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Informed consent prior to nursing care: Nurses' use of information

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Abstract: Background: Informed consent prior to nursing care procedures is an established principle which acknowledges the right of the patient to authorise what is done to him or her; consent should not be assumed. Nursing care procedures have the potential to be unwanted and hence requires an appropriate form of authorisation that takes into consideration the ongoing nature of care delivery. Research question: How do nurses obtain consent from patients prior to nursing care? Design: Critical incident technique and the collection of critical happenings. Participants: 17 participants who were all qualified nurses took part in in-depth interviews. Ethical considerations: Ethical approval was obtained from the university ethics committee. Findings: Information giving is a key component prior to nursing care procedures. Nurses provide information to patients as a routine aspect of care delivery, and do so even when the patient is unable to communicate themselves. Whilst some participants described how information giving might be rushed or overlooked at times, it is clearly an established part of nursing care and is provided to ensure the patient knows what to expect when care is delivered. What is less clear is the extent to which information is given in order to seek the consent – rather than merely inform the patient – about nursing care. Conclusion Implied consent is often an appropriate way in which consent is obtained prior to nursing care procedures. It takes into account the ongoing care provision and the relationship that exists between the nurse and patient. However implied consent should not be assumed. Nurses need to ensure that information is given not only to inform the patient about a procedure but to enable the patient to give his or her consent and to find an alternative way forward if the patient withholds their consent.

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Abstract

Background: Informed consent prior to nursing care procedures is an established principle which acknowledges the right of the patient to authorise what is done to him or her; consent prior to nursing care should not be assumed. Nursing care procedures have the potential to be unwanted by the patient and hence require an appropriate form of authorisation that takes into consideration the relationship between the nurse and patient and the ongoing nature of care delivery. **Research question:** How do nurses obtain consent from patients prior to nursing care? **Design:** Critical incident technique and the collection of critical happenings. **Participants:** 17 participants who were all qualified nurses took part in in-depth interviews. **Ethical considerations:** Ethical approval was obtained from the university ethics committee. **Findings:** Information giving is a key component prior to nursing care procedures. Nurses provide information to patients as a routine aspect of care delivery, and do so even when the patient is unable to communicate themselves. Whilst some participants described how information giving might be rushed or overlooked at times, it is clearly an established part of nursing care and is provided to ensure the patient knows what to expect when care is delivered. What is less clear is the extent to which information is given in order to seek the consent – rather than merely inform the patient – about nursing care. **Conclusion** Implied consent is often an appropriate way in which consent is obtained prior to nursing care procedures. It takes into account the ongoing care provision and the relationship that exists between the nurse and patient. However implied consent should not be assumed. Nurses need to ensure that information is given not only to inform the patient about a procedure but to enable the patient to give his or her consent and to find an alternative way forward if the patient withholds their consent.

Introduction

Informed consent is a well established principle within health care. The components of informed consent and its application are undisputed; however its application within nursing, prior to nursing care procedures has not been extensively explored. In this study, the way in which informed consent is applied prior to nursing care is investigated with specific emphasis on the use of information giving by nurses.

Background

It has long been recognised that nurses should obtain informed consent from their patients prior to nursing care procedures [1]. The requirement for informed consent prior to nursing care is clearly stated in the current Nursing and Midwifery Code of Conduct (2018 section 4.2) and in many other professional documents [for example 2]. The components of informed consent are well established; they include the disclosure and comprehension of information which is given to the patient and which is followed by the patient giving their voluntary and competent consent [3]. Much has been written on informed consent prior to medical, surgical procedures and prior to a patients' involvement in research. Discussion focuses on the amount of information disclosed, and the shift towards patient focussed rather than practitioner led information. Consent should be voluntary without undue influence of others who might seek to alter the decision of the patient according to a different set of values. Consent should also be given by someone who is competent to do so. The criteria determining competence to consent are generally set quite low to facilitate an inclusive concept of consent; rather than one which is inaccessible to many people. It is widely acknowledged that consent does not need to be obtained in writing, it can be verbal or even implied [4], . This is because emphasis is placed on the actual consent itself rather than the way it is given and the acknowledgment that a signed form does not provide evidence that the signature actually represents a true consent. However it is also acknowledged that when an implied consent is obtained it is important to establish that it is a true consent rather than an act of compliance by the patient [4]. The requirement for informed consent is underpinned in law of many countries. For example in the UK, any touching of a patient is a potential battery unless some authorisation such as consent of the patient has been sought as demonstrated in Montgomery v Lanarkshire Health Board (2015). It is important that consent is obtained in a way that is appropriate for the situation; that is in some circumstances, where the patient is familiar with the care he or she is receiving, repeated consent does not need to be obtained for everyday nursing care activities and to do so would interfere with the flow of patient care. In these situations, consent can be implied and the responsibility remains with the nurse to ensure that the patient has sufficient understanding of the intended procedures and has the opportunity to raise any objection to the care that is proposed.

