
INFORMED CONSENT IN MEDICAL LAW AND ETHICS

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ABSTRACT

Informed consent a vital part in the healthcare where this safeguards the rights and dignity of the patients informed consent protects the autonomy trust and dignity by informing them making them aware about the health treatments and procedures with accurate and sufficient information about the risk, benefits further on other alternatives of the treatments enables them to make voluntary decision. It serves as mechanism for protecting the patients autonomy in the healthcare, if consent has to be valid certain grounds like disclosure, capacity, and autonomy of the patient is required without any coercion ensuring that it is made voluntarily Understanding these concepts is required since its necessary for both the healthcare professionals and the patients as it ensures about compliance with the medical and legal standards, reduces the risk of malpractice, negligence and breach of trust, being aware about the legal statutes also ensure in accessing the legal remedies available to the patients and accessing informed consent which it strengthens the quality and standards of healthcare system by being a transparent exchange of information.

Keywords: Informed Consent, Healthcare Professionals, Patients, Voluntary Decision, Disclosure.

1. INTRODUCTION:

Informed Consent is the process, here the patient is made fully aware and informed regarding the benefits, risks and other alternatives of a medical procedure or treatment, which includes disclosure of relevant information about the treatment, the patients understanding, comprehension, voluntariness and capacity to consent.

There are numerous laws and regulations dealing with informed consent and such as Indian Medical Council¹ (Professional conduct, Etiquette and Ethics) Regulations 2002, Consumer Protection Act 1986, BNS Sec 106 on Medical Negligence, and there are certain guidelines and regulations to deal with it if it's breached or violated.

Informed consent is a critical components of ethical healthcare practice². They empower the patients by assuring them well informed with regard to the medical procedures, treatment, alternatives while protecting their private health information. Adhering to these principles not only meets legal requirements, but also improves the quality of medical care given by healthcare providers.

2. RIGHTS OF PATIENTS IN INDIA:

In India the term 'patient' has no legal definition, yet this phrase refers to 'persons who receive healthcare services from doctors or medical professionals'. The Government, encompassing the State Governments, has the collective responsibility to render healthcare and enhance public services.

The Ministry of Health and Family Welfare and the National Human Rights Commission (NHRC) had enumerated the Charter of Patient Rights since the rising tide of complaints about substandard medical care and malpractices in the medical field. In response to the growing concerns on medical negligence, inadequate or denied treatment, and poor transparency, a charter was introduced outlining 17 rights that every patient in India is entitled to such as Right to Information, Right to records and reports, Right to emergency medical care, Right to

¹"*Informed Consent*", End Cancer As We Know It American Cancer Society, <https://www.cancer.org/cancer/managing-cancer/making-treatment-decisions/informed-consent/what-is-informed-consent.html> (last visited Jan. 21, 2026).

² Palm, W, Nys, H., Townend,, Shaw, D., Clemens, T., Brand, H., and North, J. "*Patients' rights: from recognition to implementation*". In E. Nolte, S. Merkur, & A. Anell (Eds.). *Achieving Person-Centred Health Systems: Evidence, Strategies and Challenges* (pp. 347–386): Cambridge University Press. (2020).

confidentiality, privacy and dignity, Right to informed consent are few among those major rights where right to informed consent is one of them.

It specifies that medical professional is required to secure informed consent from the patient prior to conducting any surgical procedure, in case of a minor the consent to be obtained from a parent, legal guardian or authorised caregiver.³ Doctors and other healthcare staffs are entitled to uphold strict confidentiality as well.

3. INFORMED CONSENT:

The term 'informed' means the individual is having the information which is been told, and 'consent' refers to the voluntariness in agreement, together it denotes that individual has the information and has been voluntarily agreed to the decision. Informed consent purpose is to empower the individuals acknowledging them regarding risk, benefits, and the limitations of the procedure as well as its outcomes⁴. This principle in the 20th C introduced in surgical procedure where there was harm physically.

Consent is a widely used term that often meaning "to give assent or approval, to agree". Consent requires an understanding of the situation and free will. Consent under the Indian Contract Act (ICA) "Section 13" interprets consent as "when two or more people agreeing on the same thing in the same sense". And such consent has to be "free", consent secured by coercion, manipulation fraud, deception, mistake if its not genuine is not considered to be a valid consent.

