Contemporary issues concerning informed consent in Japan based on a review of court decisions and characteristics of Japanese culture

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Abstract

Background: Since Japan adopted the concept of informed consent from the West, its inappropriate acquisition from patients in the Japanese clinical setting has continued, due in part to cultural aspects. Here, we discuss the current status of and contemporary issues surrounding informed consent in Japan, and how these are influenced by Japanese culture.

Discussion: Current legal norms towards informed consent and information disclosure are obscure in Japan. For instance, physicians in Japan do not have a legal duty to inform patients of a cancer diagnosis. To gain a better understanding of these issues, we present five court decisions related to informed consent and information disclosure. We then discuss Japanese culture through reviews of published opinions and commentaries regarding how culture affects decision making and obtaining informed consent. We focus on two contemporary problems involving informed consent and relevant issues in clinical settings: the misuse of informed consent and persistence in obtaining consent. For the former issue, the phrase “informed consent” is often used to express an opportunity to disclose medical conditions and recommended treatment choices. The casual use of the expression “informed consent” likely reflects deep-rooted cultural influences. For the latter issue, physicians may try to obtain a signature by doing whatever it takes, lacking a deep understanding of important ethical principles, such as protecting human dignity, serving the patient’s best interest, and doing no harm in decision-making for patients.There is clearly a misunderstanding of the concept of informed consent and a lack of complete understanding of ethical principles among Japanese healthcare professionals. Although similar in some respects to informed consent as it originated in the United States, our review makes it clear that informed consent in Japan has clear distinguishing features.

Summary: Japanese healthcare professionals should aim to understand the basic nature of informed consent, irrespective of their attitudes about individualism, liberalism, and patient self-determination. If they believe that the concept of informed consent is important and essential in Japanese clinical settings, efforts should be made to obtain informed consent in an appropriate manner.

Keywords: Informed consent, Japanese culture, Ethical principles, Ethical issues, Misuse, Healthcare professionals