

Medical Legal Forum: A Timely Scenario (Fall 1985)

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The phone's ringing could not even fully wake me as my mouth was as dry, and my senses dull.

"Gene, it's me."

"Wha, who . . . eecch . . . I just couldn't clear my throat. Suddenly my gut tightened as a sense of fear brought me to a more alert level.

"Gene, wake up; it's Gerri."

"What time is it? What's the matter? Are you okay?" The words ran out of my mouth as I was now fully awake. "Gene, something is wrong with the baby. Dr. Iretolin just came to see me. She has periods where she just stops breathing. I'm so...so..."

"Hold on, honey; I'm getting dressed. I'll be there in twenty minutes."

"The only problem with the whole procedure had been all the necessary paperwork, as clerks, nurses, doctors, and aides of all sort made us sign form after form about understanding side effects from medications, anesthesia, and all the possible things that could go wrong. This "informed consent" process was standard procedure, so the doctor said, but to me, it was a waste of time and a pain."

As I washed my face and dressed, I thought about what Gerri had said. She had given birth to a seemingly healthy 8-pound baby only nine hours earlier. Her labor and delivery were easy, and the baby seemed fine. The only problem with the whole procedure had been all the necessary paperwork, as clerks, nurses, doctors, and aides of all sort made us sign form after form about understanding side effects from medications, anesthesia, and all the possible

things that could go wrong. This "informed consent" process was standard procedure, so the doctor said, but to me, it was a waste of time and a pain.

I finished dressing, grabbed my car keys, and left the house. Intervalley Hospital was only ten minutes away, but the ride seemed endless even though there was little traffic. I had to use the Emergency entrance and ran through the crowded hall to the staircase leading up to the maternity floor. The stairwell was brightly lit, and there were signs at each level.



"Use the handrails;" "Proceed cautiously," "Slower walkers keep to the right," and "We are not responsible for accidents" were only a few of the signs I passed as I bounded up the stairs. Maternity was on the third floor. Opening the stairwell door and ignoring the "look both ways" warning, I ran to Gerri's room. The small light behind her outlined her hair, giving it an eerie appearance.

"Gene," she said, reaching for me, "I'm so glad you're here."

"It will be all right, honey," I said, holding her close. "Now tell me again, what is so wrong?"

"The doctor says that Kari has periods where she stops breathing. They're trying to find out why. You'd better speak to him yourself. I think he is in the special ...the special care nursery."

"I'll go there right away. Do you feel strong enough to go? Perhaps you'd better stay here and rest."

"I want to go with you, but ... Gene, I'm so...."

"Shh, shh ... let me hold you a second. Easy now. It will be fine ... I promise."

As I left Gerri, I felt bewildered, drained, and now afraid. I asked

the nurse for directions to the special care nursery, and she used the intercom to ask Dr. Iretolin to come out.

I waited only a few moments and the door opened as a short, youngish looking man in a yellow hospital gown walked out.

"Mr. West?"

I nodded.

"I'm Dr. Iretolin. Believe me, I'm sorry to bring you out at such a late hour but I think it's important to talk to you about Kari." The doctor was obviously tired, but he had a gentle, understanding air about him.

"Sit down with me a moment," he continued, guiding me to a chair in the anteroom. "Let me explain the situation to you."

"I don't understand this at all, doctor. Kari was fine a few hours ago. What, just what can be so terribly wrong now?"

"Kari seemed fine at birth and several hours afterward. However, for some reason, she has had periods where she just stops breathing. A certain number of these breathing lapses, called apnea, may be normal, but her pauses are becoming more frequent, and they are beginning to affect the rest of her system. We have to find out why these are occurring."

"What, what do you think she has? What can we do? Will you do something quickly?"

"Yes, yes, yes," he continued, "But Kari may have one or a combination of many problems. She may have sepsis, or infection as you would call it. She might have low blood sugar or even something wrong with her heart. But in order to find out the reason, she needs to have some blood tests, a spinal tap, some x-rays, and possibly she may even have to be placed on a respirator in order to help her to breathe."

"Okay, okay, whatever you want. Only please hurry up and let's get started. I want everything done as soon as possible."

