



WellSouth 10 September 2025

AI Consent for children Getting rid of *those* patients

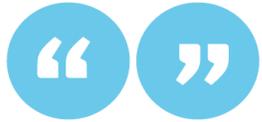
Dr Sam King, medicolegal consultant and GP



AI



AI Will Replace Doctors, Teachers and More in Next 10 Years, Making Humans Unnecessary 'for Most Things'



[AI is] not going to eliminate doctors and nurses; it's going to augment what they do.

Dr Robert Pearl Plastic surgeon and former CEO of the Permanente Medical Group.



Transcribing tools: the pros and cons

Positives

- Turns the ramble into something coherent
- Saves time for the user
- Takes more comprehensive notes
- Focus on the patient, not the screen
- The transcript can be kept

Considerations

- Needs a different head space
- Requires time to consent
- Confabulates
- Must be checked and edited before adding
- The transcript can be kept

The logo for Heidi, featuring the word "Heidi" in a blue, lowercase, sans-serif font. The letter "i" has a red dot above it.The logo for Nabla, featuring the word "Nabla" in a bold, black, uppercase, sans-serif font.



What you need to ensure:

- Privacy impact assessment (PIA) [Office of the Privacy Commissioner | Privacy Impact Assessments](#)
- Consent consent consent
 - Layered
 - Appropriate information
 - Document (don't need written)
 - Opt in system - for now
 - Be careful with patients with limited english/poor health literacy
 - Consider Maori data sovereignty
- Robust policy

AI diagnosis



- Privacy is the big issue
- Consent!
- Important know how to use it effectively.
- Only a tool, not a replacement for the clinician's brain
- Bias
- Automation blindness
- No guidance from MCNZ or RNZCGP yet
- Training is crucial
- Robust policy



Consent for minors



Care of Children Act 2004 S36

- Age of consent is 16 years
- Consent can lawfully be given by a guardian. If no guardian in NZ or no guardian can reasonably be contacted, a person acting as a guardian can consent, or the Court.

But Gillick applies under MoH, HDC, Privacy Commissioner

Grey area of when you can really rely on Gillick

Competence



A child under 16 has the legal competence to consent to medical examination and treatment if they had sufficient **maturity and intelligence** to understand the nature and implications of that treatment.



Consent in children: 16 and 17 year olds

- Children aged 16 years or older can consent to treatment as though of full age. (Care of Children Act 2004).
- If a child is under 18 years and lacks capacity, a guardian may lawfully consent.
- If the father is named on the birth certificate he is a guardian.
- When the father is not named on the birth certificate, if the mother was not married to or in a civil union at some time from conception to birth, or living as a de facto partner with the father at birth, the father is not a legal guardian.



Consent in children

- Children's views should be taken into consideration
- Only need one guardian to consent, but...
- Non urgent issues (referral ADHD assessment) and preventative measures eg Immunisations
- S5(c) COCA should be 'ongoing consultation and co-operation between his or her parents, guardians'
- How do we manage the Gillick competent child's refusal of consent to treatment?
- What do you do if a child requests treatment eg immunisations, isotretinoin (acne) or minor surgery without their parents' knowledge?



Consent in children: when you disagree with the parents

- Co-operation of parents
- Balance of factors:
 - Risk to the child of not treating v Risk of treatment
 - urgency
- Spread your risk – clinicians should consult widely with colleagues including paedes
- May need court order
- Call MPS



Consent: where parents are separated

- Both guardians have equal right to consent regardless of custody
- If necessary to treat now – treat
- If can wait – parents should agree or get court order.



Consent in children: Release of Health information

11 year old girl whose parents are divorced.

One weekend with her father the child angered the father who physically restrained her with sports equipment and sat his 2 dogs on top the child. The child was fearful but said nothing until she went back to her mother's care.

The child was taken to see her GP.

The father subsequently requested to see the child's notes.

What do you take into consideration to make your decision?



Consent in children: Release of Health information for those under 16 years

- Clinician's decision to release
- Central is child's best interests
- How do we assess Gillick competence?
- Consider risk of coercion
- Guardians have equal rights, not dependent on custody
- One cannot veto the other
- 20 working days to make a decision – don't rush
- Ask why they want it (they don't have to tell you)
- Limit the release if you can
- They can complain to the Privacy Commissioner (who is likely to side with you)

<https://www.starship.org.nz/guidelines/consent-and-legal-justifications-for-treatment-without-consent/>



Disenrolling difficult patients

What makes an interaction difficult?





What reactions might be unhelpful?

FIGHT

- Not listening
- Have to prove that we're right
- Making negative assumptions, judgments and labelling

FLIGHT

- Defensive reaction
- Giving in
- Avoidance





The 'me' factors



How much influence does our communication style have on how interactions go?



The 'me' factors



What influences your attitude and ability to cope on any given day?

The difficult interaction:

“Difficult” is a statement about our discomfort



Perception of difficulty affects our behaviour



- Greetings
- Non-verbal messages
- Degree to which we listen
- Information we provide
- Involvement of patient in decision making



But sometimes they
just have to go!



Call out the elephant
in the room





Tension skills: state boundaries

- Clearly stating the boundaries that apply in an interaction can increase tension
- Boundaries are best if:
 - set in policy
 - universally upheld
 - but flexible with different patients in different contexts
- Couch it as being in the patient's best interest ie "In order provide you the best care, we ask..."



Tension skills: state boundaries

- Boundary setting meeting or letter.
- Preferably not in a consultation
- Support person for you and them
- Be specific about the behaviour: give them a date, describe the behaviour, how it made staff feel
- What will happen if they breach the boundaries
- Be warm and conciliatory (you get fewer complaints that way) but consistent and unwavering
- If they breach the boundary can move to the consequence



Ending the doctor patient relationship

- It should not come as a surprise if at all possible
- Some situations you have the right to dis-enrol immediately
- Follow a good process: “We’re sorry but...”
 - Meet with the patient (if appropriate)
 - Follow it up with a letter
 - Appropriate time frame to find another doctor
 - You have no duty to find them another doctor
 - Provide care as appropriate (emergency treatment only?) until dis-enrolled
 - You cannot end the therapeutic relationship because of a complaint.
 - www.mcnz.org.nz Ending a doctor patient relationship



When you are feeling threatened

- Have a clear plan that all staff are aware of
- Chaperone for clinicians the entire consult
- Clinicians end the consultation if it is getting out of hand, if necessary they get up and leave
- Ask the patient to leave the room/building
- If they don't leave advise them that you will call the police if they don't leave immediately
- Call the police
- Consider trespass order
- Speak with your local police





Questions??

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current medicolegal risks
and issues affecting
clinicians across
Aotearoa New Zealand.

