INFORMING PATIENTS ABOUT SMALL RISKS: A COMPARATIVE VIEW

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A patient must receive adequate information so he can decide to consent to the proposed intervention or not. This concept of informed consent is nowadays generally accepted. Nevertheless, there are still aspects that seem to be unclear. One of these aspects is the issue of informing patients about small risks regarding (diagnostic) examination and treatment.

Disclosing small risks can cause the patient unnecessary anxiety and concern, on the other hand not disclosing small risks can limit the patient's possibility to take an informed decision and, when the risk materializes, lead to a claim for damages. Generally accepted is that in principle risks that matter to the patient's decision have to be told. But where do we draw the line: which small risks should be told and which not?

The paper explores how the law in the Netherlands, Germany and the United Kingdom deal with the problem of disclosing small risks. Important sources of information are court decisions, acts and guidelines. The questions discussed are: What is the general standard of disclosing risks? Which circumstances are considered to be relevant in the decision whether the physician has a duty to disclose a small risk? In which perspective do the countries have a corresponding respectively different view on this issue?