The peculiarity arises in the medical field when there is a medical negligence which is a crime and it is punishable, in such matter the question of consent arises between the two parties; that is Doctor and the Patient, doctor possesses high expertise and knowledge they are the ones who provides the medical need to a patient whereas the patient is the one who requires treatment and care they may not have much expertise when compared to the doctors, particularly on the facts and details of the disease therefore the doctors obligation is to furnish the particular's on the benefits, perils and other alternatives to the patient regarding the

³ "Patient Rights in India" - Nyaaya, Nyaaya, <https://nyaaya.org/legal-explainer/patient-rights-in-india/> (last visited Jan. 21, 2026).

⁴ "Importance and Evolution of Informed Consent" - 3 billion blog <https://3billion.io/blog/the-importance-and-evolution-of-informed-consent> (last visited Jan. 21, 2026)

treatment in order to prevent undue influence and mistake of fact which might lead to negligence.

4. THE ROLE OF CONSENT IN INTERNATIONAL FRAMEWORKS:

In the profession of medicine the Hippocratic Oath is considered to be revered and eminent document which asserts the professional conduct and duties of the Doctors this document was derived from the Greek physician Hippocrates ‘the Father of Western Medicine’ he has emphasized the importance of ethical professional standards where in the oath it contends on Informed consent, It emphasises in its oath that the “Doctors should share their medical knowledge for the benefit of the patient and for the advancement in healthcare”. Since this oath was violated during the World War the Nuremberg code was formulated in 1947 in Germany by the American Judges accusing the Nazi doctors who were conducting torturous inhumane experiments on the prisoners in the Nazi camp, further this code entailing 10 principles. The

- **Nuremberg Code** highlights the critical role of informed consent in medical research, insisting that participants must be fully aware of the experiment’s nature, purpose, duration, and any possible risks or harms before agreeing to take part.
- Building on these principles, the **Geneva Conventions of 1949** and the **International Covenant on Civil and Political Rights (ICCPR)** reinforced the idea of voluntary consent. The ICCPR explicitly states that no individual should undergo medical or scientific experimentation without freely giving their consent.
- The **Declaration of Helsinki**, established in 1964, further clarified that clinical research involving humans must only proceed with the participant’s free and informed consent. It also emphasizes that participants must be mentally, physically, and legally capable of making such decisions.
- The **International Guidelines for Biomedical Research Involving Humans (1982)** introduced additional safeguards, particularly for vulnerable populations, detailing how consent should be obtained, the distribution of benefits, and the ethical protections required throughout the research process.
- The **European Convention on Human Rights and Biomedicine** reaffirmed previous

principles on consent while also addressing modern developments in medicine, including areas like genetic testing, ensuring that ethical standards evolve alongside scientific advances.

The 19th century saw an advancement in medical research and experimentation, leading to an increase in exploitation of vulnerable populations, but also witnessed the advancement of medical ethics and recognition regarding the importance of informed consent⁵. These are some of the laws which renders its views on consent in the medical field during the evolution of the term and also paves way to the present days understanding on the term informed consent.

5. LEGAL FRAMEWORKS GOVERNING INFORMED CONSENT IN INDIA:

In India, the legal framework, including relevant laws and court decisions, governs how informed consent must be obtained and applied in medical practice

- 1. Indian Constitution:** Article 21⁶ delivers the Right to Life and Personal Liberty. The Courts emphasised this Article where it also entails the Right to Bodily Autonomy under right to life⁷, where it encompasses that the patient possesses the right to choose and make decisions about their own body and life without coercion or violence and, also includes the right to informed consent.
- 2. Indian penal code (IPC):** The Indian Penal Code (IPC) lays down important legal principles for handling cases involving medical negligence and the absence of informed consent. In particular, Sections 87 to 91 explain the boundaries within which a person's consent is considered valid in medical treatment, and clarify situations where consent may not protect a medical practitioner from legal responsibility.
- 3. BNS :** Section 106 (1). Deals with Causing death by negligence states that "Whoever

⁵ Laurel Hattix J.D. Candidate, "Expanding Notions of Self-Determination: International Customs of Informed Consent in Medical Experimentation Pre-1945" *Chicago Journal of International Law*, Chicago Journal of International Law, <https://cjl.uchicago.edu/print-archive/expanding-notions-self-determination-international-customs-informed-consent-medical> (last visited Jan. 23, 2026).

