Consent to cataract surgery performed by residents

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ABSTRACT • RÉSUMÉ

Background: Surgical teaching seems to be in conflict with the contract between surgeon and patient. We carried out a study to determine the prevalence of consistent disclosure to patients that a resident will perform part or all of their cataract surgery procedure. A second objective was to investigate the effect of such disclosure on patients' willingness to undergo the procedure.

Methods: We sent a survey to all 20 ophthalmologists working in our university-affiliated hospitals, inquiring about their practice of disclosure to patients regarding residents' involvement in surgery. Staff physicians were also asked to record their patients' consent to an operation performed partly or entirely by a trainee while under supervision.

Results: Of the 20 surveys sent, only 5 (25%) were returned. Those who declined to participate in the study mentioned several reasons, including that such disclosure might increase a patient's anxiety level, that they might lose potential patients as patients might be reluctant to have trainees perform their surgery, and lack of time to talk to patients about these issues. Of the five ophthalmologists who completed the survey, four were part-time affiliated staff and one was a geographic full-time physician working in our institution. Four of the five ophthalmologists said that they do not consistently disclose residents' involvement to their patients. Of the 49 patients enrolled, only 8 (16%) agreed to undergo the procedure after being informed that a trainee would be actively involved.

Interpretation: It is crucial to inform patients that residents may be involved in their surgery in order to avoid possible litigation. However, our results suggest that such disclosure may have a negative effect on surgical education because it could limit the number of cases available to trainees.

Contexte : L'enseignement de la chirurgie semble entrer en conflit avec le contrat intervenant entre le chirurgien et le patient. Notre étude avait pour objet d'établir la prévalence de la divulgation aux patients qu'un résident pratiquera la chirurgie

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de la cataracte, en tout ou en partie. Le deuxième objet était de connaître la réaction des patients et dans quelle mesure ceux-ci, le sachant, étaient d'accord à subir l'opération.

Méthodes : Nous avons envoyé un questionnaire à 20 ophtalmologistes travaillant dans un hôpital universitaire pour nous enquérir de leur pratique, c'est-à-dire : s'ils informaient leurs patients de la participation d'un résident à l'opération. Le personnel médical a aussi été invité à noter le consentement des patients à ce qu'un médecin en formation pratique l'opération ou une partie de celle-ci sous surveillance.

Résultats : Seulement 5 des 20 questionnaires (25 %) ont été retournés. Ceux qui ont refusé de participer ont donné plusieurs raisons, notamment : la crainte qu'une telle information accroisse l'anxiété du patient, le risque de perdre d'éventuels patients réticents à voir un stagiaire pratiquer l'opération, le manque de temps pour en parler avec le patient. Parmi les ophtalmologistes qui ont rempli le questionnaire, quatre faisaient partie du personnel affilié à temps partiel et un était un médecin sur place travaillant à temps plein dans notre institution. Quatre des cinq répondants ont dit ne pas toujours informer les patients de la participation des résidents. Des 49 patients consultés, huit seulement (16 %) ont accepté l'opération après avoir été informés de la participation d'un médecin en formation.

Interprétation : Il est capital d'informer les patients que des résidents peuvent participer à leur opération afin de prévenir tout litige. Toutefois, les résultats de l'enquête indiquent qu'une telle divulgation peut avoir des effets négatifs sur la formation chirurgicale, parce qu'elle pourrait limiter le nombre de cas disponibles pour les stagiaires.

You are an ophthalmologist at a teaching institution. Mr. Smith has asked to see you in consultation for progressive visual loss. After examining the patient, you suggest that he undergo cataract extraction by phacoemulsification with lens implantation. As usual, an ophthalmology resident will be assigned to perform the procedure under your supervision. Which of the following should you tell the patient during the informed consent process?

A. That phacoemulsification is a team effort and that you are the captain of the team.

B. That you will be performing the surgery with the involvement of a trainee.

C. That a supervised resident will perform the surgery.

This clinical vignette raises important ethical and legal issues. One can appreciate that it is a challenge to care for patients and simultaneously maintain a highly qualified surgical training program. The question of informed consent is at stake in this debate since surgical teaching seems to be in conflict with the contract between the surgeon and the patient.

Ethicists who have explored the issue of informed consent have argued in favour of a patient's right to know the details of surgical training.[1] The American College of Surgeons has issued a statement on principles outlining that the surgeon is deemed responsible for disclosing to the patient information related to the conduct of the operation.[2] Guidelines from the American Medical Association's Council on Ethical and Judicial Affairs state that "patients should be informed of the identity and training status of individuals involved in their care, and all the health care professionals share the responsibility for properly identifying themselves."[3] From a medicolegal standpoint, the Canadian Medical Protective Association has issued principles outlining that surgical participation by a resident should be made explicit to the patient.[4] There have been cases in which staff surgeons were found guilty of misconduct based on the fact of nondisclosure to patients about residents' involvement.[5] The tribunal agreed that teaching hospitals have a pivotal role in training residents but that this does not take priority over the right of the patient to be well informed.

