

Insufficient information and consultation to allow informed consent (98HDC15056, 3 August 2000)

Anaesthetist ~ Informed consent ~ Timely provision of information ~ Response to patient concerns ~ Standard of care ~ Record-keeping ~ Rights 4(2), 5(1), 6(2), 7(1)

A 33-year-old woman who was to undergo surgery requiring a general anaesthetic complained that she was not given the opportunity to give informed consent about the use and type of anaesthetic. The woman had a history of drug addiction, and was concerned about the administration of drugs and the particular drugs to be used. These concerns were raised, and documented, at a pre-assessment anaesthetic clinic. The anaesthetist at the clinic was not the anaesthetist for the woman's surgery. General information about anaesthesia was provided at the clinic, but no mention was made of the anaesthetic consent form the woman would need to sign before surgery.

The woman was booked on the afternoon surgery list, where there were more time pressures than for the morning list and less likelihood of the anaesthetist being able to meet with her on the ward before the operation. As a consequence, the woman did not meet the anaesthetist until she was in the theatre reception area. The consent form, when produced, came as a surprise to her. She found the anaesthetist's manner aggressive when she asked to read the form and wanted to ask questions, in particular regarding her fears of re-addiction. She felt she was being pressured to sign the form.

The anaesthetist said that he went through the standard questions with the woman, but did not make a record of their conversation. The woman was anxious about the use of the oxygen mask, wishing to administer the oxygen herself. The anaesthetist's attempt to reassure her with humour was not perceived as such by the woman, but rather as displaying impatience and a lack of caring.

Fearing that the woman's anxiety level would compromise administration of the general anaesthetic, the anaesthetist decided to administer a short-acting benzodiazepine to relax her. This was from the drug family to which the woman had formerly been addicted. The woman continued to ask questions about the medication, which the doctor initially ignored, attributing the questions to her general preoperative anxiety. He then provided reassurance as the drug was being administered. Post-operatively, the woman was tearful and very anxious.

The anaesthetist was found to have breached Rights 4(2), 5(1), 6(2) and 7(1) of the Code, and the relevant Australian and New Zealand College of Anaesthetists' guidelines. He had not fulfilled his obligation to obtain informed consent.

The anaesthetist had not given the patient time to clarify issues relating to the anaesthetic before administering the drug. He did not communicate effectively with her, allowing her to ask questions, nor did he keep adequate records of the discussions and the decisions reached. In addition, the information was not given at a time that would allow such discussion to take place meaningfully.

The DHB was held vicariously liable for the anaesthetist's breaches of the Code, in not allowing him sufficient time to give the patient a full and adequate pre-anaesthetic consultation (Right 4(2)). Admission times, list planning and session times must accommodate the extra time required for meaningful pre-anaesthetic consultation. While it is sound practice to ensure there is written documentation, signed by the patient, of consent to general anaesthesia and to the surgical procedure, wherever

possible the consent should be recorded as part of a single document, to simplify the process for patients.