Non-Medical Authorisation Course

Thursday 22nd October 2015

East Midlands Regional Transfusion Committee

Consent

Jane Walden

Specialist Transfusion Practitioner

Sherwood Forest NHS Foundation Hospitals Trust

Learning Outcomes

- Understanding of what consent is
- An awareness of the latest recommendations regarding consent for blood transfusion
- How to obtain consent
- How to document the consent procedure
- What information to give to patients

General Principles

Every human being of adult years and sound mind has a right to determine what shall be done with his own body (Schloendorff case, 1914).

Benjamin Cardozo

Consent- It is a general legal and ethical principle that valid consent should be obtained from a patient (parent / guardian) before treatment is given. For the consent process to be valid however, the patient must be competent (have capacity) and have received sufficient information to make an informed decision.

Valid Consent

Voluntary

Information-clear, tailored to patients understanding and /or wishes, risks v benefits, none bias, alternatives, long term

Written or verbal- (verbal must be documented in the patients healthcare record)

Trained Practitioner-in the procedure for which consent being obtained

Capacity and Decision

A patient has capacity if they:-

- Understand
- Retain
- Use and weigh up

the information needed to made a decision AND

- Can communicate their wishes

Decision-a choice that you make about something after thinking about many possibilities

Patients that lack capacity

- Care of your patient is your first concern
- Treat individually and respect their dignity
- Support and encourage patient involvement
- Advance decisions-

  MUST be in writing

  If verbal-MUST be recorded in case-notes

Consent-children & young people

- You should involve them as much as possible in discussions about their care, even if they are not able to make decisions on their own.
- A young person’s ability to make decisions depends more on their ability to understand and weigh up options, than on their age. When assessing a young person's capacity to make decisions, you should bear in mind that:
  - 16-17 year olds can consent to their own treatment*
  - at 16 a young person can be presumed to have capacity to make most decisions about their treatment and care.
  - young person under 16 may have capacity to make decisions, depending on their maturity & ability to understand what is involve

*(Family Law Reform Act 1969)

Refusal to treatment

Adults

Individual choices and religious beliefs such as Jehovah's Witnesses must always be respected however, the patient must fully understand the consequences of doing so. No-one else can make a decision on their behalf if they have capacity and ALL information has been provided

16-17 year olds

If they lack capacity Parents can consent to investigations and treatment that are in the young person's best interests

Refusal to treatment-0-16

- You should encourage young people to involve their parents in making important decisions, but you should usually abide by any decision they have the capacity to make themselves.
- This decision however, may be overruled by the courts if refusing treatment could lead to their death or severe permanent injury.
- Clearly, this is a complex and controversial area-legal advise should be sought

Consent for Transfusion

- *Advisory Committee on the Safety of Blood, Tissues & Organs SaBTO (a DH expert committee)*
- *Advises UK Ministers and Health Departments on the most appropriate ways to ensure the safety of blood, cells, tissues and organs for transfusion/transplantation*
- *Publishes advice and guidance, reports and statements*

Background

- In March 2010 (SaBTO) initiated a public consultation on patient consent for blood transfusion.

Why?

Patient Choice: Many patients may not wish to receive a blood transfusion and / or may wish to know what the alternatives are.

Public Health: Recipients may not be aware that they have received blood and then go on to donate.

General legal and ethical principle: Valid consent should be obtained from a patient before they are treated.

Key Objectives of Consultation

- Identify the preferred option for recording consent
- Explore the potential operational impact of implementing a standardised form of consent for transfusion
- Confirm what type of information patients should receive

Summary of action plan from SaBTO

14 recommendations / 3 broad categories:

