

13-1101. Duty of doctor or other health care provider.

In [treating] [operating upon] [making a diagnosis of] [caring for] a patient, _____ (*name of defendant*) is under the duty to possess and apply the knowledge and to use the skill and care ordinarily used by reasonably well-qualified [doctors] [_____s (*other health care provider*)] practicing under similar circumstances, giving due consideration to the locality involved. A [doctor] [_____ (*other health care provider*)] who fails to do so is negligent.

[The only way in which you may decide whether the [doctors] [_____s (*other health care provider*)] in this case possessed and applied the knowledge and used the skill and care which the law required of [him] [her] is from evidence presented in this trial by [doctors] [_____s (*other health care provider*)] testifying as expert witnesses. In deciding this question, you must not use any personal knowledge of any of the jurors.]

USE NOTES

The name of the defendant should be inserted in the first blank. In the other blanks, the type of health care provider, such as doctor, nurse, or chiropractor, should be inserted. Bracketed language should be chosen as appropriate. The bracketed final paragraph should be omitted in those cases in which the court determines that expert testimony is not required and negligence can be determined by resort to common knowledge ordinarily possessed by the average person.

This instruction sets forth the general standard of care applicable to a medical professional. Where the defendant held himself or herself out as a specialist, UJI 13-1102 NMRA should be used instead of this instruction.

[As amended, effective January 1, 1987; November 1, 1991; August 15, 1997; approved, effective February 24, 1998.]