⁶ "The Constitution of India 1950"

<https://cdnbbsr.s3waas.gov.in/s380537a945c7aaa788ccfcdf1b99b5d8f/uploads/2024/07/20240716890312078.pdf> (last visited Jan. 23, 2026).

⁷ Chima Sylvester Chidi, *An investigation of informed consent in clinical practice in South Africa*, UnisaIR Home (Feb. 2018), <https://ir.unisa.ac.za/handle/10500/24545>.

causes death of any person by doing any rash or negligent act not amounting to culpable homicide, such act is done by a registered medical practitioner while performing medical procedure, he shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine”⁸. "Registered medical practitioner" refers to a medical professional who holds a qualification recognized under the National Medical Commission Act, 2019, and whose name is officially recorded in either the National Medical Register or a State Medical Register in accordance with the provisions of that Act Therefore if a medical practitioner does any sort of medical negligence they would be punished under this section.

4. Indian Contract Act⁹: This Act plays an important role in defining the legal relationship between a doctor and a patient, particularly in matters of consent. It explains when consent is legally valid and when it is not. According to the Act, consent must be given freely and should not be influenced by coercion, undue pressure, fraud, misrepresentation, or mistake. These requirements closely reflect the core principles of informed consent in medical practice.

5. Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002

These regulations require physicians to share all relevant information with patients in clear and understandable language so that their consent is truly informed and properly recorded. The Medical Council of India which has since been replaced by the National Medical Commission offers limited but important guidance on consent. It's Professional Conduct, Etiquette and Ethics Regulations, 2002 outlines the expectations regarding consent in medical cases and states that:

Sec. 7.16. Encompasses that before carrying out any procedure or surgery the physician must secure written consent if it's a minor patient consent to be obtained from the parent or legal guardian, if the patient is adult and who is mentally capable of making decisions consent to be

⁸ “BNS” KanoonGPT <https://kanoongpt.in/bare-acts/the-bharatiya-nyaya-sanhita-2023/> (last visited Jan. 23, 2026).

⁹ “Indian Contract Act, 1872”

<https://wbconsumers.gov.in/writereaddata/ACT%20&%20RULES/Relevant%20Act%20&%20Rules/the-indian-contract-act-1872.pdf> (last visited Feb. 12, 2026).

secured directly from the patient in situations which involves sterility both the spouses are required to provide their written consent.

Sec. 7.21. Deals with Procedures involving in-vitro fertilization or artificial insemination may be performed by acquiring consent of the female patient, their partner, and the donor. Only after the patient has been adequately informed about the procedure's techniques and risks objectives in writing and consent is given as a written statement.

Sec. 7.22. In case of Research, All clinical drug trials and research studies involving patients or volunteers should strictly follow the ethical and regulatory guidelines laid down by the Indian Council of Medical Research to ensure the protection, rights, and safety of participants, keeping ethical considerations in mind. Any infringement of ICMR guidelines will be regarded as misconduct. Further, obtaining consent from a patient for a drug or therapy trial if it doesn't align with the guidelines even that is considered as misconduct¹⁰. the country's leading authority responsible for overseeing doctors, the National Medical Council, has largely chosen to remain silent on this concerning issue. Therefore, remedy is to rely on the extensive case laws derived from cases that have been decided regarding consent in the medical sector and the general guidelines

6. Consumer Protection Act, 2019

This legislation treats patients as consumers of healthcare services. When a medical professional or hospital does not obtain valid informed consent, the patient can seek legal remedy for “deficiency in service” under Section 2(11) of the Act.

7. The Transplantation of Human Organs Act, 1994 (amended in 2011)

This statute plays an important role in regulating organ transplantation, including procedures for cancer patients. It requires informed consent from the patient and, in specific circumstances, from close family members as well. The Act also lays down legal requirements for consent in cases of organ donation from deceased donors, ensuring that the process follows ethical and statutory standards.

¹⁰ “Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002” (Published in “Part III, Section 4 of the Gazette of India”, (6th April, 2002) <https://www.nmc.org.in/wp-content/uploads/2017/10/Ethics-Regulations-2002.pdf>)

6. IMPORTANCE OF MEDICAL CONSENT:

The informed consent procedure is vital for enormous reasons. It protects a patient's right to make informed decisions regarding their medical care and ensures they have the legal right to ask questions and seek information about the treatments being suggested it also directs medical professionals. It assists them in making ethical healthcare decisions, by helping the patient and doctor to make healthcare decisions together.

