Macrothink Institute™

International Journal of Social Work
ISSN 2332-7278
2014, Vol. 1, No. 1

The History and Current Status of Informed Consent

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Received: April 24, 2014 Accepted: May 27, 2014 Published: June 6, 2014

doi:10.5296/ijsw.v1i1.5778 URL: http://dx.doi.org/10.5296/ijsw.v1i1.5778

Abstract

The purpose of this article is to examine the process of informed consent as it relates to the practice of psychology and as a part of Human relations Standards (3.10) of the American Psychological Association Ethical Principles of Psychologists and Code of Conduct. Before a psychologist provides any type of psychological service to a client/patient, whether it involves conducting research, administering a test or assessment/ therapy, counseling, clinical supervision, or providing consulting services, he or she must ensure that informed consent is obtained (oral, written, or other methods). This information must be delivered using language that is reasonably understandable to a competent individual. The term reasonably understandable describes the level of complexity and completeness that is required of psychologist when obtaining informed consent. The process of informed consent implies that a patient/client is made fully aware of the purpose as to why a service is being provided, the intended use of the information, and the benefits and risks associated with the process, involvement of any third parties, and limits and risks of confidentiality. It is recognized as a decision-making process where a psychologist communicates sufficient information to a potential client/patient so that he or she is able to make a well-informed decision as to whether they will participate in the professional relationship. If any information is taken during the session whether it is written, video, or audio, the client/patient is to be made aware of how this information will be used, if it will be released or disclosed to others a formal writing is to be provided indicating who these individuals will be. While the informed consent process is recognized as an important aspect for any psychologist to cover when it involves providing any type of service to a client this can often times be neglected which places the psychologists in jeopardy for lawsuits or loss of licensure. The informed consent process, is just that, a process, and not a single event not only protects the privacy rights of the client/patient but safeguards the psychologist from being liable in the case that a client/patient reports they were not adequately informed about a psychological service.

Keywords: Informed consent, Milgram, Disclosure, Confidentiality, Court cases

1. What is Informed Consent Process?

By definition, informed consent is considered to involve a process of information-sharing (collaborative relationship) in which the "professional provides information to the other individual so that he or she can make an informed decision about their participation in the professional relationship" (Bersoff, 2008). The information that the professional provides to the client, whether it is obtained through (verbal, written, or electronic method) must be reasonably understandable, allowing for the patient to make a rational decision (American Psychological Association, 2010). Many professionals view the informed consent process as a means of protecting the "self- governing rights" of the individuals that psychologists serve, and it should be viewed as a process and not a single event, but there it still unclear when it comes to the extent, mode, and specificity of the information (Fisher, 2009). For example, it is unclear whether informed consent should be provided verbally, through the use of written documents, or a combination of both approaches when it comes to the patient's decision to choose to receive services and to make this choice based on the best information that is available to them (Martindale, Chambers, & Thompson, 2009). Throughout the course of the therapeutic relationship, it is important that informed consent is obtained if there are any changes in intervention(s) along the way. This can be effectively accomplished if it is integrated into the therapeutic process from beginning at the first point of contact and to continue to the end (Bento, Hardy, & Osis, 2008). Once a client's consent is obtained, which is his or her willingness to participate in the therapeutic process after understanding their rights; the nature of the process, and being able to make decisions throughout the process, informed consent can be viewed to be valid (Vitello, 2008).

The informed consent process is considered to be an ethical mandate that requires documentation before any psychological service can be provided to a patient (Pranati, 2010). For example, before any trial-related process can commence, a thorough documentation of the trial's process which indicates that the subjects have been informed and consent for participation is in place. It is important that informed consent is considered to be a fundamental ethical requirement because many volunteers do not understand the critical aspects of their participation (Skuntel et al., 2011). The American Psychological Association Ethical Principles of Psychologists and Code of Conduct (2010) provide guidance when it comes to informed consent whether it is Informed Consent (Standard 3.10) Informed Consent to Research (Standard 8.02), Informed Consent in Assessment (Standard 9.03), or Informed Consent to Therapy (Standard 10.01). The basic elements of the informed consent are indicated in Standard 9.03 and are generally applicable to any other type of psychological service or intervention that is provided to a client.