The requirement for consent prior to nursing care procedures is generally agreed to be based on the concept of autonomy. The concept of autonomy is a central component in many international codes for nurses , for example the International Code of Ethics for Nurses (ICN 2012) although the term remains hard to define [5,6] It is generally agreed that a true sense of patient autonomy is not simply an absence of control from others; people are not autonomous simply because they are left alone. To have autonomy is to have the necessary information to make decisions. This is reflected in the key component of information giving in informed consent [3]. Therefore simply saying to the patient that they should make their own mind up about care or treatment without providing information does not promote the patients' autonomy and could be construed as a breach of duty and there has been many a case in negligence that have identified a breach of duty when such information has been withheld (for example, Montgomery v Lanarkshire Health Board 2015). Therefore if autonomy is a principle that underpins informed consent, the requirement to provide information is closely allied with this. It

therefore stands to reason that, at least at a first glance, giving people information and the opportunity to consent to nursing care is a mechanism by which we can promote patient autonomy. Information giving is at the heart of, but not synonymous with informed consent.

Information giving is often rightly considered to be one of the cornerstones of informed consent. Prior to surgery, patients are given a full disclosure of the proposed operation and likely outcomes and side effects. Prior to research, potential participants are asked to scrutinise information sheets about the proposed study before giving their consent. Despite the wide acknowledgement that informed consent is a vital component in the delivery of nursing care, there is very little discussion of the ways in which information is given by nurses prior to nursing care procedures and how this is received by their patients. When informed consent is discussed within the nursing literature, this is mainly focussed on informed consent prior to surgery or research rather than to the nursing care procedure itself [7,8,9].

There are a small number of studies which have explored nurses' information giving to patients prior to nursing care procedures [1,4]. These studies explored the way in which informed consent is undertaken by nurses prior to nursing care procedures and identified an emphasis on the information giving rather than the other elements of informed consent such as voluntariness and absence of coercion. Similarly, other researchers [10] have explored the practice of surgical nurses in the informed consent process and found a similar emphasis on information giving rather than on other elements of informed consent. Other studies have examined the perspectives about the amount of information given by nurses and their patients [11,12,13] and have identified that whilst nurses perceived information giving to be a significant part of their role, many patients indicated that this was not sufficient and did not suit their needs, indicating that information giving by nurses prior to nursing care might not be received by patients in the way that is anticipated. Given the central component of information giving prior to nursing care procedures this is an area warranting further study.

Research question: How do nurses obtain informed consent from patients prior to nursing care procedures?

Design:

This study builds on work undertaken previously [1,4] in which the way in which consent is obtained prior to nursing care procedures was examined. Since then, no further research has been identified that explores consent prior to nursing care procedures. We sought to replicate part of this study in a joint project involving pre-registration MSc nursing students who were undertaking their dissertation. The project was led by xx and xx and student researchers xx, xx and xx undertook interviews after preparation and with the support from the project leaders. On submission of their dissertation, xx, xx and xx gave their permission for their data to be re-analysed as a whole dataset by xx and xx.

The method used is aligned to the critical incident technique [14] , a method developed by Flanagan in 1954 and which has frequently been utilised in nursing research [15,16]. In this method, participants are

asked to identify incidents which form the basis for discussion during the subsequent interview. For this study, participants were asked to identify incidents in which informed consent formed a central component and which could be the basis for discussion at interview. Prior to interview, participants were asked to have considered an incident in which consent prior to nursing care had arisen. It was anticipated that this could be related to any of the components of informed consent; information giving, voluntariness or questions of competence to consent. The focus of consent had to be prior to nursing care rather than medical or surgical intervention or prior to involvement in research.

The sampling strategy was purposive; all participants were qualified nurses with at least one year of experience and were willing to recall and discuss incidents from their practice with a student researcher. The research team including the project leaders and the student researchers attended lectures at the campus and gave a brief introduction to the project and ensured that further details were given to anyone who expressed interest in the study. Those who were interested in the study then contacted the study team directly. Interviews were shared between the student researchers who contacted those who had expressed an interest in the study and arranged a mutually convenient time for the interview.

