Consent

In medical practice it refers to the willingness of a person to subject himself for examination, investigation and treatment

- Consent is valid when
 - -free, voluntary, without undue influence
 - -given by a competent person
 - -is informed
 - information necessary to make therapeutic decision
 - relevant information about research
 - relevant medicolegal information

 Should be taken from the spouse especially when it affects the reproductive and sexual functions permanently

 Maybe given by a guardian (proxy consent) in the case of the mentally retarded, minors Should be taken from the spouse especially when it affects the reproductive and sexual functions permanently

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Consent

Implied Expressed

Verbal
Written
Gesture
Written/witnessed

Implied consent

 The behavior of person indicated that the person is willing for examination and treatment

Consent is implied when

- a person voluntarily comes to the OPD/clinic and sits by the doctor
- when he gets admitted to a ward
- a person who comes voluntarily with a MLEF for examination
- However this consent is limited to ordinary forms of examination, investigation and treatment

Expressed consent

 When consent is not implied, the doctor has to get consent from a competent patient after explaining what he is going to do and the implications of what is to be done. In other words the patient must express his willingness for the examination, investigation and treatment

It must be obtained in the presence of a third party

Gestures

- patient may say yes by nodding the head or say no by moving the head to and fro sideways or moving the hand to and fro sideways or by simply running away
- this type of consent is dangerous as the doctor really does not know what the patient actually means by the gesture
- a doctor must not be satisfied with consent in the form of a gesture

· Oral:

- patient will express his willingness by word of mouth

Written

- the patient will express his willingness in writing by putting his signature on the BHT/a printed form provided by the institution

Expressed written consent should be taken...

- Before invasive examination/treatment
 - Per vaginal examination
 - Rectal examination
 - Taking blood for investigations
 - Intra venous therapy
 - Chemotherapy, Radiotherapy
 - Surgery
 - Any procedure needing anaesthesia
- Experimental medicines / clinical trials

- · Written and Witnessed:
 - the patient will express his willingness in writing and the fact such signature was free and voluntary and obtained after explaining the procedure and the consequences and is witnessed by a third party

- All medico—legal examinations where persons are produced from custody require expressed written witnessed consent
 - examination for drunkenness
 - victims of sexual offences
 - assailants of sexual offences
 - suspects/accused produced by police
 - examinations for insanity
 - any other person produced from custody

 Such consent is also required from next of kin for pathological autopsies and removal of organs

 However if such person refuses to subject himself for examination, the doctor cannot proceed to examine him against his expressed wishes

Consent by Others

- in the case of minors and others who are incapable of giving valid consent, the consent of the parent or guardian is required
- where there in no such parent or guardian, a court order may be obtained

 no examination can be carried out at the request of a police officer or an employer without consent condition that they arrange their own

- consent for procedures involving marital rights such as sterilizations, termination of pregnancy the consent of the spouse is obtained to preserve family harmony even though it is not legally required
- If the procedures are carried out to save the life or preserve health of spouse, there is absolute no need for consent of other spouse

Instances when consent is not necessary

- Emergency
- · Mandatory vaccination requirements
- Statutes requiring quarantine in cases of contagious diseases
- · Examination under court order