2. Background/Historical Perspective

The informed consent process has gained much attention over the years as it relates to the practice of providing psychological services to clients/patients. In the past, the performance of such well-known studies such as the Milgram Obedience Study placed cast a dark cloud over psychological research and practice because of blatant violations against human rights,

privacy, and unwillingness to inform participants about the nature of their participation. In the 1960s, Stanley Milgram set out to perform a series of experiments that examined the conditions under which people could be induced to harm or potentially kill other people based on the orders of someone who was in a position of authority, the participants were not made fully aware of was the nature of their participation prior to the beginning of the study (Navarick, 2009). The Milgram Obedience Study had a significant impact on the field of psychology because it brought about a greater emphasis being placed on the completion and accuracy of informed consent process (Benjamin & Simpson, 2009). When it comes to engaging in any type of therapeutic relationship with a client/patient, psychologists must comply with local and state guidelines and the American Psychological Association Ethical Principles of Psychologists and Code of Conduct which addresses what the informed consent process should entail before the therapeutic session, assessment, or research begins (Ivey, Ivey, & Zalaquet, 2010).

The informed consent process took some time before it became the complete, step-by-step process that it is today (Bersoff, 2008). Informed consent gives a client/patient the opportunity to make an informed decision about their participation. This now well-recognized process began within the practice of medicine to evolve into the present-day process (Bersoff, 2008). In order for consent to be absolutely informed, all pertinent, relevant information have to be disclosed and understood by the participant, but this was not the case in the field of medicine where physicians conducted each patient's assessment and treatment. Patients' consents were not obtained before the services were provided because physicians were no seen as being ethically or legally bound to do so (Vitello, 2008). This resultant outcome was little sharing of information, collaboration, or the involvement of patients in the decision-making process, which placed patients in the position to be susceptible to harm or exploitation (Fisher, 2009). Fortunately, revisions have been made to the doctrine of informed consent and this was largely attributed to landmark case laws that led to the requirements that health professionals must share sufficient information with individuals so they are able to make an informed decision about whether or not they wish to participate in the professional relationship.

3. Initial use of Informed Consent in Practice/Field of Medicine

One of the most notable case laws that served as the starting point for significant changes being made to the informed consent process was Schloendorf v. Society of New York Hospital (1914) that involved nonconsensual surgery. As a result of the landmark ruling from this case, it became known that "every human being of adult years of sound mind has a right to determine what shall be done with his own body" (Horner & Minifie, 2011). While the courts were in favor of innovative therapy and experimentation that have the potential to benefit clients/patients, the understanding was that this can be performed only if the client/patient gives permission to do this.

Long after the Scholendorf v. Society of New York Hospital trial, there came many other malpractice cases in the 1950s resulting from harm that were allegedly caused by health care professionals. In the midst of all these case laws one that served as a turning point was the

1957 case of Salgo v. Leland Stanford case where the term informed consent was first used. At this period of time, the doctrine of informed consent was a source of tension between medical and legal profession and before the 1950s many courts were not concerned with the information that doctors provided to their patients and only required that false information not be provided to patients (Packman, Cabot, & Bongar, 1994). In the Salgo v. Leland Stanford case, the California Court of Appeals ruled that information must be shared about the benefits and risks associated with an individual's participation. This type of information must be included in the consent for it to be considered valid. Further, discussing the elements of risk a certain degree of discretion must be used that are consistent with full disclosure necessary for informed consent (Matthew, 2008). In the end, the case of Salgo v. Leland Stanford placed a focus on the content and quality of information that was necessary for a person to decide whether to consent, emphasized that physicians must place the welfare of the patient above all else (beneficence), and fulfill the duty of non-maleficence(Matthew, 2008).

