Informed Consent

I rarely go to the movies these days, but with two kids, I've seen and own every Pixar and Disney DVD released in the past 10 years. A few months ago, I got a rare treat—a date with my wife without the kids to see an adult movie. Not really an *adult* movie, but one not made for kids. Pee-wee Herman was not in the movie or in the movie theater either. I told my wife she could choose whatever movie she wanted to see. I didn't care as long as it wasn't animated or computer generated; I wanted living breathing actors and actresses (although I think they are all called "actors" now irrespective of gender).

So after my favorite meal of eggplant parmigiana at my favorite Italian restaurant, we drove to the theater, got tickets, and I bought my usual armful of Junior Mints, popcorn, and diet Coke, which coincidentally cost the same as my dinner. My wife, who had taken her daily statin, reminded me that my buttered popcorn was the nutritional equivalent to three cheeseburgers. I replied that my cholesterol remains at 140 and my high-density lipoprotein at 70, and on the list of things that would kill me, heart disease was slightly below tsunami on Lake Michigan. As I looked around the theater, though, I did become concerned when I noticed I was the oldest person with a Y chromosome in the place. The rest of the audience consisted of pre-teenaged girls (and their mothers) or teenaged girls holding hands with miserable looking teenaged boys. As usual, my wife got the last laugh when I asked what this movie, *Twilight*, was about. (If you haven't seen it, you're lucky. My favorite review noted that, "It's intellectually and socially detrimental to both literature and cinema, simultaneously.") I realized I hadn't made an informed decision on this one.

Segue into the subject of informed consent. I think some patients, despite our best efforts and intentions, behave similarly before medical procedures, although clearly we see the entire spectrum from "Doc, do whatever you think is right" to having hour-long discussions with friends, family, and litigators. One of our quality improvement projects next year will be to revise our informed consent forms in an effort to

improve in this area. So, I decided to do some research to become better informed myself. If you google "informed consent," it generally consists of the following bullet points:

- The nature of the decision/procedure
- Reasonable alternatives to the proposed intervention
- The relevant risks, benefits, and uncertainties related to each alternative
- Assessment of patient understanding
- The acceptance of the intervention by the patient

I think we do a very good job with some of these, such as explaining the procedure, alternatives, risks, and benefits, and less well at others, such as assessing the patient's understanding. I'm not sure there is any practical method to ensure "understanding." Should we start by saying, "Please pay attention, you will be tested later"? When we communicate significant findings to the emergency room these days, we are supposed to ask the person on the other end of the phone to repeat everything we just said, like at a McDonald's drive-through. "Ruptured abdominal aortic aneurysm and a side of fries. And could you supersize that?"

Clearly, the manner in which information is presented plays a huge role in patient acceptance. Most physicians can easily encourage or dissuade patients from any procedure. When I was a resident, one of my non-interventional radiology-inclined coresidents never had a single on-call interventional procedure during his entire residency. When I asked him how this happened, he replied, "Well, I begin every patient discussion prior to informed consent with: the first risk of this procedure is death. Surprisingly, patients then want to wait until morning until having anything done."

Predictably, medical Web sites and medicolegal Web sites have quite different descriptions and expectations of informed consent. On the American Medical Association's Web site, they use the Goldilocks theorem advising against either being too vague *or* too comprehensive. (Like porridge, it should be "just right.") On the

¹Section of Vascular and Interventional Radiology, University of Chicago Medical Center, Chicago, Illinois.

Address for correspondence and reprint requests: Brian Funaki, M.D., Section of Vascular and Interventional Radiology, University of Chicago Medical Center, 5840 S. Maryland Avenue, MC 2026, Chicago, IL 60637.

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F.R.C.R., F.R.C.S.I., and Afshin Gangi, M.D., Ph.D.

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other hand, one plaintiff's Web site stated that "if you suffered a serious side effect from the operation and were not warned about it (even if it was a very rare side effect), or you were warned about it in a way that was *difficult for you to understand*, then you may have a very strong case against the doctor and/or hospital." Another one included these additional bullet points to the consent:

- The physician or surgeon's qualifications
- The expected length of recovery time
- The approximate cost of the procedure and whether it will likely be covered by your health insurance

I then read about a physician who was found liable under the informed consent doctrine for failing to persuade a patient to undergo a pelvic exam. In this case, a woman saw her physician for her yearly gynecologic

exam. When the physician requested to do a Pap smear, the patient refused. The physician stressed and documented why a Pap smear was important. The next year, the patient returned for her annual exam and a Pap smear was requested/suggested again by the physician. Again the physician stressed why a Pap smear should be done and why it was in the patient's best interest. Despite this information, the patient refused. Approximately 6 months later, the patient was found to have cervical cancer. She soon filed a suit, and a jury found the physician liable for failing to have done more to stress why the Pap smear should have been done. I guess no matter how ridiculous the situation is in interventional radiology, things could always be worse.

Brian Funaki, M.D.¹

Editor in Chief