All interviews were recorded and transcribed. All recordings were checked for accuracy of transcription by xx. The student-researchers analysed their own interview data as part of the requirements for their MSc. The data was then combined and re-analysed by xx and xx for the purposes of this paper. Data were analysed thematically [13]. Interview data were coded according to the meaning attributed to the incident and to individual sections of the incident, sometimes referred to as a critical happening [14]. This task was undertaken by xx and xx and who met to compare the coding given to the data set and to discuss any differences. This was a useful activity and served to generate discussion about the meaning of the data and achieved further insight. Codes given to the data were then arranged into themes and reworked to ensure that all codes reflected the themes and that the themes were a reflection of the codes within them.

Participants:

Interviews were arranged with qualified nurses who were undertaking post-registration nursing courses at a university in the UK.

Ethical considerations:

Ethical approval to undertake this study was obtained through the university's ethics committee (Oxford Brookes University Faculty Ethics Committee19/25) . Participants gave their written informed consent ahead of the interview and were informed of sources of support should the interview provoke unpleasant memories.

Findings:

17 participants took part in the study. All participants were qualified nurses studying for a post qualification award. Participants worked at two different hospitals. One major theme to emerge from the data analysis was the way information is given to patients by nurses. This paper focuses on this.

Nurses focus on information giving

Information giving is clearly a key component of the nurses' role. This was evident in all of the interviews for this study. Many participants reported that informing patients about the proposed care was almost second nature activity and that patients had an expectation that they would be given information.

> *People are usually happy it is just people want to be informed exactly what you are doing rather than just doing a thing to people, which in our unit we don't we are very good at explaining as soon as somebody comes in-…. so we are just confirming what we are going to do, cause usually doctors or the ambulance service or the nurse will have said I can refer you to (emergency medical unit) and this is, what they will do. (Interview 7)*

Two further participants explained that giving information was part of the routine of care delivery:

> *So if you give a specific type of medication you should tell them, err, I'm giving you this medication, and this is why I'm giving it to you, this is why you need it. Every single thing that you do you should like, do a running commentary of…you keep telling them why you're doing it, …It's just, try to make their experience a little bit easier, and help them to understand what's happening, and help them to settle in the hospital environment (Interview 1)*

> *But A&E because they're just worried about their (pause) patients and they ask a lot of questions, yeah what's going to happen, how long will it take, and what's, do you think this is good, this is bad and how long it will take. Do you think this might end up really well, bad, so you need to explain all these things.(Interview 3)*

All participants reinforced the importance of information giving and how this was an integral part of their role. Different rationale was given for the purpose of information giving; for example, one participant related this to the need to reinforce trust:

> *if you keep telling them, they will build this trust in you. They say, oh actually, I know whatever this person is doing, they're telling me and they're doing it in my best interest. So they feel more comfortable then under your care. (Interview 1)*

Despite this, some participants expressed their belief that this was not always wanted by patients. One participant expressed:

half the people we see they are generally happy [ok] err…they just want to get on with it, and people often have trust in the clinician, err you know, it's a cultural thing (Interview 5)

The habitual and routine nature of information giving was also evident; the following participant confirmed that information giving continues even if the patient cannot necessarily hear or understand the information:

even if they're sedated, we you, we do it anyway, you just say, this is what I'm doing…and sometimes they're kind of half sedated so they do remember some of the things that you talked to them you know (Interview 1)

The participant continued:

there was a lady who we thought was, sort of half way sedated, but you usually ask say are you in pain, where is the pain, are you comfortable now, you ok, this is happening, we are doing this, and when she did wake up, she did say that she remembered all this and that it really helped her, you know (Interview 1)

The practice of providing a narrative to accompany the delivery of care even when the patient is unlikely to be able to comprehend this was evidenced by other participants:

there's ones who are unable to consent, to have the NG tube, they are the ones who are very ill patients, who can't communicate, you have to do it. So anyway, you cannot assume that this patient, you know, cannot hear you so you have to give the information, ask for the permission (Interview 4)

Another participant commented:

to say it's in this patient's best interest to have the procedure, and we know this person cannot, you know consent themselves, I still talk to that person, explain what I'm doing, and try and get some form of a nod, or a, even a conversation going with that person to make sure that they are as calm and comfortable as they can be. (Interview 3)

There is evidence that information giving is a clear component of nursing care; one that seems to be habitual and well embedded; undertaken even when the patient may not be able to comprehend. Participants had a strong sense of the patients' right to information even though the rationale for this was not always expressed. One participant mentioned the importance of trust; none of the participants mentioned the rationale being to facilitate consent- despite this being the focus of the interviews.