Another landmark case that was instrumental in crafting the informed consent process was the case of Canterbury v. Spence (1972), which ruled that it was not enough to provide patients with answers, but all relevant or necessary information has to be shared with the patient in order for the client to make an intelligent and well-informed decision (Bersoff, 2008). Since there are differing viewpoints on what is considered to be a good life and good death, the only method to determine what treatment will be in the best interest of a competent individual is to obtain their well-informed consent and the Canterbury v. Spence case makes it clear. It should be the patient's choice, not the physician's, to determine where the patient's interest lies based off the information that is given to him or her (Hanson, 2009). This case was a progressive move because prior to its ruling health professionals were only sharing information that they believed patients needed to know in order to make a decision (Bersoff, 2008). The case allowed for patients' autonomy because competent adults were now able to make their own health care decisions with respect to what is in their best interests.

Autonomy gives patients the right to agree to or refuse treatments. However, the California Supreme Court ruled in the Truman v. Thomas (1980) case that patients must be completely informed of the risks that can be associated with refusing treatment. In this case, the physician failed to inform the plaintiff of the consequences of not getting a pap smear to detect cancer so the physician failed to disclose information that would have allowed the patient to make an informed decision as to whether or not to have the test performed or refuse the test (Terrion, 1993). The case ruled that patients are not only to be informed of the associated risks of refusing treatment but also the risk associated with accepting the proposed treatment. As a result of not being told about the risks associated the patient refused the pap smear, which could have been a life-saving therapeutic intervention (Capron, 1993). The duty to inform clients of all necessary information so they are able to make an informed decision that is best for them is the responsibility of every health professional (Bersoff, 2008). The case of Osheroff v. Chestnut Lodge (1985) further expanded on the ruling of Truman v. Thomas (1980) by stating that alternative choices of treatment should also be provided to patient if they refuse an initial treatment with the discussion also focusing on the risks and

benefits of these alternatives as well. As a result of the Osheroff type litigation it was proposed that an interactive informed consent process should be developed to protect psychotherapists from similar malpractice suits by requiring patients to be fully informed of available alternative treatments (Packman, Cabot, & Bongar, 1994). The culmination of all of these landmark cases led to the chronological development of the informed consent process and the informed consent standard of the American Psychological Association Ethical Principles of Psychologists and Code of Conduct.

4. Basic Elements of Informed Consent Process

From the three stages of obtaining informed consent, which include preconditioning, elements, and elements of consent, the required components of the informed consent process have to be included in order to achieve a successful outcome (Bento, Hardy, & Osis, 2008). For any informed consent that is related to research, therapy, assessment, consultation, the nature, purpose and anticipated course (duration), etc., should be provided to the patient. According to Standard 10.1(Informed Consent to Therapy) this is important aspect of obtaining informed consent because it is information that the patient needs to have to make an informed decision. The nature is generally the category of the intervention and the purpose is its potential use (Fisher, 2009). After the nature and anticipated course of the intervention, the associated fee must be discussed as early as feasible and this includes the cost and possible payment schedule in accordance with Standard 6.04. The psychologist's fee practice has to be consistent with the law (Standard 6.04b) and there must be no misrepresentation of the fees (Standard 6.04c). In addition, the psychologists must make a point to discuss any potential limitations that a patient might have when it comes to fulfilling the fee agreement if services are not covered by the patient's health plan or is the patient is unable to pay out of pocket (Fisher, 2009).

The third element of the informed consent process is the discussion of third party involvement (i.e. legal guardians, health maintenance organizations, employer) which is addressed by Standard 9.03, 10.01, and Standard 4.05 (Disclosure) including the release of information to these parties. It is important that psychologists become aware of the ethical standards, state law, and federal regulations that focus on the role of third parties. The fourth element focused on confidentiality where the extent and limits are discussed under Standard 4.01 and 4.02. Patients are to be informed of the fact that reasonable precautions will be taken to protect their private information but there are situations where a psychologist may be legally bound to release their information such as cases involving child abuse reporting or duty-to-warn laws (American Psychological Association, 2010). The elements of available alternatives, the risks versus the benefits of the intervention, and the right to refuse to participate or withdraw from treatment should be covered under Standard 3.10 (Informed Consent) and Standard 4.05 (Disclosures) so that the patients has this information when it comes to making a well-informed and thoughtful decision about their participation (Gregory, 2007).

