

Dear Mary

by Mary Annas

Dear Mary is a monthly feature in which readers can ask about any nursing care issue that concerns them. Answers will be supplied by Mary Annas or a consulting nurse, physician, lawyer, or ethicist where appropriate. Readers are also invited to comment on the answers.

Dear Mary,

I've been on psychiatric rotation for two months. During the time I worked on the unlocked ward I met a patient who was scheduled for ECT the next morning. My instructor asked if any of us wanted to observe the ECT; two of us requested to do this.

When the patient was being taken to the OR, she said that she had changed her mind. When she arrived at the OR she was close to hysterical. She screamed and struggled and made it clear that she did not want the procedure. The doctor called hospital security for three guards who held her down while they administered the ECT twice (once was the agreed procedure). The instructor who was present took the students aside and told us that this was not even close to the usual procedure and that we should not get involved.

Was this procedure legal?

Tim
Portland, Ore.

Dear Tim,

The situation you describe is abhorrent. I hope that your instructor's intervention was more complete than what you described, because I think that students who are subjected to this type of experience suffer tremendously and need to be given an opportunity to express their feelings about it.

I refer the legal part of your question to my editor, who is a psychiatric nurse and a lawyer.

The answer is no, the procedure was not legal. The patient's consent, regardless of whether she is on a locked or unlocked ward, may be retracted by the patient at any time, and this need not be done in writing. No other person may consent to or refuse treatment for an adult patient unless the patient has been judicially declared incompetent and a guardian appointed for the patient.

In this case, the patient's retraction occurred the first time she said she had

changed her mind. Everyone who participated in the "treatment" after that time committed a battery (an intentional touching of a person without that person's consent) on the patient — a wrong for which the civil law provides a remedy.

Space does not permit a discussion of the horrors of a hospital policy (or lack thereof) which permits security guards to be used in this manner. An upcoming Ethical Dilemmas column, "Enforcing Hospital Policies," will discuss the issue in depth.

Finally, I refer readers to this month's Ethical Dilemmas which deals with the nurse's obligation to report incompetent colleagues. JLG

Dear Mary,

I have worked on a pediatric floor for one year. I've had a lot of experience with parents staying or not staying with children. Do parents always have the right to stay with their children?

Wendy
Boston, Mass.

Dear Wendy,

Again, I am referring the legal part of your question to one of my editors. But in my experience as a respiratory therapist and as a student nurse it seems that without exception it is easier (for me and the child) when a parent is present during an examination or treatment.

The legal right to be with one's children derives from the doctrine of informed consent. Parents may not be able to give fully informed consent for their children if they are not able to be with them constantly to monitor their reactions (which they can interpret better than anyone else because of their experience with the child). Also, parents have the right to withdraw their consent to treatment at any time, and this right can only be meaningfully exercised if the parent is continuously present with the child to determine that circumstances have changed to such an extent that consent should be withdrawn. Parents whose requests to stay with their children are refused can always condition any consent they are asked to give, or any consent form they are asked to sign, on being permitted to stay with their children. If they are thereafter denied this right, their consent terminates, and the hospital can no longer legally treat their child.

I believe the only reasonable limits a hospital can properly place on parental visitation involve actual interference

with the hospital's ability to care for other patients (not the parents' child, since the parents and not the hospital have the ultimate treatment authority). This means that parents, if they so desire, can be said to have a "legal right" to stay with their children during all tests and procedures, the administration of anesthesia, and in the recovery room.

Dear Mary,

I am a graduate of a diploma program and have been working in Connecticut for two years. I was recently assigned to care for a surgical patient who was in a two-bed room.

The patient was a friendly middle-aged woman in her second postoperative day following a hernia repair. She was progressing well, and seemed very involved with her roommate who was pre-op for surgery that morning, for a breast biopsy. As I was talking to "my" patient the roommate kept interrupting and joining the conversation; my patient and I both responded to her apparent nervousness and tried to be supportive.

Later in the day I saw my patient's surgeon leaving her room; he was also the surgeon who had performed the roommate's biopsy. When I went in to check on my patient, she excitedly told me that her roommate's biopsy was negative. I was quite surprised and asked her how she knew, since the roommate was not yet back from the Recovery Room. She told me that the surgeon had told her. Was this a breach of the patient's confidentiality?

Stephanie
New Haven, Conn

Dear Stephanie,

Confidentiality is one of the most important nursing priorities, and is essential to establishing a therapeutic and trusting relationship with a patient. Confidentiality is usually a question of whether or not to reveal something about another person, and whether or not what you are thinking about revealing is private or might hurt the person in any way.

In the situation that you describe one patient was clearly concerned about another, and I'm sure that the surgeon felt that revealing joyous news would be therapeutic for your patient. It seems that the roommate was not harmed in any way, and probably she would have told your patient the news herself when she returned to the room. My question is this: would the surgeon have told your patient if her roommate had had a radical mastectomy? I think and hope probably not.