Information giving not always patient centred or comprehensive

Despite the widespread understanding that information giving is a well established part of the daily routine, it was also clear that such information giving was not always extensive. One participant explained:

> *we are getting informed consent to do, take the blood but we do not always explain why we are taking the blood… I think It would probably be good to actually explain to the patients what blood test that we are taking and that is something that I do think about afterward once we are done, because it is acute care we tend just to get the cannula in and take the bloods..(Interview 3)*

Another participant described how, in reality information giving to a patient who is well known to the clinical team might diminish and a form of implied consent is relied on.

> *they have that place where they are told about their meds, side effects and all the information about it and you weigh up they understand and can retain the information and they consent but then obviously there is the element of kind of continually checking whether they still consent and there is a reality that that becomes an implied consent by the fact that you offer it and they take it. (Interview 15)*

Another participant described how information giving is not always a key feature of care delivery.

> *I mean I have to be blankly honest, and as I said we could do much better, could do much better, yeah…because even nurses, consultants they come in, they just start doing things without you, and actually you expect them to be a bit more professional and be more nice as well..And in nursing, they're not gonna say don't do that, but as a professional it's your responsibility, your responsibility to say, err, I'm going to take this dressing off your wound, I'm going to have a look at it, is that ok, or ermm I'm putting this line in or whatever it is, yeah…some people are much better than others and some could do much better.(Interview 4)*

Despite a widespread commitment to the idea that nurses provide a running narrative, with the aim of information giving to all of their patients, further exploration of this identified that was not always the reality; sometimes information giving was scarce and a reliance on patient compliance was indicated.

Use of information when a patient is reluctant to receive nursing care.

Information giving can be particularly useful when a patient is reluctant to receive an aspect of nursing care. In two incidents below, patients were reluctant to consent to unpleasant procedures. Many

participants explained how additional information is given in this situation in order to reassure the patient. One participant explained:

> *We had a lady who came in, and who have had a fall.. the physio needed to assess so if we could see if it is safe to send her home. She was very reluctant to get up off the bed or to move because she was scared again about falling, um, so we just had to explain to her why we needed to assess her whether we were gonna to admit her or whether we could get see if we could her home safely. And it just a lot of talking, talking, her around and explaining why we would have a wheelchair behind her so that if she felt wobbly she would sit straight down…and eventually she did mobilise and when she did mobilise, she actually felt a little bit better to think she was not gonna fall again. (Interview 7)*

Information giving was used to persuade a patient described in an incident by another participant.

> *So I explained to the patient that you need catheter, this according to hospital protocol, when the patient is retaining around 500ml in the bladder, we need to catheterise. So, I explained to the patient that you are above the limit, so I have to do this if its ok I can go with it. Umm, for the first time he said no…I explain to him the procedure and I say it won't take long, I'm going to use umm, the gentle numbness cream…and then later the patient agreed. But while I was doing it anyway, I just felt, I felt like, you know, at the beginning the patient didn't want to have it, but err, I give the information and he agreed to do it. So I did, and everything went well, and err, then he finally, managed, to, pass the urine and so, the patient is on catheter now. (Interview 2)*

One participant described how other staff might be approached to provide further information in the event of a patient's refusal.

> *you know you ask if they are happy to carry on with that, and sometimes they say no. Some they say no…you explain, err, to the patient, just common sense…you explain you need this you need that. If they still say no, you might go and approach some other nurses to go and help you. And sometimes you know, patients they might not like you, its just yeah, that's the truth… you ask somebody else to help you…or if they refuse it then you have to document it- they refused this (Interview 2).*

The participant recalled another incident in which information giving was increased when the patient was reluctant to consent to the proposed care.

