Informed Refusal

More adults of sound mind are exercising their right to refuse test or treatment options. Documentation of a patient’s refusal is key to minimizing your risk exposure.

Patient refusal of procedures or tests doesn’t equate with their incompetence. Refusal to comply, however, can be an important cautionary flag. Physicians should take a close look at their recommendations and at the reasoning behind the patient’s refusal to follow them.

In *Truman v. Thomas*, 27 Cal.3d 285 (1980), the California Supreme Court held that physicians are responsible for making sure patients are aware of all significant risks that could result from noncompliance. Physicians’ obligations apply equally to all tests and procedures, whether simple and routine or unusually complex. The obligation also applies to a recommendation that a patient see a specialist, holding that physicians must inform patients of the possible consequences of not getting a consultation.

Documentation in a patient’s medical record of a refusal should include the following notations:

- Information that the physician gave the patient concerning his or her condition and the proposed treatment or test.
- Reasons for the treatment or test should be noted.
- Patient was advised of the possible risks and consequences, including the loss of life or limb, of failing to undergo treatment or a test.
- Physician’s referral of the patient to a specialist, including the reasons for the referral and possible risks of not seeing the specialist.
- Patient’s refusal of the physician’s treatment/testing plan or advice. In this circumstance, consider asking the patient to sign a specific refusal of treatment form (available in the “Miscellaneous” category of The Doctors Company informed-consent form resource center at www.thedoctors.com/consent). Although such a form is optional, it offers physicians the strongest protection against claims alleging a lack of informed consent.

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The guidelines suggested here are not rules, do not constitute legal advice, and do not ensure a successful outcome. The ultimate decision regarding the appropriateness of any treatment must be made by each health care provider in light of all circumstances prevailing in the individual situation and in accordance with the laws of the jurisdiction in which the care is rendered.