "material". For example when prescribing it may be important to give an idea of risk by using the following table,

Verbal	Frequency	Probability
Very Common	Over 10%	More than 1 in 10
Common	1-10%	1 in 100 to 1 in 10
Uncommon	0.1-1%	1 in 1000 to 1 in 100
Rare	0.01-0.1%	1 in 10000 to 1 in 1000

European commission nomenclature for communicating frequency of adverse effects of drugs

GMC Good Medical Practice (2013) states, "Work in partnership with patients. Listen to, and respond to, their concerns and preferences. Give patients the information they want or need in a way they can understand. Respect patients' right to reach decisions with you about their treatment and care."

Good note keeping is essential to document that such a discussion has taken place; you must not only engage in dialogue with your patient, but also evidence such discussions.

Avoid the percentage focus without context. E.g. a 0.5% risk of harm or side-effect. Such a risk will only be material if the facts relevant to an individual patient make it so. To provide an example, a 30 year old woman without children requiring spinal surgery which carries a 25% risk of no change; 25% risk of improvement; 25% risk of making it worse and 25% risk of death may consider the risks are worth it if she has no dependants and is focused on her career. However, the same 30 year old with 3 infant children will see the risk differently.
You need to check the patient's understanding of what they are consenting to and document this in your notes. As you cannot use a generic consents form anymore, check that any consent 'templates' and processes are now fit for purpose. Audit your service's informed consent processes.

On occasion, the informed consent dialogue has exposed underlying issues of capacity in our OOH consultations. Capacity issues are therefore an intended subject for a future e-Newsletter feature.

References:
- Moving away from paternalistic medicine and "doctor knows best" e.g. Sidaway v Board of Governors of the Bethlem Royal Hospital & Ors [1985] AC 871
- Montgomery v Lanarkshire Health Board [2015] 2 WLR 768 paragraph 87
- Interpreting Montgomery, e.g. a wrongful birth claim A v East Kent Hospitals University NHS Foundation Trust [2015] EWHC 1038
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European commission nomenclature for communicating frequency of adverse effects of drugs

Legal disclaimer

Compliments

Thanking Dr Butler

Patient Wrote:

I just want to say thank you to all the SELDOC team, but especially the GP who saw me at 1515 yesterday (Saturday 20 Feb) at Dulwich Hospital after I had a minor health scare. The service -- from the initial telephone call, call-back phone consultation, appointment booking call-back, reception at Dulwich Hospital and the GP consultation -- was prompt, efficient and friendly. In particular, the GP took time to listen, understand and examine, and was incredibly sympathetic and reassuring. This meant an awful lot to me and my family. Do please pass on my thanks to everyone involved. With best wishes.

Thanking Dr Sharif Zarif

Patient Wrote:

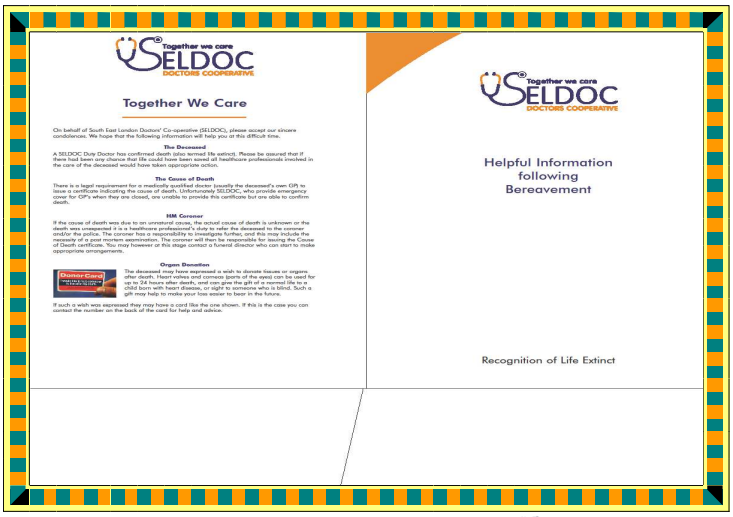
I would like to thank the doctor on duty on the evening of Monday 25th April who recognised a real emergency, called an ambulance immediately and showed his concern by calling a few minutes later to check if the ambulance had arrived. Almost seven weeks later my husband remains in Critical Care at King's College hospital but is improving every day. I am so grateful to this unknown doctor who helped to save my husband's life. Please pass on my heartfelt gratitude to him.

SELDOC Bereavement Pack

Recently the patient experience and quality team have worked together with our operations team to produce a bereavement pack which will assist our duty doctors to sensitively pass on very useful information to families who are dealing with the loss of a loved one. The bereavement pack holds information on the registration of death, the funeral director, ministers or spiritual leaders, social security issues, bereavement and seeking help. This sensitive piece of information has been produced with the focus of the patient being at the centre of our services, with an understanding that families who are dealing with the loss of a loved one is going through a very difficult time.

REMINDER:

The time of verification of death must be recorded at the time that the SELDOC doctor arrived and verified the death. SELDOC's RECORD OF THE FACT OF DEATH form has been amended.



SELDOC's RECORD OF THE FACT OF DEATH

****THIS IS AN IMPORTANT DOCUMENT, PLEASE COMPLETE IT FULLY AND ACCURATELY****

Details of Deceased:			
Family Name:		**Date of Birth:**	
Forename(s)		**Sex:**	
Usual Address:			
Registered GP Name:		**Name of GP Practice:**	
Case Number:			
Notes from clinician confirming life extinct:			
Date and time of arrival of verifying clinician at site of death Date:---------- Time:----------			
Who identified the body to you?			
Persons present at death (occupation/position/relationship to the deceased): 1. 2. 3.			
Actual time of death Recorded (24hr) **As reported by those present**		**Details of clinical examination:**	
		Heart sounds/pulses	Yes ☐ No ☐
Time of verification of death (24hr) **As recorded by SELDOC Clinician**		Respirations	Yes ☐ No ☐
**** The time of verification of death must be recorded at the time that the SELDOC doctor verified the death.**		Pupils fixed and dilated	Yes ☐ No ☐
Time of verification:		Place of Death:	
**** Ask yourself:** **Do I suspect death was as a result of natural causes?** **Is the death clearly documented as an expected death?** **IF THE ANSWER IS NO TO EITHER OR BOTH QUESTIONS YOU MUST INFORM THE POLICE IMMEDIATELY.**			
I have informed the police		Yes ☐ No ☐	
I am satisfied that the death was expected, do not suspect unnatural and hereby confirm life is extinct.			
Yes ☐ No ☐			
I authorise the removal of the body			
Yes ☐ No ☐			
Signed:---------- **Date:**---------- **Time:**----------			
Print name:----------			

Office Move

Headquarters Management Team, currently based at Dulwich Community Hospital in East Dulwich are moving to Handover House in Norbition.

The office move is scheduled to take place in September 2016. Further details will be made available in our next clinical newsletter.