Some of the following procedures and tests which requires informed consent in order to perform are:

- Anaesthesia, during sharing of personal health information such as diagnoses or medical details with another person or facility may occur for specific purposes, including vaccinations, treatments, or prognosis. This also applies to procedures like biopsies, blood transfusions, cancer therapies (including chemotherapy and radiation), and medical interventions during childbirth., Clinical studies, in Genetic tests, Medical implants ,Treatment involving with high-risk drugs like opioid, Endoscopy and other surgical procedures.

Types in informed consent:

Informed consent can be classified into three types namely the implied consent, written consent and verbal consent.

- **Written consent:** can also be called as Express consent it refers to the patient's written agreement to a treatment, given by signing a consent form. This form should clearly record the information the doctor has shared with the patient, ensuring it reflects that the patient understands the treatment's benefits, potential risks, and any available alternatives.¹¹.
- **Verbal consent:** This sort of consent includes verbal authorization of the patient for administering treatment. it's necessary to generate formal documentation, oral consent is insufficient must obtain written consent.

¹¹.Cleveland Clinic med. pro., "What Is Informed Consent?", Cleveland Clinic (Oct. 10, 2022), <https://my.clevelandclinic.org/health/articles/24268-informed-consent>.

- **Implied consent:** In certain cases, a patient's behaviour or actions can indicate consent without the need for spoken or written approval, depending on the specific circumstances.

The Four Core Essentials of Informed Consent

Medical professionals are required to confirm that informed consent has been obtained. They should ascertain that:

- Patient understands the medical information they provided
- They gave patient the information required to make an informed decision
- Patient understanding on the information has to be assumed by the Physician by questioning.
- Patient's consent to have treatment¹² the healthcare provider should ask the patient to review and sign the informed consent document

7. CIRCUMSTANCES WHERE CONSENT CAN BE WAIVED OR EXEMPTED:

In certain exceptions informed consent could be obtained without the consent of patient during the course of the treatment.

- In case if there is a need of immediate medical care, when the patient is unable to communicate or to give consent formally in such circumstances in certain situations, a doctor may begin treatment before obtaining the patient's consent, with the understanding that they will explain the procedure and secure the patient's approval as soon as possible afterwards.
- If the patient is severely ill or in the state of coma in that scenario can see if there is any advance directive which emphasizes to the physician that what sort of medical care

¹² Cleveland Clinic med. pro., "What Is Informed Consent?", 'Cleveland Clinic' (Oct. 10, 2022), <https://my.clevelandclinic.org/health/articles/24268-informed-consent>.

about the required to the patient¹³, allows to inform it ahead of the time on the required procedures and treatment and the relations can determine the course of treatment on behalf of the patient¹⁴.

- For children below the age of 18 cannot provide formal consent for the treatment instead their parents or the legal guardians can provide formal consent.

In **Dr. T.T. Thomas vs. Elisa**, the patient received treatment in the hospital, during the admission, the patient was diagnosed with a perforated appendix and peritonitis, which requires surgery. Instead, no operation was performed until his death. The doctor stated that no operation could be performed, since the patient did not consent to the surgery. As a result, additional measures were implemented to improve the patient's condition, the patient's condition worsened the following day. Although he was willing to undergo the surgery, his health made it impossible to proceed at that time. As a result, the operation had to be postponed, which ultimately proved fatal due to the delay and the lack of timely consent. The Court held that permission or consent under such an emergency situation is not required.

Consent is assumed when a patient willingly follows the doctor's guidance or allows the treatment to be carried out, and the patient must prove the absence of consent, before ruling the Doctor was held accountable, the Court held that neglecting to carry out an emergency operation on the patient constitutes negligence, and the patient's death resulted from this failure¹⁵.

8. ESSENTIAL PRINCIPLES OF TO ATTAIN A VALID CONSENT TO PERFORM A TREATMENT:

1. A doctor should make sure patient understands and agrees to carry out the therapy / surgery Informed consent must be obtained by the Doctor prior to the performance of the surgery exempted in only in certain circumstances, Patient shouldn't be forced or rushed to sign the consent forms and particularly consent shouldn't be acquired On the day of surgery, as the patient may not be feeling their best or fully able to take everything in, it's especially important

¹³NHS website, "*Consent to treatment*", nhs.uk, <https://www.nhs.uk/conditions/consent-to-treatment/> (last visited Feb. 1, 2026).