5. Legal Elements of Informed Consent

Secondly, from a legal standpoint, there are three elements to the informed consent process. It

is important for any psychologists to adhere to these three components in order to meet the requirement of informed consent (Gregory, 2007). Psychologists must ensure that they adhere to the legal norms of informed consent because there is always the potential for liability if the process is not followed (Welie & Berghmans, 2006). The first element is disclosure (Standard 4.05) of pertinent information, which includes the intended purpose and use of the information that will be collected from the process should be provided to the patient (Gregory, 2007). Additionally, disclosure entails a detailed explanation of how confidential information will be maintained, how information will not be disclosed without the consent of the patient unless it is mandated by law (American Psychological Association, 201). The establishment of a degree of confidentiality where a patient must sign off on whether they want the reports to be released to any other individuals, must also be discussed. It is important that a patient made aware that of the fact that reasonable precautions will be taken to protect their information at all cost, and the information will only be released under circumstances that are deemed appropriate and fall in line with the APA guidelines. Psychologists that conduct forensic, military, or other assessments that are legally mandated, have to provide notification of the purpose to each person that is being tested, but it permits them to disclose confidential information without consent (Fisher, 2009).

Many states have adopted the duty to protect following the landmark case Tarasoff v. Reagents of the University of California (1976). The outcome of case of Tarasoff v. Regenats led to the ruling that requires health professionals to inform a third party of the potential to be harmed by a client/patient and if the provider has a special relationship with the client/patient (Fisher, 2009). Unfortunately, Texas, Florida, South Carolina, and Virginia have rejected this law, which makes providers' susceptible to liability as well as third parties uninformed about a person's intent to harm them. In the state of Texas, a provider is in violation of the state law if he or she provides confidential information to a third party that is focus of a specific threat and if the providers reports it to local law enforcement there is no protection for their good faith reporting (Kelso,1999). Luckily, providers do have two options to refer to when presented with threats of violence, which consist of contacting a mental health facility through Emergency Detention (Section 573.001 of the Texas Health & Safety Code) or initiation of an Emergency Admission and Detention under Section 573.022 of the same code (Kelso, 1999). Another section where the duty to warn comes into play is with school violence, with case laws trying to find a balance between the state's duty to protect the rights of children and maintain their safety (Fisher, 2009). In some states, if a school personnel or a school psychologist is aware that a student may pose a threat to others, he or she must notify the parents of the student that is being threatened. This notification helps to ensure that the student does not have access to weapons, and takes appropriate steps to ensure that the child is being supervised when he or she is out of the school setting (Fisher, 2009).

According to Standard 4.05b psychologists have the ability to disclose confidential information without consent if it is intended to protect the client/patient from self-harm or suicidal intent (American Psychological Association, 2010). A client/patient who verbalizes thoughts of suicide and has a plan in mind is a serious event that a psychologist must immediately report. Psychologists who fail to report in these circumstances face malpractice

for not taking reasonable steps to address the issue. It is the responsibility of psychologists to take action when an individual verbalizes suicidal ideation, or threats of harming him or herself, within the context of the therapist-client relationship (Haney, 2004). Also, Standard 4.05b is applicable with the Health Insurance Portability and Accountability Act (HIPAA) under 45 CFR 164.512, where a psychologist can disclose protected health information without authorization or consent required by law, for public health activities, for health oversight activities, for court hearings, or activities related to the execution of a military mission (Fisher, 2009). In some cases, HIPAA may permit more allowances for disclosure without the client's/patient's consent when compared to state law or Ethics Codes.