We surveyed a group of ophthalmologists working in a teaching institution to determine the prevalence of consistent disclosure to patients that a supervised resident will perform part or all of their surgery. We also wished to investigate the effect of frank disclosure on patients' willingness to undergo surgery performed by residents.

Methods

In January 2002 we sent a survey to all 20 surgical ophthalmologists at the Sir Mortimer B. Davis Jewish General Hospital and the McGill University Health

Centre, Montreal, asking them to disclose to their patients in a standardized manner the residents' involvement in cataract surgery. The consent form outlined the importance of training residents in surgery and its role in the continuity of excellence of care in our institution. The form also made clear that only residents who had attained a certain level of expertise would be allowed to perform part or all of the procedure. It was emphasized that the residents would be under the direct supervision of the attending surgeon at all times.

We asked the staff surgeon to recruit 10 consecutive patients whom they considered candidates for cataract surgery.

Results

Of the 20 surveys sent, only 5 (25%) were returned. Those who declined to participate in the study mentioned several reasons, including the possibility that such disclosure might increase patients' anxiety level, the possibility of losing potential patients because the patients might be reluctant to have trainees perform the operation, and lack of time to talk to patients about these issues.

Of the five ophthalmologists who completed the survey, four were part-time affiliated staff, and one was a geographic full-time physician working in our institution.

Four of the five ophthalmologists said that they do not consistently disclose to their patients that residents will perform part or all of the surgical procedure.

A total of 49 patients considered for cataract surgery were enrolled. Of the 49, only 8 (16%) agreed to have a trainee perform their surgical intervention.

Interpretation

Consistent disclosure to patients about the active participation of residents in cataract surgery seems to be a limited practice in this selected group of physicians working in a teaching institution. Moreover, our results suggest that when patients are informed of the participation of residents in their surgery, only a small number will consent to have their surgery performed by a trainee. The small number of patients recruited as well as the large proportion of staff surgeons who declined to participate in the survey demonstrate the lack of awareness among ophthalmologists about this issue. In addition, staff surgeons may be reticent to disclose to their patients that residents may be involved in their surgery out of fear that they may lose potential patients. Some ophthalmologists downplayed the importance of this question in adopting a paternalistic approach, which is based on the principle of beneficence, or acting for the good of the patient. There are those who advocate that they know what is best for their patients; moreover, the means they use to achieve the goal is not the concern of their patients. However, this view is in contradiction to personal autonomy, one of the pillars of medical ethics.[1] Allowing a resident to perform one's patient's surgery without the patient's explicit consent violates, on the basis of autonomy, the contract between the surgeon and the patient.[1] A solution to this ethical dilemma posed by ophthalmology training programs must strike a balance between undue beneficence and abandoning patients to their autonomous rights.[6]

The clinical vignette at the beginning of this article shows three examples of standard disclosure. Substituting reassuring words for specific information (option A) deprives patients of information they need and diminishes their ability to make an informed decision about whether or not to proceed with the operation.[7] Option B is the least ethically acceptable. Informing the patient that the attending physician will be the primary surgeon and that the resident will participate in some (implied) minor and inessential capacity clearly misrepresents the function of both the resident and the attending physician. This may expose both doctors to possible lawsuits alleging fraud, deceit, misrepresentation and lack of informed consent.[8] Informing the patient that an ophthalmology resident will perform the surgical procedure under the direct supervision of the attending physician (option C) provides the patient with an accurate account of what is planned. It reassures the patient that a staff physician will be present to offer guidance and to control risks. This option respects the principle of patient autonomy and provides a transparent method of surgical training.

Lack of frank disclosure regarding the fact that a resident may perform part or all of the surgical intervention is risky from a medicolegal standpoint.[5] Therefore, parties involved in educating residents should have a clear understanding of potential liabilities and should have well-defined procedures to minimize such risks.[9] Without clearly defined policies as to what constitutes "standard disclosure," surgical training may be compromised. Although there is not a great deal of case law in this area, it is clear that a tribunal will not hesitate to look beyond the negligent action of a resident and hold the staff surgeon responsible for any harm to the patient.[9]

Our study demonstrates the difficulty of bridging the gap between fulfilment of legal responsibilities toward our patients and meeting the educational goals of our residency training programs. Although we could not firmly establish in our small survey the effect of frank disclosure on medical education, it seems that such disclosure will likely result in fewer surgical cases available

to trainees. A study with a larger sample of patients is needed to confirm the trend observed in our centres.

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