¹⁴ Cleveland Clinic med. pro., *What Is Informed Consent?*, Cleveland Clinic (Oct. 10, 2022), <https://my.clevelandclinic.org/health/articles/24268-informed-consent>.

¹⁵ Politis Alexander, "*An analysis of causation in medical law*", University of Pretoria Handle Proxy (2018), <http://hdl.handle.net/2263/69974>.

to approach them with care and clear communication, since they wouldn't be stable in mind might endure severe mental pressure.

2. In the case of a minor, parental consent can be obtained consent has to be acquired from the patient itself if they are competent adult, in case of a minor then parental consent can be obtained.¹⁶ In an emergency, if the parents or legal guardians are not available, the adult responsible for the child at that time can provide consent for treatment. If the situation is life-threatening, healthcare professionals may also proceed with urgent, life-saving care even if consent cannot be obtained immediately.

3. In a life-threatening situation, doctors have a duty to provide urgent care and should not delay or withhold treatment simply because consent cannot be obtained at that moment. in such scenarios the doctor refuse he will be held liable.

4. For consent to be valid, the patient must be an adult and able to understand the information given, think it through, and make a clear decision. They should be of sound mind and capable of deciding for themselves. If the patient is not able to do this, consent can be provided by someone legally authorised to act on their behalf. This may be a guardian or a close family member, such as a spouse, adult child, parent, sibling, or another legally recognised representative.

5. Consent should always be given willingly and with a clear understanding of what is involved. The person must receive honest, complete information so they can make an informed choice. It is only valid when it is made freely without pressure, threats, manipulation, misleading information, or any form of coercion. The decision should come from the individual's own choice, made confidently and without feeling forced. The nature of the treatment, about the prognosis, method of treatment, benefits, risks, alternatives, sideeffects, cost of the treatment, risk of refusing a treatment further all the adequate information has to be disclosed to the patient. If disclosing such information might result in psychological harm to the patient then the Doctor may conceal the information and can communicate it with the patient's family, relative or guardian.

7. Consent should be procedure-specific. That is giving consent for one specific procedure does not automatically mean the patient has agreed to any other treatment. Each medical procedure

¹⁶ Herring J. *Medical Law and Ethics*. 4th ed. United Kingdom: Oxford University Press; 2012. Consent to treatment; pp. 149–220.

requires its own clear and informed consent. Consent granted for a diagnostic technique cannot be considered as consent to therapeutic treatment. Consent for a particular medical procedure is not valid for another medical treatment if such treatment has to be done only with the consent of the patient.

9. Consent to examine or observe a patient for educational purposes. Before evaluating or visiting or when patients are being observed for teaching or educational purposes, it is important to obtain their consent beforehand.

10. Blanket consent is not enforceable and invalid, Since it is open and vague, Consent should be procedure-specific, renewed consent has to be obtained for any repeat procedure for all surgical treatment and new written informed consent has to be signed for each procedure.¹⁷

11. Surgical consent is inadequate to cover anaesthesia care. Surgical consent alone cannot address anaesthesia whereas surgeons may not fully elucidate the risks about anaesthesia therefore a specialist on anaesthesia should obtain consent by documenting either in the surgical consent form or separately in another form.

12. Patients have the right to decline or refuse any medical treatment. That should to be documented and verified by the patient's witnesses by signing and the doctor has to record the reason for the non-performance of a vital treatment as it is refused by the patient¹⁸. If a patient chooses to leave the hospital against medical advice, this decision should be clearly recorded in their medical records, and the patient's signature should be obtained to acknowledge their choice. Witnessed consent is lawfully more reliable.¹⁹

13. Consent should be appropriately documented and can also be video-recorded only with previous consent. It should be documented. The patient is allowed to withdraw the consent as well, the doctor will provide treatment only with the patient's permission. However, terminating treatment would result in the patient's life at peril, the doctor can continue until the

¹⁷ 'Mullick, P., Kumar, A., Prakash, S., & Bharadwaj, A. (2015). "Consent and the Indian medical practitioner". Indian Journal of Anaesthesia, 59(11), 695. <https://doi.org/10.4103/0019-5049.169989>

¹⁸ KS Narayan Reddy, Murty OP. "Essentials of Forensic Medicine" (33rd) | PDF | Coroner | Magistrate, Scribd, <https://www.scribd.com/document/690878307/Essentials-of-Forensic-Medicine-KS-Narayan-Reddy-33rd> (last visited Feb. 1, 2026).

