

1. CONSENT IN MEDICAL PRACTICE

2. MEDICAL BATTERY

SESSION 2

Fr. Muller Homoeopathic Medical College & Hospital, M'lore

ROTP- Forensic Medicine

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Q1!

- Any treatment to which a patient has not consented is a battery. Therefore, the only matter at issue when considering whether a given treatment constitutes a battery is whether or not the patient has given his.....

Q2!

- If a patient is given treatment to which he has not consented, the physician may be liable for.....

Q3!

- A patient consents to x-ray treatment for eczema on his ankles. The x-rays are carelessly administered, and the patient is burned.
- 1# An action for battery will probably be successful.
- 2# An action for battery will probably be unsuccessful.

Q4!

- In the consideration of liability for battery, the question of whether or not a course of treatment benefited a patient
 - 1# Is relevant
 - 2# Is not relevant

Q5!

- If a physician is to avoid liability for battery, he must obtain his patient's

.....

Q6!

- A physician gives a patient treatment to which the patient did not consent. The patient sues the physician for battery. The physician points out that:
 - 1# He was trying to help the patient
 - 2# The patient was not harmed by the treatment
 - 3# The patient was cured by the treatment
- Which defense(s) will protect the doctor from liability?

Q7a!

In which of the following situations does the physician's action appear to constitute battery?

- 1# A patient signs a form permitting a physician to perform an operation; the operation is not successful.
- 2# In the course of a routine examination, a physician, without saying anything, lances a large boil on the patient's back.

Q7b!

In which of the following situations does the physician's action appear to constitute battery?

3# A patient agrees orally to a blood test; the physician's hand slips and the needle injures the patient.

4# A physician mistakenly believes that the hospital has obtained consent for thyroidectomy he performs on a patient.

Q7c!

In the following situation does the physician's action appear to constitute battery?

5# A patient's life is in danger; the physician requests permission to administer treatment. The patient refuses on religious grounds; the physician proceeds and saves the patient's life.

Q8!

A patient comes to a physician's clinic for a routine physical examination. Which of the following procedures has he consented to by the mere fact of requesting an examination?

1# Testing knee jerk reflex.

2# Taking blood pressure with a sphygmomanometer.

3# Tonsillectomy, if tonsils are found to be diseased.

Q9!

A patient's consent does not extend to procedures that are not part of the treatment consented to. His consent does extend to measures that are reasonably necessary to remedy or repair unforeseen consequences of the treatment consented to.

A patient consents to an appendectomy. Indicate whether or not each of the following procedures may reasonably be considered part of the treatment consented to:

Cont. Q9(2)!

- 1# The surgeon discovers the appendix is in an unusual location; he extends the initial incision.
- 2# In the course of the operation, the surgeon discovers stones in the gallbladder and performs a cholecystectomy.

Cont. Q9(3)!

3# The surgeon closes the incision. While the patient is still anesthetized, x-ray reveals that a surgical needle has been left in the abdomen; the incision is reopened and the needle removed.

Q10a!

In which of the following situations may the physician have committed battery?

- 1# Patient consents to a routine examination, during the course of which the physician removes some moles from the patient's face.
- 2# Patient agrees to removal of a polyp in the right ear; the physician removes a polyp from the left ear instead.

Q10(b)!

In the following situation has the physician committed battery?

3# Patient consents to penicillin injection. On receiving the injection, he develops symptoms of anaphylaxis; the physician injects epinephrine.

Q10(c)!

In the following situation has the physician committed battery?

4# Patient requests immunization before going overseas. The physician gives a typhoid injection; the needle breaks off in the patient's arm. The physician removes the needle, eventually leaving a scar on the patient's arm.

Q11!

Express(ed) consent may be given orally or by means of a written consent form. Consent forms are widely used because:

1# Oral consent is not fully binding.

2# A signed consent form, properly written, is the best evidence of the patient's consent.

Q12!

To constitute an emergency in a legal sense, two factors must be present: (1) there must be immediate danger of death or serious bodily harm, and (2) the patient must be unable to give his consent for treatment.

Q12 (b)!

Which conditions may reasonably indicate immediate danger of death or serious bodily harm?

1# Arterial bleeding.

2# Ovarian cyst discovered during course of appendectomy.

3# Choking from bone lodged in throat.

Q12©!

In which conditions may the patient be unable to give consent?

- 1# Patient unconscious.
- 2# Patient walks into physician's clinic.
- 3# Patient in deep shock.
- 4# Patient under local anesthesia.
- 5# Patient extremely intoxicated.

Q13!

Unless a patient in an emergency situation is unable to give consent, the term “emergency” in its legal sense does not apply. It will not be an emergency in law.

In each case depicted in the next 2 slides, explain why this is or is not an emergency in the legal sense:

Q13 (b)!

1# A physician is summoned by a passerby to the scene of a hit-and-run accident. The victim is unconscious, and his position suggests a simple fracture of the left arm. He does not appear to be otherwise seriously injured.....

13©!

2# In the above case (previous slide), the victim has, instead, an open fracture of the left femur. Profuse bleeding indicates probable injury to the femoral artery. The victim describes the events prior to the accident and asks that his wife be notified.....

3# Suppose instead that the victim has an open fracture of the femur, is bleeding profusely, and is unconscious.....

Q14!

A patient is under general anesthesia for removal of an ovarian cyst. During the operation, the physician discovers that the patient has a dangerously inflamed appendix.

1# Is there immediate danger of death or serious bodily harm?

2# Is the patient unable to give consent?

3# is this case an emergency in law?

Q15!

In which of the following situations does the physician have consent to give treatment which has not been given by the words or actions of the patient?

- 1# A person has fallen down, suffered a blow to the head, and is bleeding profusely from nose and mouth. He is in deep shock.
- 2# A person who is bleeding from surface cuts on his arm walks into the physician's clinic for treatment.

Q15(b)!

In the following situation does the physician have consent to give treatment which has not been given by the words or actions of the patient?

3# A physician discovers multiple myomas in the uterus of his anesthetized patient, during an appendectomy.

Q16!

What are the two factors that must be present to constitute an emergency in the legal sense?

Q17!

1# A physician should make sure that a person who requests treatment for a child is the child's Or

2# Consent for treatment of a mentally incompetent person can be given only by the incompetent person's Or.....

Q18!

In a situation involving a child or a mentally incompetent person, a physician should contact the to obtain consent.

If the physician cannot promptly contact the responsible person, he may render treatment only if

Q19!

If a patient understands what he is consenting to, his consent is said to be

Q20! CONSENT FORM

“I authorize the physician in charge to administer such treatment as is advisable.”

signatures

Is the following statement correct?

1# The form is vague, but the patient's signature on it is sufficient evidence that his consent is informed.

Q20(b)! CONSENT FORM

“I authorize the physician in charge to administer such treatment as is advisable.”

signatures

Is the following statement correct?

2# The form contains no indication that the patient's consent is informed. Even if the patient signs it, it may be worthless to protect a physician against a charge of battery.

Q21!

Consent is implied in:

1# Medical emergency.

2# Emergency in law.

Q22!

What 5 things should a patient understand if his consent is to be informed?

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