

**Radiologist did not obtain consent for
registrar to observe ultrasound at teaching hospital
(00HDC06794, 19 June 2001)**

Radiologist ~ Registrar ~ Public hospital ~ Observer ~ Training ~ Privacy ~ Rights 1(1), 4(2), 6(1)(d), 7(1), 9

A woman complained that when she attended a public teaching hospital for a pelvic ultrasound, the radiologist authorised the registrar to observe the ultrasound, but failed to explain why he was present and obtain her consent. The radiologist had introduced the registrar as her colleague, but it was later confirmed that he was present for training purposes.

The radiologist was found in breach of Right 6(1)(d) in failing to notify the patient of the proposed participation in teaching, and in breach of Right 7(1) in failing to explain the reason for the registrar's presence, which meant the patient was unable to make a choice about whether she wished to participate in teaching. The radiologist had incorrectly assumed that consent was required only where a trainee was undertaking an interventional procedure. The right to such an explanation extends to observational teaching. The requirements apply regardless of whether the person being taught is a medical student, house surgeon, registrar or consultant. If any health professional or student attends a procedure to observe or learn, this is a teaching situation.

The radiologist noted that this was a teaching hospital, and that it is standard practice for registrars and house surgeons to accompany senior medical staff on ward rounds and in outpatient clinics throughout New Zealand. It was accepted that teaching of trainee medical and nursing staff, and of staff who are already registered health professionals, is essential to good quality health care and ultimately benefits all health consumers. However, the requirements of the Code are neither onerous nor unworkable, and patients who receive a brief explanation about proposed participation in teaching are unlikely to withhold their consent.

In addition, the hospital's policy on informed consent made it clear that patients have an express right to consent, or to decline involvement in observational teaching. Observers (including students) are defined as those additional to the normal medical and nursing team immediately involved in the procedure, and staff directly concerned with the ongoing care. Therefore the failure of the radiologist to notify the patient regarding the proposed observation, and obtain her consent, also breached the hospital's policy, in breach of Right 4(2) of the Code.

The hospital was not vicariously liable for the radiologist's breaches of the Code because it had in place an appropriate policy.