Book Reviews

A Doctrine in Practice

Informed Consent. A Study of Decisionmaking in Psychiatry. CHARLES W. LIDZ, ALAN MEISEL, EVIATAR ZERUBAVEL, MARY CARTER, REGINA M. SESTAK, and LOREN H. ROTH. Guilford, New York, 1984. xviii, 365 pp. $30. The Guilford Law and Behavior Series.

Informed consent has become a battleground in medicine, law, and ethics. The idea that patients and subjects should be given relevant information before being asked to consent to therapy or research is of recent origin. The battles began in the 1960's with the inclusion of consent in regulations governing research on human subjects and then spread to medical treatment with the *Canterbury* v. *Spence* decision in 1972. In holding that a patient is entitled to information material to the decision to be made, that case has come to symbolize the conflict between patient autonomy and the power of medical authority and expertise.

Not surprisingly, physicians touched by the new disclosure requirements have counterattacked. Their lobbying has helped insure that more than half the states retain a professional-custom standard of disclosure. And numerous poorly designed studies purporting to "evaluate" the doctrine of informed consent have appeared in medical journals. At the level of practice, many have feared that informed consent is more honored in the breach than in the observance. When found at all, it is thought to exist in a ritualistic form that has little connection with the reality of patient care.

Lidz *et al.* have done a splendid job showing how informed consent exists and functions in a university psychiatry center in Pennsylvania. They have skillfully designed and executed an observational study of consent transactions in three institutional psychiatric settings: a pre-commitment evaluation center, an inpatient research ward, and an outpatient clinic for chronic patients.

Lidz *et al.* find that informed consent in the "pristine form envisioned by law and by ethicists is rarely, if ever, to be found." Information is given after, not before, decisions are made; responsibility for disclosure floats among many people; disclosure tends to be brief and incomplete and is often omitted; legal forms are bureaucratic and distancing. In short, physicians make the decisions and patients comply, when the doctrine envisions informed patients choosing whether to accept the physician's recommendations.

The authors are less successful in drawing conclusions and interpreting their richly thick description. They take the absence of consent in its "pristine form" to be evidence that the doctrine (law) has been a "dismal failure." But this judgment overlooks the extent to which their own data show that patient autonomy is alive. The ideal is least honored in the evaluation center, although disclosure of the consequences of a patient's decision is more legally formalized and arguably more important there than in the other two settings studied. The bureaucratic demands of evaluating a constant stream of patients overwhelm attention to disclosure requirements. The result is that patients often agree to voluntary commitment without being aware of the full consequences. Yet the authors never address the question of how "recognition in the pristine form" in the evaluation center would have changed decisional outcomes—a key point in evaluation of the doctrine.

The "failure" of the consent doctrine is less evident in the research ward and outpatient clinic. The authors confirm indirectly that the institutional review board system of assuring consent has not totally closed the gap between ideal and reality in the research setting. But they also show how alternatives such as dissemination of information to groups rather than individuals and the process of learning over time might educate patients as effectively as one-to-one communication from a physician. Indeed, their account of consent to electroconvulsive therapy on the research ward shows that patients are informed, understand their alternatives, and then freely decide.

Practices in the outpatient clinic seem even less a "failure," and suggest the need to gauge evaluations of the function and the efficiency of consent to the context of physician-patient interaction being discussed. One-to-one conversations disclosing information are the rule in the outpatient clinic. Patients participate closely in decisions about medication and are invited or urged to exercise autonomy in the rest of their lives. But they are dependent and vulnerable and readily accept the physicians' expertise, eschewing the chance to be more active decision-makers. This is less a failure of consent doctrine than a reminder of how patients' capacities and context must be taken into account in evaluating as complex an ethical and legal norm as informed consent. One wishes for more analysis of the complexities that are so ably described. For example, would telling these patients of the risks of tardive dyskinesia—a notable omission in the physicians' disclosure—have changed their willingness to continue drug therapy? Given their alternatives, one suspects that the decisions would have been the same. The significance of decisional outcomes for the underlying doctrine needs more discussion than the authors give it.

The authors also come perilously close to asserting, merely because practice has not been all that it could be, that legal and ethical recognition of informed consent has had no effect on physicians or patients. Their study, however, does not compare physicians' behavior before and after introduction of disclosure rules and thus cannot tell us what physician-patient transactions would look like without legal and ethical articulation of this norm. One cannot discount some salutary effect. In addition, informed consent needs to be situated within the civil rights revolution in mental health law of which it has been a part.

When they do discuss reform Lidz *et al.* are quite perceptive about the dilemmas presented. Finding that consent has not yet been realized in practice, they support giving it a true test, rather than abandoning it. Though the full implications of their study remain to be teased out, their work is a strong plea for attention to the complexities of the many varied settings in which consent rules operate. In sum, Lidz *et al.* present a rich lode of data about informed consent in institutional psychiatry and stimulate interesting questions. Other scholars may now mine the lode for the meanings that lie there embedded.

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