"Yes, Mr. West, I understand your concern. But before we start testing or begin treatment, you must understand all the procedures and the risks involved and must sign a consent form for each and every procedure or medication."

"What, again?" I asked, even more bewildered.

"I'm afraid so," continued Dr. Iretolin. "I'm sure the OB staff told you about the "ICACMPSE" process."

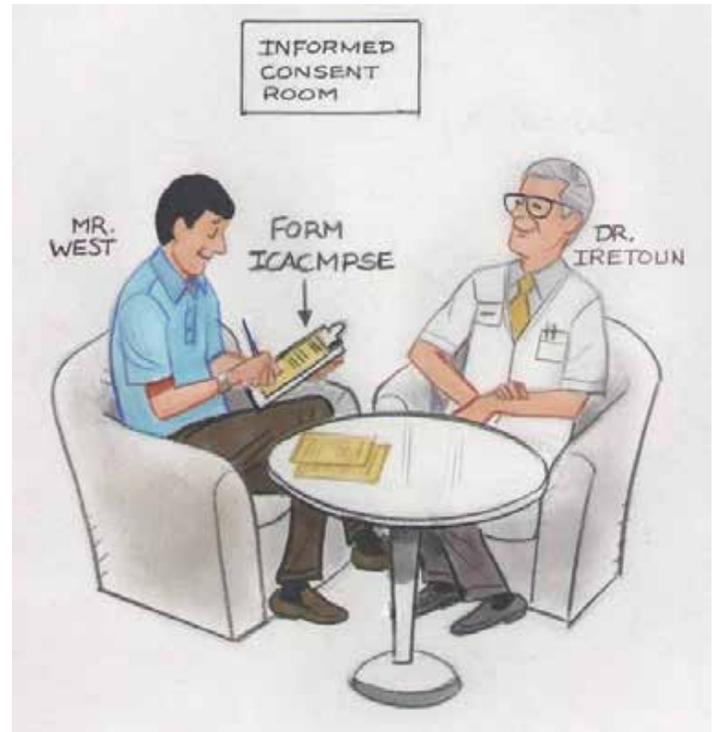
"The what?" I asked.

"*The Informed Consent Act Concerning Medications, Procedures, and Side Effects*. This was passed by Congress in 1987 to try to curtail malpractice suits, which often developed years later, I'm sorry, but it's the law."

"Fine, fine. Tell me what to do or where to sign."

"I'm afraid it's not as simple as that, for you must first understand the material, take a short exam testing your knowledge, and then

sign the form. Follow me to the "Informed Consent Room."



Stupefied, I followed him down a short corridor to a gray door. We went inside, and in front of me was a long, narrow room with cubicles, each containing a videotape setup. Despite the late hour, the room was filled. Each cubicle had its own heading.

"Let's start here, Mr. West," said Dr. Iretolin. I sat down on a chair as he turned on the video. In a moment, the subject appeared. "The Spinal Tap Procedure" was printed on the screen. In the next half an hour, I sat through this tape and was subjected to a miniseries on antibiotics, apnea, and something called mechanical ventilation. My head was swimming.

"Now, can I see Kari? I asked.

"Of course," said Dr. Iretolin, "follow me. First, you must put on this gown...here, let me help you. Now wash your hands carefully for the full three required minutes."

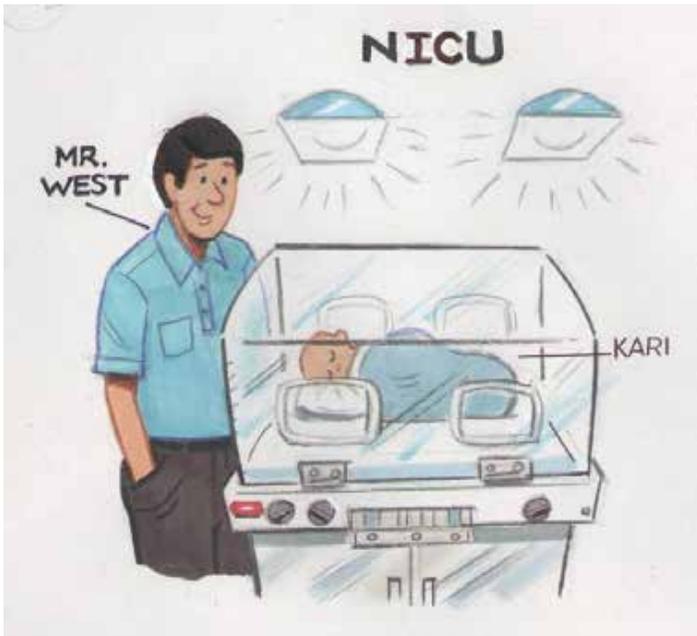
After finishing, I followed the doctor into the nursery. The room was a beehive of activity with beeping alarms and foreign sounds I had never heard.