¹⁹. Binaya Kumar Bastia, "Consent to treatment: practice vis-à-vis principle", 2008 Indian J. Med. Ethics, <https://doi.org/10.20529/ijme.2008.041>.

situation is safe, consent to illegal procedures is invalid like criminal abortion.²⁰

In order to Obtain a Valid Consent the Physician or the Medical Professional should keep up a strong communication with the Patient and furnish the required information to make a free and own choice²¹. It has to be obtain the patient's native language, it may in written form and obtain it in the presence of a witness and there should be use of non-medical terms, to be used²². Patient Information Sheets (PIS) should provide details about the procedure, including pre-operative and post-operative care instructions, and should be written in the local language for better understanding of the patient and with the use of pictorial representations which would assist in obtaining informed consent.. PIS should be furnished to patients after the matter is explained. Even videos could be used to help the patients to acknowledge²³. As there is no standard form for a consent form but it includes particulars like the date and time, information's of the patient like their name signature age about the diagnosis, doctor's name, signature and registration details, the procedure to be conducted their risk, alternatives and side effects, details of the anaesthesia to be used its type and its risk, the special requirements which needed after the surgery to cure and so forth further the Doctor should document questions raised by the patient and answered by the doctor to conclude they had the opportunity, it is not just a ethical duty it is a legal obligation of the doctors to provide information clearly about the medical procedure.

9. JUDICIAL PRECEDENTS ON INFORMED CONSENT:

1. "Samira Kohli vs Dr. Prabha Manchanda & Anr"²⁴

In this case the patient was admitted for laparoscopy test and only consented to that procedure but the doctor obtained her mother's consent for hysterectomy since it is not a valid consent for the radical surgery, medical professionals seeked to hide it as further treatment by claiming that the patient has endometriosis and the surgery was done in the same sitting, when the patient gained conscious she sued the doctor. The Supreme Court declared that the doctor is liable for

²⁰ Herring J. "Medical Law and Ethics". 4th ed. United Kingdom: Oxford University Press; 2012. Consent to treatment; pp. 149–220.

²¹ Kumar, A., Mullick, P., Prakash, S., & Bharadwaj, "A. Consent and the Indian medical practitioner". *Indian journal of anaesthesia*, 59(11), 695–700 (2015). <https://doi.org/10.4103/0019-5049.169989>

²² Binaya Kumar Bastia, "Consent to treatment: practice vis-à-vis principle", 2008 *Indian J. Med. Ethics*, <https://doi.org/10.20529/ijme.2008.041>.

²³ Mullick, P., Kumar, A., Prakash, S., & Bharadwaj, A. (2015). "Consent and the Indian medical practitioner". *Indian Journal of Anaesthesia*, 59(11), 695. <https://doi.org/10.4103/0019-5049.169989>

²⁴ Samira Kohli v. Dr. Prabha Manchanda, (2008) 2 SCC 1.

malpractice and stated that “no matter how beneficial to the patient in saving cost, time, expenses, pain and sufferings the additional surgery is no ground for defence”. The court took into account every aspect regarding consent and differentiated what is informed consent and valid consent moreover held the doctor liable and to refund the bill with an interest of ten percent per annum from the date of payment further to pay compensation of rupees twenty five thousand.

2. “Bolam v. Friern Hospital Management Committee”

In this UK case, the standard for professional negligence and how much information should be shared with patients was clarified. Justice McNair, instructing the jury, explained that a doctor cannot be considered negligent if they have followed a practice accepted as proper by a responsible group of medical professionals skilled in that field. This guideline became known as the Bolam test and was, for a period, used to determine a doctor’s responsibility in informing patients about the risks of a proposed treatment.

