

Documenting the Refusal



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The concept of informed refusal is the flip side of informed consent. Informed refusal acknowledges that every competent patient has the right to refuse a recommended test, procedure, or treatment but requires the physician or healthcare provider to inform the patient of the risks of that refusal.

While most people are more familiar with the concept of informed consent, informed refusal is not an unusual allegation in medical malpractice litigation. To successfully defend these cases, there should be documentation that the patient was provided with sufficient information on the risks of forgoing treatment. Both informed consent and informed refusal are predicated upon the notion that a patient is entitled to all information necessary to make an informed choice. Patients benefit from these discussions by becoming more knowledgeable about the recommended treatment and more vested in their own healthcare. Physicians benefit because informed patients tend to have more realistic expectations and are less likely to sue for malpractice even when faced with a less-than-optimal outcome.

If a provider encounters a competent patient who refuses recommended testing or treatment, rather than simply noting the patient's refusal, take the following steps:

- Ask about the reasons for refusal
- If it appears the refusal is due to a lack of understanding, re-explain the rationale for the procedure or treatment in lay terms, emphasizing the probable consequences of refusal
- Document the patient's refusal and reasons for such, and emphasize that the patient understood the risks of refusing the recommended care
- Try to obtain the patient's signature on an "informed refusal" form aka an "Against Medical Advice" form (A sample of a general informed refusal form may be downloaded at vantage.svmic.com)
- By using a refusal form, the patient may better appreciate the potentially serious consequences of their decision
- If the patient refuses to sign the form, document any discussion(s) with the patient, their reasons for refusing the care, and their refusal to sign
- If the patient was referred to the physician as a consult, the consulting provider should document the above information in a letter to the referring provider

Vaccinations are one of the more common situations where informed refusal may arise as patients/parents may have misunderstandings or objections to recommended vaccinations. In the event a patient or parent refuses a recommended vaccination, a provider should elect to use an informed refusal form tailored specifically to vaccinations. Otherwise, later, if the patient, contracts a preventable disease resulting in an injury or death, the parent/patient/patient's representative may take the position the consequences were not sufficiently explained to the patient/parent by their physician/provider.

Another area of high concern that can have potentially devastating consequences is when a pregnant woman refuses recommended medical treatments or chooses not to follow medical recommendations. In such a situation, the refusal should be thoroughly documented in the record along with a signed refusal form. Keep in mind, an informed refusal form is not a substitute for a thorough risk discussion, but it can provide valuable evidence supporting that the discussion took place.

As always, if there are any questions regarding how to handle or document a patient's refusal of recommended treatment, contact SVMIC.

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