For any psychologist it is important to be cognizant to the events or situations where information can and cannot be disclosed without consent because this not only protects the therapist but the client when it comes to their information being released to unauthorized persons. Whenever there is doubt about disclosing information, a psychologist should follow the law or ethics code that is more stringent.

Following disclosure is the element of competency, which refers to the mental capacity of the client/patient to provide consent. In many cases, there is generally the presumption of competency unless the client is a child, elderly, or has a mental disability and in which case a legal guardian or authorized individual may be required to give consent (Gregory, 2007).

There are situations where a psychologist can have limited information about a client's functioning in order to determine if they meet the standard of competency, so it is up to the psychologist to obtain collateral information and refer to other sources that can provide useful information to help a psychologist reach his or her conclusion (Kalich et al., 2007). Lastly, the standard of voluntariness (undertaken of one's own free will) is the third legal element of the informed consent process, which is an absolute prerequisite for any client/patient to participate in any therapeutic intervention (Applebaum et al., 2009). Some to the most difficult aspect of informed consent can consider voluntariness because it requires a high degree of conceptual clarity (Cahana & Hurst, 2008). There are certain groups (children, prisoners, pregnant women, or the mentally disabled) that can be vulnerable to coercion or undue influence. Based on federal regulations certain safeguards have to be in place to protect welfare, right, and safety of this population (Applebaum et al., 2009). The choice to participate in therapy, research, or any type of assessment should be freely given. Further, an individual should not be forced to participate out of fear of being penalized for declining to do so (Gregory, 2007). Ultimately it is important for a client/patient have the knowledge and understanding that their participation is voluntary. This may not always be the case in situations where institutionalized individual (e.g. inmates) may be coerced to participate for the promise of release time. The use of a detailed informed consent form can help to prevent vulnerable populations from falling prey to coercion but rather they are given the choice and liberty to participate or decline (Gregory, 2007).

For any psychologist engaged in professional practice, it is important for that person to continuously strive to adhere to the standard of informed consent based on the APA Ethical Guidelines. The ethical treatment of participants in psychological research, interventions, or

assessment is highly regulated by the federal guidelines (1991 Protection of Human Subjects). The ethical standards of the American Psychological Association and the practice that is most frequently relied on to protect participants is informed consent (Ilgen, & Bell, 2001). It is the requirement of federal guidelines and APA Standards to require informed consent for all research.

6. American Psychological Association Ethical Principles of Psychologists and Code of Conduct Standard 3.10 (2010)

According to Standard 8.02 participants must be adequately informed about their participation in order to make a decision that is in their best interest (American Psychological Association, 2010). When it comes to the informed consent process it should align with Principle E: Respect for People's Rights and Dignity of the American Psychological Association Ethical Principles of Psychologists and Code of Conduct (2010), individuals have the right to privacy, confidentiality, and self-determination to arrive at a decision that is informed, voluntary, and rational based on their interpretation of the information that is given to them (Fisher, 2009). The Certificate of Confidentiality is another additional measure that protects psychologists from being forced to disclose "personally identifiable research information" which have the potential to place a participant in legal jeopardy or damage their standing. It is important that individuals are made aware of this protective measure when they have to make the decision as to whether or not to participate in a research study (Fisher, 2009). The consent form can include the certificate protection as well as the psychologist's disclosure legal and ethical obligations.

When it comes to Informed Consent related to assessments (Standard 9.03), psychologists who provide third parties with protected health information need to be familiar with the Health Insurance Portability and Accountability Act of 1996 (HIPAA). HIPAA was implemented in order to have a standard to protect individuals' health information and as a response the Department of Health and Human Services released the Privacy Rule as a national standard to protect and cover protected heath information (Shalowitz & Wendler, 2006). Under the Privacy Rule covered entities (e.g. health pan, health care clearinghouse, or heath care providers) who transmit any health information for insurance or billing purposes must obtain an individual's signed authorization to use their protected health information (Fisher, 2009). Even before starting treatment, or a treatment-related assessment, HIPAA covered entities must ensure that individuals are provided with a Notice of Privacy Practices. A Notice of Privacy Practices describes how individuals' personal medical information will be used, provider's obligations, and individuals' rights under the privacy regulation, and individuals are asked to sign or initial to indicate that they received the notice (Walfish & Ducey, 2007).