> *He can say no, no, no, no, no but no other words, so when I went, I spoke to my shift leader, I was doing a night so we had a shift leader there. I spoke to her, I said please come and help, can you come and visit? Its very important that he has to take those medications. He has to*

> *take them. So anyway, she went and explained to him…the same, he was getting frustrated, he was getting angry. So I called another junior, umm band 5 nurse, and then she went and explained to him and he took those medications, you know.. So that's what I'm saying, you can try your best, if the patient still refuse you can try another person*. (Interview 2)

The data collected for this study consistently identified that information giving is a habitual, routine component of patient care prior to the delivery of nursing care procedures. Nurses perceive that the narrative that typically -but not always -accompanies the delivery of nursing care informs the patient of forthcoming procedures and enhances a sense of trust between the nurse and patient. Despite this, there was no evidence in the data that information giving is associated with informed consent prior to nursing care procedures.

Study limitations

The interviews were conducted by student researchers who had not had previous experience of data collection. This might have affected the quality of the data collected. However, on analysis, the themes identified were consistent, indicating the credibility of the study findings.

Discussion

Informed consent, given by the patient prior to nursing care is often not a formal, explicit procedure as is given prior to surgery or participation in research. Consent is usually gained informally, often relying on implicit consent usually following a verbal receipt of information. This is very often appropriate and in accordance with the context of the delivery of nursing care, where the patient is familiar with the procedure which is likely to be in itself low risk. Many participants described how information giving was a habitual everyday accompaniment to the delivery of care, even carried out when the patient was unlikely to comprehend, though some participants acknowledged that in many instances, information giving was less than thorough.

Information giving in nursing has long been highly valued. Back in 1975, in a seminal work, the importance of information giving as a means of reducing a patients' pain was identified [19]. Other research [20] has described a series of studies in which information giving was found to reduce patients' levels of stress. Subsequently, the role of information has been considered central in many aspects of patient care including, but not restricted to pain control, anxiety, and as an acknowledgment of the basic right of a patient to be informed about what is happening to him or her.

Giving information to ease the patients' journey, however beneficial, is different to giving information in order to secure their consent and therefore legitimise the care giving. The first assumes that care will be given and that information makes the provision of care more palatable. The second does not assume that care will be given; instead it focuses on the patients' right to self determination and acknowledges that the purpose of information giving is to enable the patient to give an appropriate authorisation prior to the delivery of care. The evidence from this study indicates that nurses are

familiar with the need to deliver information prior to nursing care. It is less clear whether information is given in order to enable patients to authorise their care; for the purposes of obtaining consent.

Nurses who participated in this study were aware that the remit of the project was to explore consent prior to nursing care. Despite this, information giving was not explicitly related to the concept of consent; participants described the habitual process of information giving, even to those who would not recognise that it had been given. It therefore seems reasonable to conclude that informed consent prior to nursing care is not routinely considered by nurses.

In many instances this might be reasonable. Nursing care is delivered in a context of trust, the care delivered is often low risk and familiar to the patient. Patients imply their consent when they do not resist or question the intervention or procedure; this is appropriate in many cases. However nurses need to be cognisant of the possibility that nursing care might be unwanted by the patient. Patients might have an objection to a care procedure and nurses need to recognise that this is legitimate and the fundamental right of the patient. Providing information with the expectation that nursing care will be delivered could lead to a situation in which the patient is compliant rather than implying consent to care. We know that many patients are compliant when in receipt of health care and some commentators have questioned the possibility of a genuine choice within the structures of the health care environment [21] where in reality choice might be severely restricted. It is important that nurses do not reinforce this compliance. Ultimately the patient has the right to refuse nursing care. To deliver care that is unwanted by the patient transgresses his or her right to refuse and could lead to a complaint or even legal action.

A central tenet of informed consent is to enhance the autonomy of the patient. Informed consent acknowledges a patient's right to refusal of care; including nursing care. It is not clear from the data obtained for this study whether nurses are familiar with this right and whether the right to refuse was upheld; when patients were reluctant to consent, they were presented with additional information or with additional clinical staff and they eventually agreed to the procedure. In many cases this will be the appropriate course of action but nurses need to be aware that whilst persuasion in health care is likely to be considered appropriate, coercion is not.

The role of information giving has a central place in the delivery of nursing care. Many studies attest to its importance. It is something that was aspired to by the majority of nurses who participated in this study, even when they indicated that it had not been achieved. However the emphasis on information giving was to facilitate the provision of care and to enhance the patient experience, rather than to promote the autonomy of the patient and require their authorisation of care. Whilst this is appropriate in many instances, nurses need to ensure that they are aware that information giving has multiple roles; one of these is of the utmost importance; to ensure that the patient gives explicit consent where appropriate prior to nursing care. This seems to be often overlooked.

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