3. “Montgomery v. Lanarkshire Health Board”

Montgomery is a woman having diabetes and of small stature had normal delivery and begotten a son since the doctor hasn’t disclosed about the complications her child endured shoulder dystocia lead to hypoxic insult and cerebral palsy in the brain here the obstetrician has not informed about the risks of their complication and argued that if they had known the risk they would have opted for cesarian so they sued the doctor for medical negligence. The Supreme Court of UK declared that rather than the clinical judgement by the medical professional’s opinion “the patient should be told whatever they want to know and not what the doctor thinks what to be told”. Redefining standard for informed consent and it established that doctors have a responsibility to inform patients about significant or material risks associated with a treatment.

4. “In Canterbury v. Spence”

The Court established the Canterbury principle, which strongly ensures doctors to disclose patients about all significant hazards of a treatment so their consent is truly informed. It emphasized that real consent means making a knowledgeable choice, and since most patients rely on their doctors for medical understanding, physicians must provide the information

needed to decide wisely.

Doctors must disclose all material risks, except when sharing the details it will seriously harm the patient's well-being. A risk is considered "material" if a reasonable person in the patient's situation would find it important when deciding whether to go ahead with the treatment²⁵.

5. "Salgo v. Leland Stanford Jr. University Board of Trustees"

Salgo endured permanent paralysis due to the result of translumbar aortography, where the physician failed to warn and inform the patient about the risk of paralysis prior to the surgery. In this case only the term "informed consent" became founded initially in the year 1957 and the concept was embraced as there were many cases in America regarding the non-disclosure further no major advancements in it until informed consent was formulated, the court found the physician liable that they possess the duty to disclose the facts.

6. "In Indian Medical Association vs. V. P. Shantha" - 1995 (6) SCC 651²⁶.

The Court explained that professionals are expected to have at least a minimum level of skill and competence in their field. They must carry out their responsibilities with reasonable care and caution, whether they are giving advice or performing a service²⁷.

This duty is not limited to what is written in a contract. Even beyond contractual obligations, the law requires professionals to act carefully and responsibly. If they do not uphold the required standard level of reasonable care, they can be held legally accountable for any harm caused by their negligence.

10. CONCLUSION:

Informed consent a major pillar in ethical medical practice and patient-centered care. they uphold the dignity, autonomy, and trust essential in the healthcare relationship. Informed consent ensures that patients are active participants in their medical decisions. By providing comprehensive information about diagnoses, treatment options, potential risks, benefits, and

²⁵ "LANDMARK JUDGEMENT ON INFORMED CONSENT" – the Indian lawyer.

<https://theindianlawyer.in/landmark-judgement-on-informed-consent/>

²⁶ "CASE ANALYSIS: Indian Medical Association v V.P. Shantha and Ors". -

IPLF, <https://www.ipandlegalfilings.com/case-analysis-indian-medical-association-v-v-p-shantha-and-ors/> (last visited Feb. 14, 2026).

²⁷ 6. "In Indian Medical Association vs. V. P. Shantha" - 1995 (6) SCC 651 .

alternatives, healthcare professionals it enables individuals to make choices that reflect their own values and personal situation. Respecting a patient's autonomy isn't just a legal duty it's a moral responsibility to honour their right to make decisions about their own care. This principle reflects shift from paternalistic medicine to a collaborative approach, emphasizing the patient's role as a partner in their healthcare journey.

The interplay between informed consent and confidentiality highlights the ethical commitment of healthcare professionals to act in the best interests of patients while honoring patients' rights and there is therapeutic privilege as well.. However, the principles are not absolute and may face challenges in certain situations. For example, informed consent might be limited in emergencies where immediate action it is essential in situations where saving a life is critical or when patients are unable to make decisions for themselves. Balancing these principles requires a careful ethical and legal approach that considers the broader context of healthcare delivery. By maintaining a commitment to informed consent healthcare providers not only fulfill their professional and ethical responsibilities but also strengthen the trust and confidence of patients in the medical system. This trust is essential for fostering a healthcare environment that respects individual rights while addressing the collective needs of society.

Therefore in conclusion, informed consent is the cornerstones of modern medical ethics. Their implementation demands a delicate balance of respect for individual autonomy, the duty of care, and larger interests of public health²⁸. By adhering to these principles, healthcare systems can ensure the delivery of compassionate, equitable, and ethically sound care to all individuals.

²⁸ Oliphant, Ken & Nolan, Donal. "Lunney & Oliphant's Tort Law: Text and Materials" Text and Materials. (2023). 10.1093/he/9780198865117.001.0001.