As a part of the informed consent process, psychologist are to ensure that a client fully understand their rights as it pertains to private information and under what conditions that their private information will be shared (Fisher, 2009). In order for a covered entity to create, use, or disclose protected health information the covered entity must obtained a signed authorization from the client or legal guardian which must contain but is not limited to: 1) the

description of the information that is to be used or disclosed; 2) the specific identification of the person(s) that will be involved with the request; 3) the specific person(s) or class whom the information will be disclosed to; 4) the description of the purpose of the requested use or disclosure; 5)statement of the individual's right to revoke the authorization in writing; 6) exceptions to the right to revoke such as if the protected health information has already been obtained and use; 7) the expiration date of the authorization; 8) the client's/patient's signature (Fisher, 2009). In some cases, the requirement for authorization under HIPAA can be waived when consent is implied when engaged in the treatment, payment, or health care operation or psychologists are permitted to dispense with informed consent when mandated by law or other governing legal authority but a notification of purpose should be provided to the client/patient (Fisher, 2008).

Furthermore, informed consent to therapy (Standard 10.01) states that psychologists must obtain informed consent as early as is feasible. It may be difficult during the initial phase of the therapy session (American Psychological Association, 2010). The consent process must provide the client/patient with ample opportunity for his or her questions to be answered whether it is related to the nature of the therapy, anticipated course of the therapy, confidentiality, or associated fees (Fisher, 2009). Similar to the process of informed consent with research or assessment, in therapy the informed consent process is ongoing based on whether the client's/patient's needs are quickly addressed or if it is done over the course of the therapy session. The topic of informed consent involving children and adolescents can be a unique one because it can be tied to the particular state or federal law that describes the rights of minors (Fisher, 2009). In the state of Texas, specific laws related to the rights of and obligations of minors' legal guardians have been defined. According to the Texas Administrative Code, psychologists must ensure that the legal guardians of minors understand their rights and the purpose of the treatment that is being provided to the child or adolescent (Texas State Examiners of Psychologists, 2011). According to Standard 3.10b (Informed Consent) of the American Psychological Association Ethical Principles of Psychologists and Code of Conduct (2010), psychologists must obtain informed consent from legal guardians, provide them with appropriate explanation, and also provide the minor with appropriate information about the purpose and nature of the intervention that will be provided to assist with their developing autonomy. There are specific instances where guardian consent is required by law if persons are incapable of providing their own consent and there are also exception where it is not required by law (Fisher, 2009). It is important for psychologists to become fully aware of the state laws that pertain to guardian consent before deciding to treat a minor.

7. Goals of Informed Consent

While informed consent was originally rooted in the medical field, it has become a widespread concept that is accepted by psychology and other disciplines. Even though there were roadblocks when it comes to developing the foundations for informed consent It has been noted to lead to beneficial outcomes and with this in mind there are specific goals that should be achieved when it comes to the process of informed consent. In order for consent to be valid it should be fully informed, given voluntarily, and given by an individual who is

competent and able to make the decision (Eyler & Jeste, 2006). With these three factors in place, informed consent can promote autonomy and self-determination with clients, minimized the potential for the exploitation or harm to clients if they are well-informed, and help to foster appropriate and detailed decision-making process that can lead to a good decision (Bersoff, 2008).

