

What can you do if you feel you are being forced or pressured to consent to treatment that you do not want?

If you are being pressured by your partner, a family member or a friend, you should speak to someone you trust. A trusted friend may be able to help you discuss the situation with the person who is pressuring you. You can also seek help from a social worker or police officer. If you are being pressured by a medical practitioner, you should speak to a person in charge at the health facility. You can also make a complaint to the Health Professions Councils of Namibia.

How to make a complaint about a healthcare problem

If you have a complaint about a health professional, you should record your complaint in an affidavit.

An affidavit is a statement which you have sworn to be true in front of a Commissioner of Oaths. All legal practitioners are Commissioners of Oaths. You can also find Commissioners of Oaths at any police station or bank.

Your affidavit should include specific details about the complaint - including what happened, the date of the incident and where it took place. You should say that you want the matter to be investigated, and provide your contact details. You should address the complaint to the Registrar of the Health Professions Councils of Namibia.

Health Professions Councils of Namibia

Street address: 36/37 Schönlein Street, Windhoek West
Postal address: Private Bag 13387, Windhoek

The Registrar will ask you to sign a consent form to allow access to your medical records, in case this is necessary to investigate the complaint. Then the Registrar will forward the complaint to the council which governs the medical professional in question.

The law on informed consent

Consent to medical treatment is a legal requirement. Treatment without consent is a form of assault, and a violation of the patient's rights of privacy and dignity. According to a recent Namibian court case, informed consent has three key aspects in law:

1. **Knowledge:** The patient must be informed about the nature and extent of the harm or risk.
2. **Appreciation:** The patient must comprehend and understand this information.
3. **Lawful consent:** The patient must give full consent to the entire medical procedure, including recognition of its consequences. Valid consent also requires that the patient has the intellectual and emotional capacity to make the decision. For example, a patient cannot give meaningful consent if he or she is in severe pain and unable to think clearly.

Exceptions to the normal consent requirements are allowed -

- ▶ in emergency situations
- ▶ where a person is unconscious or has a mental health condition that prevents him or her from giving informed consent
- ▶ for children who are too young to give consent on their own.

You can ask your doctor about the rules for these situations.

"Every citizen has the right [to participate] in making decisions on matters affecting his or her own health."

- Ethical Guidelines For Health Professions, Health Professions Council of Namibia, 2010



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LEGAL ASSISTANCE CENTRE
INFORMATION PAMPHLET 2016

Sterilization and Consent

What is sterilization?

Sterilization is a permanent form of contraception. Someone who has been sterilized will no longer be able to conceive children. However, sterilization *does not* protect you from sexually-transmitted infections including HIV infection.

Sterilization is effective in most cases. In a very small number of cases the procedure does not work and you may become pregnant if you have sex without using a contraceptive. But sterilization should be considered permanent - you should be sterilised only if you are completely sure that you do not want to have children in future. There are reversal operations for some types of sterilization, but they are not available through the State and not always successful.

What is consent?

Consent is when you give informed permission for something. Consent is an important part of medical treatment. Informed consent must be voluntary. It requires an understanding and appreciation of your rights, the risks and consequences of having or not having the treatment, and information about available alternatives. A doctor has an ethical duty to make sure that you do not receive any treatment without proper consent.

The requirements for informed consent

Your consent must be given **voluntarily**. This means that no one can force you to give consent by making threats or forcing you in any other way to give your consent. You can ask for advice from other people, but it is not for your doctor, your partner, your friend or your family to give the consent for you. It is *your* decision.

You must have the **capacity** to give consent. This means that you must be able to understand the situation and make an informed decision. For example, you might *not* have the capacity to give consent to sterilization during labour because you might be under the influence of an anaesthetic or painkiller, or because the doctor feels that your ability to make an informed decision is affected by the stresses associated with giving birth.

You must be **informed** about your decision. This means you must understand the procedure, the benefits and risks, the consequences of having and not having the procedure, the alternatives and any other relevant information.

"Health professionals have a duty to honour patients' right to self-determination or to make their own informed choices, living their lives by their own beliefs, values and preferences."

– Ethical Guidelines For Health Professions, Health Professions Council of Namibia, 2010

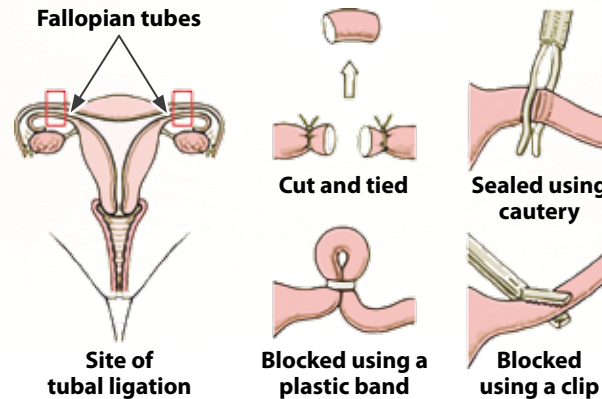
Does your spouse or partner have to give consent for your sterilization?

No. Your spouse or partner is *not* required to give consent for you to have the sterilization procedure. However, if you are considering sterilization, you should discuss the procedure with your spouse or partner (if you have one) since your decision will affect your ability to conceive children in the future.

What is a female sterilization?

Female sterilization involves the cutting or blocking of the tubes between the ovary and the womb (the Fallopian tubes). This stops the eggs, which are released from the ovary, from meeting the sperm. This is sometimes informally referred to as "having your tubes tied" or "being closed".

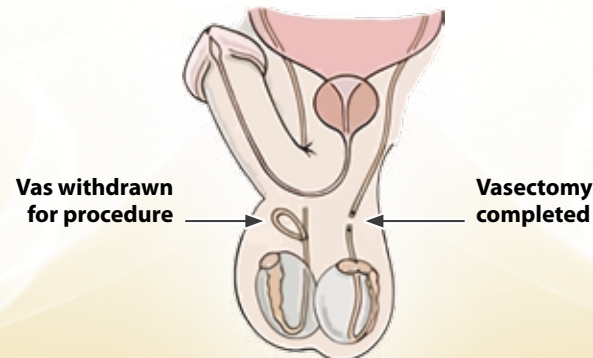
FEMALE STERILIZATION



What is male sterilization?

Male sterilization involves the cutting and sealing or tying of the tube that carries sperm from the testicles to the penis (the vas deferens). This is known as a vasectomy.

MALE STERILIZATION



What information should you think about when considering sterilization?

When you are considering sterilization, you should get full information and counselling before you consent to the operation. For example, you should ask about topics such as:

- ▶ other methods of contraception which are reversible
- ▶ possible complications that may result
- ▶ the need to use contraception until the sterilization has been confirmed a success
- ▶ the need to continue to always use protection against the transmission of sexually-transmitted infections including HIV.

What must the doctor tell you prior to sterilization?

The doctor must explain the sterilization procedure clearly before the operation is performed. The doctor must make sure that you understand the benefits, risks and consequences of the procedure. Once you understand the procedure and all of its consequences, the doctor must obtain your written, informed consent.

When can you give your consent to being sterilized?

Consent is usually taken close to the time of the procedure. However, if you would like to get sterilized immediately after giving birth (for example if you know in advance that you will be giving birth by caesarian section), you should discuss this with your doctor *before* the procedure. The doctor may not be able to obtain informed consent from you once you have been given medication or taken into surgery.