Patient consent forms should educate not intimidate

December 17 2008

It's time patient consent forms came back full circle to a tool for patient education, rather than the waiver of liability they have become. The original purpose of the consent forms was for a surgeon or doctor to inform the patient of common or serious risks associated with the procedure to be performed. However, the way current consent forms are written – as formal, legal documents – plants a litigious relationship in both the patient's and the surgeon's mind even before treatment has begun.

Lawrence Brenner is an attorney on the faculty of the Department of Orthopedics at Yale University. He and his colleagues propose a set of five recommendations to return consent forms to their intended purpose – that of allowing patients to meaningfully take part in the decision-making process. Their suggestions have been published online in Springer's journal, *Clinical Orthopaedics and Related Research*.

As surgeons have become increasingly concerned about potential litigation, the informed consent process has lost its educational value. The focus is now on obtaining 'preoperative release', rather than an exchange of information to help patients make important decisions about their healthcare choices. In reality, the majority of patients find it a challenge to understand the complicated legal jargon used on the forms.

Research also suggests that proper informed consent has a direct impact on the quality of patients' recovery after surgery. Indeed, patients have more realistic expectations and are better prepared psychologically to

cope with the outcome of the operation when they have had an open discussion with their physician about what to expect during and after surgery.

In order to return informed consent forms to a tool for patient education rather than a form written by lawyers to absolve surgeons from liability, the authors make five recommendations. First, the informed consent form should never be viewed as a substitute for educating the patient; it is merely evidence that an appropriate discussion has taken place.

Second, the forms should be designed to be understandable. Third, surgeons should not be afraid to communicate uncertainty in order to have a truly open discussion with their patients. Fourth, patients need to be active participants in the dialogue about the potential risks of the procedure. Finally, a note by the surgeon in the patients' medical notes, that states that a discussion has taken place, is likely to be much more effective than a lengthy signed, but incomprehensible, form.

Source: Springer