8. Issues/Problems with Informed Consent

Even though substantial benefits can be reaped with informed consent there are still issues/problems that impede its progress. The predominant issues that plague informed consent include understanding, competence, and voluntariness that involve consent from children/adolescents, institutionalized populations, or those with cognitive impairments. While there is guidance in terms of providing minimal information in the informed consent process there is no specific direction when it comes to what is considered to be too much or too little information, or how to present the information so psychologists have to use their clinical judgment to determine what is considered to be adequate and appropriate information to provide to clients (Bersoff, 2008). Until more conclusive guidance is provided, psychologists and other health care providers will have to assess for themselves as to whether enough information is being shared with their clients (Fisher, 2009).

Another issue that must be taken into consideration is the impact of diversity on the informed consent process. Since it is still unclear as to how much information to include in the informed consent process it would be understandable that problems would arise when it comes to translating this information or educating culturally diverse groups about informed consent process (Sue & Sue, 2008). According to Standard 3.10 (Informed Consent), psychologists must obtain informed consent of the individual in a language that is reasonably understandable.

There may be problems with getting this information across to cultures that a psychologist has never been exposed to or is unfamiliar with the culture. It is important for psychologists to be aware of the impact that language and diversity can have on the informed consent process because if information is incorrectly provided to a client this can jeopardize the client-therapist relationship (Bersoff, 2008). Fortunately one strategy that may prove to be effective in addressing this issue is providing written informed consent translations that take into consideration cultural differences with regards to health care/scientific terminology and concepts (Pope, 1991). In many cases it can be viewed as unrealistic to fully inform potential clients in a way that allows for autonomy and equality in treatment decisions but steps can be taken make this a reality.

The informed consent process is ever evolving to meet the demands of clients/patients with studies focusing on the content and conveyance of informed consent so practitioners can have better guidance during the process. The content of informed consent is becoming more focused in order to allowing for a comprehensive and detailed communication between client and therapist and also some level of flexibility depending on the client. From client to client there is the reasonably expectation that when providing psychological services the basic parameters of fees, limits of confidentiality, objectives of treatment, alternative treatment

options, and expected duration should be discussed but also allowing for individualized approach (Bersofff, 2008).

9. Summary/Conclusion

In summary, the foundation for the informed consent process was influenced by the Milgram Obedience Study which was identified for its blatant acts of not informing participants about the purpose of the study and the nature of their participation. The study chose to not completely inform participants and engaged in deceptive acts that had a negative impact on the participants. In the wake of this study federal laws, institutional review boards, and the American Psychological Association became more stringent about its requirements for informed consent (Benjamin & Simpson, 2009). While the informed consent process has had a long history beginning in medicine the process had to grow to become the concise, step-by-step process that is it considered to be today.

The informed consent process can be viewed as an ethical mandate that should consist of basic elements for its to be considered valid and this includes the nature, purpose, and anticipated duration of the assessment, therapy, research, or psychological service, the discussion of associated fees, third party involvement, extent and limits of confidentiality, available alternatives, risk and benefits, and the right to refuse to participate or withdraw (Fisher, 2009). It is important that potential clients/patients are provided with this information to in order to arrive at a reasonable decision.

Based on the American Psychological Association Ethical Principles and Code of Conduct (2010), psychologist must strive to adhere to the standard of informed consent. The ethical treatment of participants in psychological research, interventions, or assessment is regulated by federal guidelines and the APA Ethical Principles so informed consent is required for any one of these processes. It is believed that the informed consent process should align with the APA Ethical Principles Principle E: Respect for People's Rights and Dignity as they have the right to privacy, confidentiality, and self-determination and specific measure such as the Certificate of Confidentiality protects the release of clients/patients personally identifiable information and with this in place clients/patient are able to make the decision as to whether or not to participate (Fisher, 2009).

Also, psychologists must be familiar with the Health Insurance Portability and Accountability Act of 1996 because it is designed to protect individual's health information and along with this the Privacy Rule was implemented by the Department of Health and Human Services to ensure that covered entities are to obtain an individual's signed authorization to use their protected health information (Fisher, 2009). Additionally, HIPAA covered entities must provide individuals with a Notice of Privacy Practices which describes how individuals' personal medical information will be used, the provider's obligation, and individuals' rights (Walfish & Ducey, 2007).

