

LEGAL EAGLE EYE NEWSLETTER

April 2001

For the Nursing Profession

Volume 9 Number 4

Automatic Blood Pressure Cuff: Nurses Ignored The Patient, Committed Battery.

As a general rule it is battery for a physician, nurse or other health-care provider to perform a medical intervention to which the patient has not consented. Battery is a wrongful act for which the common law allows a civil lawsuit to be filed.

To avoid legal liability for battery, it is critically important that the patient give informed consent. Informing the patient and getting consent is generally the physician's responsibility.

However, nurses also can get caught up in the issue of patient consent and can commit battery, as illustrated by a recent court case.

In this case the patient was having outpatient surgery to remove a lesion from her eyelid. As standard procedure a circulating nurse put an automatic blood pressure cuff on her arm.

The patient, awake for the surgery, complained of severe pain the very first time the blood pressure cuff inflated itself. Several cycles of automatic inflation and deflation occurred before anyone paid attention to the patient and took the cuff off her.

The patient filed suit, claiming the cuff caused small blood vessels in her arm to hemorrhage. The Supreme Court of Kentucky ruled she had grounds to sue.



The nurses did not remove the automatic blood pressure cuff when the patient insisted. The nurses just considered this patient a complainer.

However, by law a patient can revoke consent to a medical procedure at any time, and the nurses must comply.

Going ahead with an intervention against the patient's expressed wishes is battery and the patient can sue.

SUPREME COURT OF KENTUCKY, 2000.

Revocation of Consent

Even after a patient has given consent to a medical intervention, the patient has the right to revoke consent at any moment. When the patient voices a clear and unequivocal demand that the intervention stop, the patient's nurses and doctors have a strict legal obligation to heed the patient's wishes. A patient being a "complainer" is no defense, the court ruled.

Failing to acknowledge that the patient has revoked consent is the same as going forward without consent in the first place, that is, it is battery.

Battery Defined

Battery is the civil-law term for unauthorized touching of a person's body by another person. If there is a malicious intent to cause fear in the victim it is the crime of assault and battery. The court saw no criminal malice here, but the patient still had the right to sue for damages in civil court.

Informed Consent

The court threw out the patient's claim of no informed consent. That did not help the nurses or the physician, however. There was no consent, so whether the patient's consent was informed consent was a non-issue, as the court saw it. ***Coulter v. Thomas, 33 S.W. 3d 522 (Ky., 2000).***

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