

13-1109A. Failure to obtain consent.

Every adult of sound mind has a right to determine what shall be done with [his] [her] own body. A doctor who [performs an operation upon] [medically treats] [examines or touches] a patient without the patient's prior consent commits a legal wrong for which [he] [she] is liable in damages. [It is also legally wrong to [perform an operation upon] [medically treat] [examine or touch] one part of the body when the patient's consent was limited to another part of the body.]

USE NOTES

This instruction states a general rule applicable to claims that the patient did not give consent to what was done, either because the patient gave no consent or because the procedure performed was substantially different from the one authorized. The bracketed final sentence is applicable where it is claimed that the patient gave consent limited to one part of the body and another body part was treated. UJI 13-1109B NMRA should be given with this instruction where the claim is that an unauthorized procedure was performed. UJI 13-1109C NMRA should be given with this instruction where appropriate.

[As amended, effective November 1, 1991; August 15, 1997; approved, effective February 24, 1998.]