Clinical practice:
What should be done / hospital policy
Recommendations 1-6

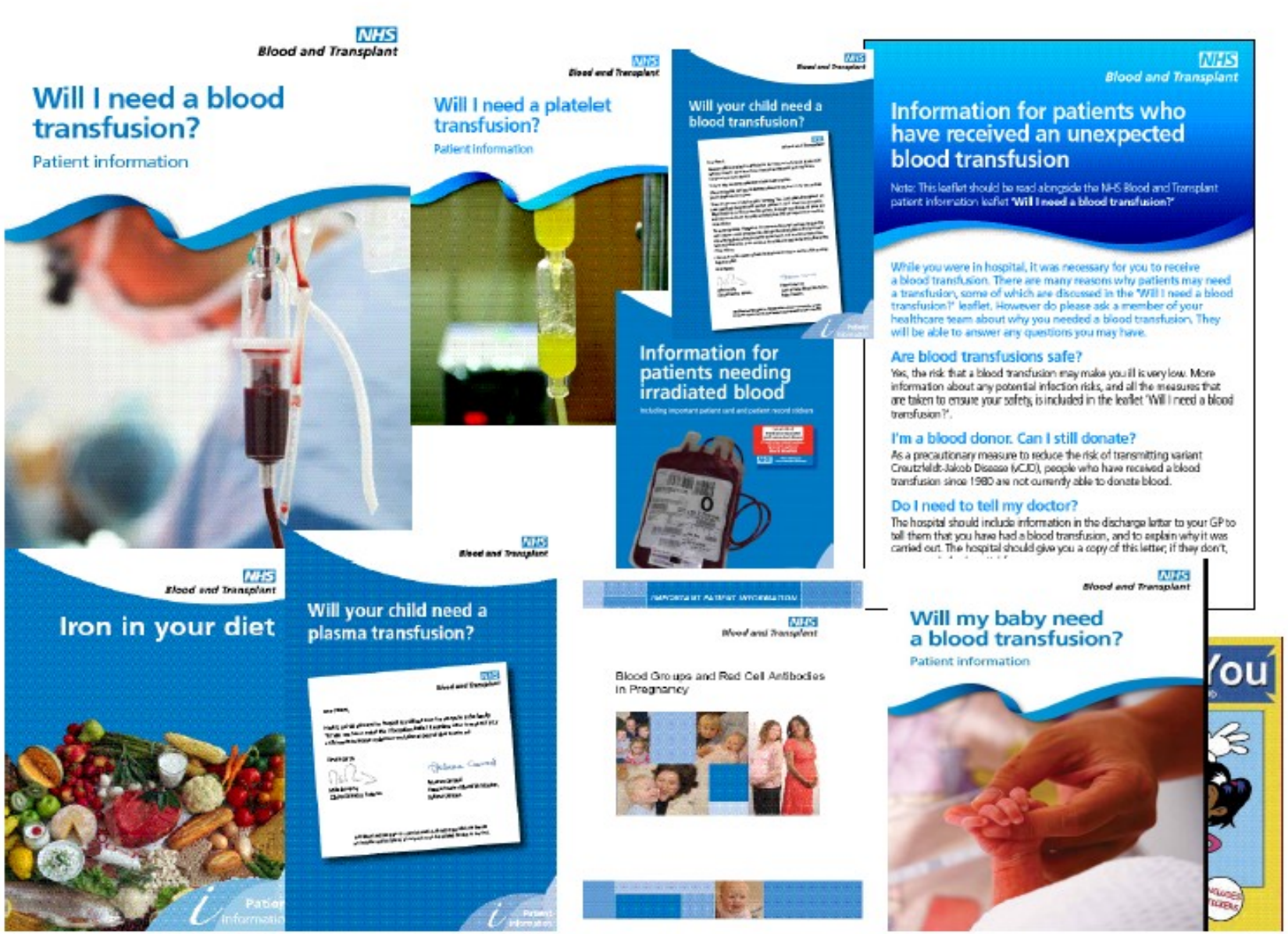
Governance:
Review of clinical practice
Recommendations 7 -10

Education:
To help support clinical practice
Recommendations 11-14

Recommendations

- Valid consent for blood transfusion should be obtained and documented in the patient's clinical record by the healthcare professional.
- There should be a modified form of consent for long term multi-transfused patients, details of which should be explicit in an organisation's consent policy.
- There should be standardised information for patients and HCP’s

- Patients who have received a blood transfusion and who were not able to give valid consent prior to the transfusion should be provided with information retrospectively.



East Midlands Regional Transfusion Committee

Recommendations

- A UK Comparative audit of consent for transfusion should be carried out…….2014

Clinical indication for transfusion recorded in case notes	Evidence of consent	Consent obtained by Doctors	Evidence of PIL being offered
81 % (37% informed patient)	43% 38%-risks 8% alternative	80% of which 72% FY1 or FY2	19% in case-notes 28% patient recall

Consent.....what's new?

Montgomery *v* Lanarkshire March 2015

The Case

- Nadine Montgomery, diabetic and pregnant
- Vaginal delivery with shoulder dystocia occurring
- Baby born with serious disabilities as a result
- 9-10% risk of dystocia in women with diabetes
- Dr/Miss McLellan acknowledged she did not discuss this risk with such women as fearful they would opt for caesarean section (CS).
- The court held that McLellan should have informed Montgomery of the risks and discussed the option of CS

What does this mean?

- The Bolam test is no longer applicable
- "If a doctor reaches the standard of a responsible body of medical opinion, he is not negligent".
- The law now requires a Doctor to take

“reasonable care to ensure that the patient is aware of material risks involved in any recommended treatment and of any reasonable alternative or variant treatments.”

What does this mean in practice?

- Does the patient know the “material” risks of the proposed treatment?
  - What risks would a reasonable person want to know about?
  - What other risks would this particular patient want to know about?
- Does the patient know about available alternatives?
- Have I tried to ensure the patient understands all the information?
- Have I documented the details of the consent process?

Exceptions!

1. The patient requests not to be informed
2. Clinical situation means consent cannot be obtained
3. There is a genuine and significant risk of harm associated with providing the patient the information at that time

Being too busy is not an adequate reason!!

So.....where does that leave us?

- Some evidence of good practice
- SaBTO and GMC guidance is clear
- Montgomery case - clearly states legal position

Key issues

- Discuss – indications, risks, benefits, alternatives
- Provide- PIL, time to decide, quiet/private environment
  retrospective information
- Document-discussion with patient
- Respect-patients decision
- Check-patient understands all the information provided

Web based resources

- www.transfusionguidelines.org.uk
- www.gov.uk/government/piblications/patient-consent-for-blood-transfusion
- www.jw.org
- www.bcshguidelines.com
- www.learnbloodtransfusion.org.uk
- www.nhsbt.nhs.uk