

AN EVALUATION OF CONSENT REQUIREMENT IN COMPETENT AND INCOMPETENT ADULTS IN MALAYSIA

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Received: 29 Apr 2020

Accepted: 05 May 2020

Published: 16 May 2020

ABSTRACT

This is a conceptual paper to evaluate the consent requirement in competent and incompetent adults for medical treatment and healthcare in Malaysia. This study reviews literature on the history of consent requirement among competent and incompetent adults and its consequences in healthcare practice. It aims to evaluate the crucial elements of valid consent particularly the factors that affect the voluntariness and competency of the patient in giving consent. This paper reviews the existing literature surrounding the phenomenon of giving consent for medical treatment in the healthcare, particularly to how the element of competency affects such consent requirement. This study provides an overview of the perplexing nature of consent and the various concerns that have surrounded the topic leading to its recognition. Hence in Malaysia, there is no specific law which governs the provisions for competency in giving consent in the healthcare practice. This study aims to explore the Malaysian Medical Council Guideline on Consent for Treatment of Patients by Registered Medical Practitioner (MMC Guideline on Consent) and the current Malaysian laws to determine whether they are sufficient to address the competency element of consent requirement in adults. The study reviews the existing case laws and literature on the historical development of the elements of valid consent. Subsequently, the findings of the perusal of the MMC Guideline on Consent and the current statutory laws are presented and discussed. Finally, lack of empirical evidence is recognised in this paper and several suggestions are made for future research and recommendation for enactment of a new law pertaining to consent to medical treatment.

KEYWORDS: *Competent, Incompetent, Consent*