In order for a covered entity to be able to use a client's/patient's protected health information signed authorization form must be obtained containing information about the purpose of using the information, description of the information, person(s) whom the information will be

disclosed to, statement of the client's/patient's rights, and so on. In some instances, the requirement for authorization can be waived under HIPAA or with mandated assessment that only require a Notification of Purpose (Fisher, 2009).

Furthermore, when it comes to informed consent to therapy (Standard 10.01) this should be done as early as feasible during the initial phase of therapy (American Psychological Association, 2010). The informed consent process gives the client/patient the opportunity to have their questions answered and this should be considered an ongoing process. When informed consent involves children or adolescents, a psychologist must be aware of his or her state laws that pertain to the rights of minors as well as any applicable federal laws. According to the Texas Administrative Code, psychologists must ensure that the legal guardian of a child or adolescent understands their rights and the purpose of the treatment (Texas State Board of Examiners of Psychologists, 2011). Psychologists must obtain informed consent from legal guardian as required by law, but there are also situation where informed consent may not be required before treatment is provided (Fisher, 2009).

The concept of informed consent has become widespread even though it originated in the medical field and in order for it to be valid it should be fully informed, given voluntarily, and given by a competent individual (Eyler & Jeste, 2006). The goals of informed therapy should include the promotion of autonomy and self-determination in a client/patient, the minimization of exploitation and harm, fostering the decision-making process, and enhancing the therapeutic process between the client and the psychologist (Bersoff, 2008). While benefits can be reaped from the informed consent process, it is still associated with its share of issues or problems such as achieving full understanding of the components of competence, voluntariness, and understanding (comprehension), and also what is considered to be too much or too little information to provide to clients. Also, there is very little consideration being given for the impact that language and diversity can have on the informed consent process but one strategy that can be employed is to provide written informed consent forms that are translated into various languages to take into account the cultural differences that can exist among clients/patient.

The informed consent process is an ever-changing one but future advances are focusing on the content of the process and conveyance of diversity issues. There is work being directed towards making the communication that occurs between clients and psychologists are more comprehensive and detailed process and this begins with ensuring that the basic elements parameters of informed consent are included in the process while tailoring it to the needs of the client (Bersoff, 2008).

The recommendation that came from researching the topic of informed consent include having a more streamline process or standard that addresses when to limit information and when to know if one is sharing too much information. As it currently stands, health professionals have to made the decision as to whether or not they are providing too little or too much information and the lack of guidance does not help to determine whether or not this is being done appropriately (Bersoff, 2008). There is currently no specific standard that exists to guide psychologists as to the extent, mode, and specificity when providing informed

consent so this needs to be a focus with future revisions of the APA Ethical Principles and any applicable state and federal laws. Also, another recommendation is that while the general standard of informed consent provides direction in the nature of information that are to be taken to protect the rights of children and adults with cognitive impairments additional standards need to be developed. These standards should focus on individual and multiple therapist and consent safeguards for therapies (Fisher, 2009). It seems that many more cases related to these situations will need to arise before these standards are developed and implemented. The question that comes to mind is whether the rights of client/patients who are involved in individual or multiple therapies are being honored and whether they are being provided with sufficient information. A critique of the informed consent process is that while descriptions are provided as to when informed consent may not be necessary, or not possible, there is still some doubt in instances when state laws may conflict with the APA Ethical Principles. For the most part, when consent may not be required by a legally authorized person psychologists must be sure to take reasonable steps to protect the rights of child's rights and welfare but what constitutes reasonable steps is not clearly defined (Fisher, 2009). The final message that should come from the examination of the informed consent process is that future revisions to this process should attempt to be more specific with the development of the guidelines so that there is a reduction in confusion and an increase in the probability that psychologists carry out the informed consent process with improved knowledge and confidence in their practice. Psychologists should be familiar with the basic elements of the informed consent process and incorporate this into each patient encounter and with continuous practice this becomes second nature.

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