

# Informed Consent: Patient Has A Right To Know Extent Of Student Participation.

The patient was to undergo fundoplication surgery to repair an esophageal hernia. The procedure involves insertion of an esophageal dilator, which at this hospital is done by the anesthesia team at the surgeon's direction.

In this case the dilator was to be inserted by an RN in training to become a certified registered nurse anesthetist (CRNA).

The RN introduced herself to the patient right before the procedure. She introduced herself by her first name only and said only that she was a registered nurse who would be working with the nurse anesthetist and anesthesiologist. She referred to the nurse anesthetist by her first and last names and to the anesthesiologist by the title "Doctor" and his last name.

The RN tore the lining of the esophagus attempting to insert the dilator. The patient's abdomen had to be opened intra-operatively to repair the damage and that more-invasive-than-expected turn of events led to serious complications.

The Court of Appeals of Ohio upheld the patient's right to sue.

## **Lack of Informed Consent**

A patient has the right to be fully informed and to give or to withhold consent to any medical procedure.

A patient has the right to be fully informed of the complete extent of any anticipated student participation and the right to refuse to consent to student participation. The same is true of any research or data collection expected to be associated with the patient's procedure.

## **Improper Supervision**

The court also pointed out that a CRNA must be supervised by an anesthesiologist. In this case the RN was only being supervised by the CRNA at the moment she put in the dilator. The court ruled that is below the standard of care as defined by nationally accepted standards and this hospital's own internal policies. Luettker v. St. Vincent Mercy Med. Ctr., 2006 WL 2105049 (Ohio App., July 28, 2006).

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***The legal standard of care requires patients to be informed of the identities of all the individuals who will be involved with their care. That means patients must be told exactly who will actually be doing what and who will be standing by to supervise or consult.***

***Properly identifying these individuals includes giving their names, occupations and job titles and identifying the healthcare or educational institutions or professional corporations with whom they are associated.***

***Patients are entitled to be informed of the identity and training status of any student caregivers who will be involved in their care.***

***That means if a student will be the one with hands on for a particular task, the patient has the right to know.***

***Fundamental to the right to give informed consent, of course, is the right to refuse consent if the patient is not willing to allow a student, or for that matter any other individual, to be involved whom the patient does not want involved.***

COURT OF APPEALS OF OHIO  
July 28, 2006

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