

PG SAQs – Medico-legal series

	Informed consent	
Opening statement	The issue is one of informed consent, which is a legal requirement to carrying out medical treatment.	
Standard	Established by common law in the Australian case of Rogers v Whitaker which states that person performing procedure must warn of material risks (a material risk being one the patient attaches significance to).	
Components	<p>There are four components of informed consent:</p> <ul style="list-style-type: none"> • Specificity – given in relation to a specific procedure. • Voluntary – given without coercion. • Competence – assumption of capacity in adults. • Knowledge – the “informed” component as outlined in Rogers v Whitaker. 	
Specific scenarios	The unconscious trauma patient	<ul style="list-style-type: none"> • Fails all limbs • Is a surrogate decision maker available • If not may act in patient's best interests / defence of necessity
	The medicated patient	<ul style="list-style-type: none"> • Issue of comprehension and capacity • Emergency -> is a surrogate decision maker available • Elective -> defer
	The NES patient	<ul style="list-style-type: none"> • Issue of comprehension • Emergency -> phone interpreter to explain major risks • Elective -> defer
	The mature minor	<ul style="list-style-type: none"> • Issue of capacity • UK case of Gillick established minors can consent to some medical treatments (upheld in Australia) • Must be able to understand nature, purpose and consequences of treatment / non-treatment
Practical remarks	<p>Documentation</p> <ul style="list-style-type: none"> • Do not rely on standard forms, signature alone insufficient (it is the process which is relevant) • Detailed documentation of discussion will defend an action <p>Assistance</p> <ul style="list-style-type: none"> • Involve senior staff if unsure • Hospital legal advisors and MDO's can always be contacted 	