"Kari is over here, Mr. West."

I walked slowly to the incubator. Kari looked big compared with some of the other babies I had noticed, but she seemed pale under the bright lights. I shielded my eyes and looked at the baby.

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don't you go downstairs and have a cup of coffee? I'll call you when we're done."

For the first time, I felt totally drained. A cup of coffee might do me some good. I decided to forego the stairs and take the elevator instead. The door opened, and there was an elevator operator seated at a small stool in the front. The musical sounds of Ella Fitzgerald singing "A Foggy Day" came from a small tape recorder in the corner.

"First floor, please," I said as I walked inside.

"Good morning, sir" was the answer. "Before we go down, however, I must tell you that there is a one in 7656 chance that we might experience a power failure in this elevator, and you must sign a consent form before we proceed."

"I must sign what??" I sputtered.

"It's all part of the legislation," he continued. "We cannot take a chance on your not understanding the risks involved in riding this elevator."

I looked up, took the offered pen, and signed.

"A foggy day in London town."

Had me low and had me down...."

THE PERINATE.

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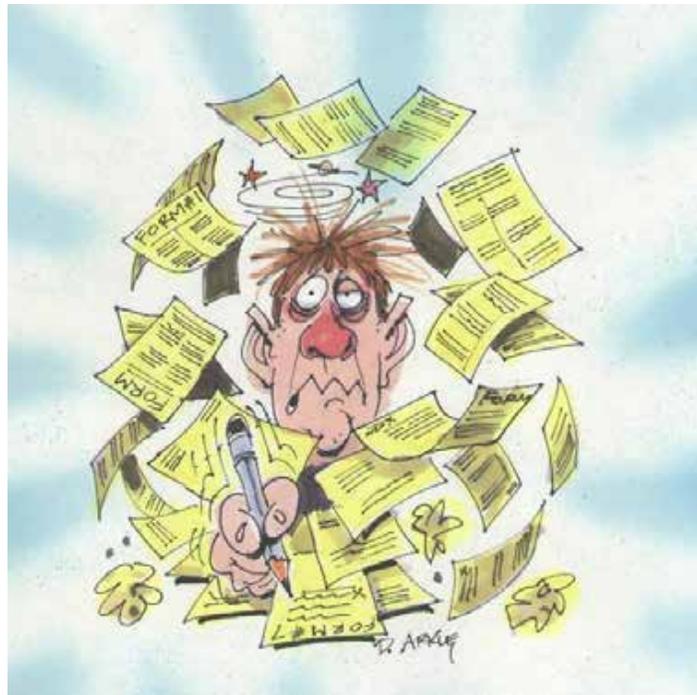
I heard Dr. Iretolin say to one of the nurses, "We must remember to dim the nursery lights. I understand that there is some evidence that a well-lighted nursery may lead to an increased incidence of retrolental fibroplasia. The lawyers will have a feast on that issue."

"What is retrolen...well anyway," I turned and asked Dr. Iretolin, "Can you start treatment yet?"

"As soon as you sign all of the consent and freedom from liability forms. I have them right here.?"

"The doctor produced a sheath of material, and I methodically signed them all, not really caring. What the heck, I said to myself. These are only forms anyway. I finished quickly and gave the material to Dr. Iretolin.

"Thank you, Mr. West," he said, smiling. "Now, we can begin. Why



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Disclaimer:

This column does not give specific legal advice, but rather is intended to provide general information on medicolegal issues. As always, it is important to recognize that laws vary state-to-state and legal decisions are dependent on the particular facts at hand. It is important to consult a qualified attorney for legal issues affecting your practice.