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Telehealth & Informed Consent: Do Patients Need to Sign on the Dotted Line?

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About TOH



- Bilingual tertiary care facility
- 5 campuses
- Number of Beds 1,195
- ~ 10600 employees
- Births 7,494
- Emergency Visits 120,613
- Admissions 54,124
- Average length of stay (days) 7.8
- Surgical Cases 71,000
- Outpatient Visits 770,700
- Diagnostic Imaging Procedures & Exams 507,882
- Lab Tests 10,000,000
- External Funding for Research \$62,000,000

<http://www.ottawahospital.on.ca>

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Learning Objectives



By the end of this presentation participants will be able to:

1. Distinguish between express and implied consent
2. Describe how technology may complicate duty of care
3. List 3 prerequisites for consent to be informed
4. Begin reflecting on issues related to informed consent in telehealth

Something to Think About



“It’s better to know some of the questions than all of the answers.”

– James Thurber, Journalist –

Straw Poll



1. Is telehealth a tool for the provision of health care?

OR

Is telehealth a distinct method for delivery of health care?

Straw Poll



2. Should patients be required to sign a consent form prior to a routine telehealth encounter?



Informed Consent: What is it?



- ✓ “Person's agreement to allow something to happen, such as a medical procedure, that is based on full disclosure of the facts necessary to make an intelligent decision.”
 - Source:
<http://www.edgarsnyder.com/resources/terms/i.html>

When is Consent Informed?



- A consent to treatment is informed if, before giving it, the person received:
 - (a) information about the matters set out in subsection (3) that a reasonable person in the same circumstances would require in order to make a decision about the treatment; and
 - (b) responses to his or her requests for additional information about those matters.

1996, c. 2, Sched. A, s. 11 (2).

 - Source: Health Care Consent Act, 1996

Informed Consent: What Information?



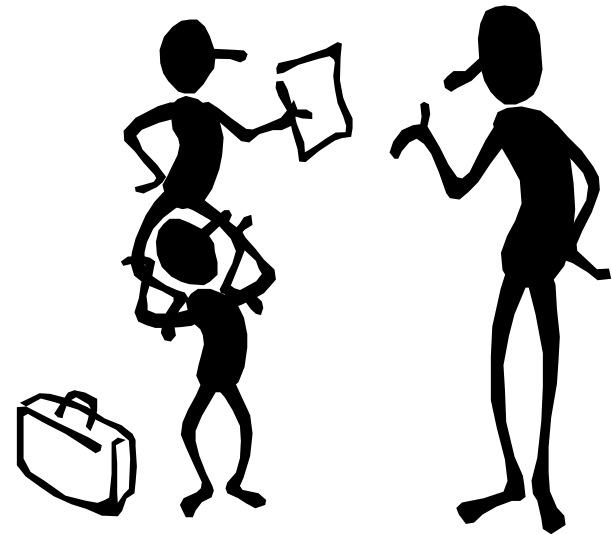
- The information must include:
 - ✓ Nature of the treatment
 - ✓ Expected benefits of the treatment
 - ✓ Material risks and side effects of the treatment
 - ✓ Alternative courses of action; and
 - ✓ Likely consequences of not having the treatment

Informed Consent: 2 Types



✓ Express

✓ Implied



Relevant Legislation



- ❑ Consent (Ontario)
 - Health Care Consent Act, 1996, S.O. 1996, c. 2, Sched. A
 - Deals with:
 - guidelines for informed consent for treatment, personal care services or admission to a long-term care facility
 - roles and responsibilities of substitute decision-makers
 - Ministry responsible: Ministry of Health and Long-Term Care
 - Available online at: <http://www.e-laws.gov.on.ca>
- ❑ Privacy (Ontario)
 - Personal Health Information Protection Act (Bill 31) (HIPA)
- ❑ Privacy (Federal)
 - PIPEDA: Personal Information Protection and Electronic Document Act

Technology & Duty of Care



- ❑ Effect of Technology
- ❑ New actors
- ❑ Establishing liability

Informed Consent : Why Bother???



- Foundation of an ethical practice
 - Source: (Oakley, Wootton 2003)

- Legal requirement

HELP!



Best Practices



- ✓ NIFTE Recommendation
- ✓ Consider consent as more than just a signature on a form –consider it a process
- ✓ Don't accept technology uncritically
- ✓ Involve your organization's Risk Management people
- ✓ Consider that the fundamental principles underlying informed consent apply to all of health care & not just e-Health applications

Best Practices



- ✓ Understand that a patient may change their mind
- ✓ Use reader-friendly written information in conjunction with informed consent
- ✓ Make sure pt understands that they can stop the session at any time or obtain in-person care
- ✓ Consider cultural issues
- ✓ Use camera pre-sets to show others in room

NIFTE Recommendation



- “Written informed consent [should be] ... obtained prior to specific telehealth encounters, as required by applicable legislation and regulations, such as: robotic or invasive treatment, videotaping and/or recording of the encounter, use of information for promotional/media events, patient/client photography, and other medical acts that would normally require written consent in the traditional health care setting.”
 - National Initiative For Telehealth. Framework of Guidelines 2003. Richard Ivey Foundation.
<http://www.nifte.ca/framework/pdfs/FrameworkofGuidelines2003eng.pdf>

Question



Should a signature be obtained prior to a routine telehealth visit?



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Resources



1. Health Care Consent Act
 - http://www.e-laws.gov.on.ca/DBLaws/Statutes/English/96h02_e.htm
2. College of Nurses of Ontario
 - http://www.cno.org/docs/policy/41020_consent.pdf
3. Canadian Society of Telehealth
 - <http://www.cst-sct.org/>
4. National Initiative For Telehealth. Framework of Guidelines 2003. Richard Ivey Foundation.

Acknowledgements



- Telehealth Steering Committee,
The Ottawa Hospital

Thank you



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