

MEDJA 1st Ind
SUBJECT: Refusal of Patient to Authorize Blood Transfusion

HQ, DA, CTSG, Washington, D.C., 27 OCT 1965

TO: Commanding Officer, Bassett Army Hospital, US Army, Alaska
Yukon Command & Fort Wainwright, APO 731, Seattle, Washington

1. Reference is made to telephone conversation between Lt Colonel Buswell, acting Commanding Officer of Bassett Army Hospital, and Mr. Naimon, this office, concerning the case of Mrs. Deanna J. Witt, the circumstances of which are largely set forth in basic letter.

2. Reference paragraph 4, basic letter, it is the considered recommendation of this office that by far the best way out of the hospital commander's dilemma is for him to issue a Medicare permit, DD Form 1251, pursuant to paragraph 11a (3), AR 40-121. In this connection it is pointed out that it is within the absolute discretion of the hospital commander to determine whether the hospital has available space, facilities, and staff capability to render the services in question. His determination is conclusive (para 13c, AR 40-121). Paragraph 3, AR 40-3 provides that the hospital commander is "responsible for supervising care and treatment including the employment of recognized professional procedures, and for providing each patient with the best possible care in keeping with accepted professional standards...". For the hospital commander to accede to Mrs. Witt's requests would be inconsistent with his above quoted professional responsibility and duty. This recommended solution, aside from the fact that the hospital commander's determination is conclusive, appears sound in that, in a very real sense, Army medical treatment facilities do not have (and do not want to have) the capability of rendering medical care to persons' in Mrs. Witt's circumstances only on her unusual terms.

3. In view of the fact that there appears to be sufficient time available to effectuate the solution recommended in the previous paragraph, no response to paragraph 6 is offered at this time.

FOR THE SURGEON GENERAL:

CONCURRENCE:

See attached copy
D, Prof

AB/pf D, PS&O

ODMC

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HERSCHEL E. GRIFFIN
Colonel, M.C.
Executive Officer

M. Rideout
MERLE C. RIDEOUT, JR.
Colonel, JAGC
Judge Advocate

Alexander Naimon
ALEXANDER NAIMON
Asst Chief, Legal Office

Positive check with OTHA and they have called Dept. of Justice for concurrence

ARKCO

6 October 1965

SUBJECT: *Refusal of Patient to Authorize Blood Transfusion*

TO: *The Surgeon General
Department of the Army
ATTN: Lt Col M C Rideout Jr, JAGC
Main Navy Building
Washington, D. C. 20315*

1. *Reference is made to telcon with Lt Colonel M C Rideout, your headquarters, and Maj W H Downs Jr, this organization, on 4 October 1965 regarding a Mrs Deanna J Witt, dependent wife of SSgt Darwin E Witt, AF 16 677 678, USAF.*

2. *Mrs Witt is currently being seen as an outpatient by the Obstetrical Service due to pregnancy with an estimated date of delivery 12 January 1966. She has had a history of three previous pregnancies with postpartum bleeding following two deliveries. Mrs Witt is a member of Jehovah's Witnesses and due to her religious beliefs refuses to accept a blood transfusion in the event it is necessary, even after extensive counseling by the Chief, OB-GYN Service. Due to the possible medical risk involved and the patient's refusal to submit to a blood transfusion if necessary, there is understandable reluctance on the part of the staff to deliver this patient.*

3. *Additionally, Mrs Witt has Rh negative blood and the husband has Rh positive blood. This could conceivably result in an Rh factor incompatibility that could very well require exchange transfusion for the infant.*

ARKCO

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4. *SSgt Witt is residing together with the patient in Fairbanks, Alaska, within a reasonable distance of this hospital and complete medical facilities are available in this case. Therefore, under the provisions of AR 40-121, a certificate of non-availability would not normally be furnished.*

5. *The local Judge Advocate General advises that a local court-order cannot be obtained in cases of this nature in the event a blood transfusion should become necessary, and he concurs in seeking advice from your office.*

6. *Request information relative to the following questions for guidance:*

a. *If Mrs Witt continues to refuse to submit to a blood transfusion if deemed necessary in the medical conduct of her care, can this hospital refuse admission?*

b. *If the mother is delivered of an infant requiring an exchange transfusion and neither parent will give consent, what recourse does this hospital have?*

c. *In view of par 4 above, can this hospital refuse to issue a certificate of non-availability and require delivery at the patient's expense?*

EDWIN LINDIG JR
Lt Colonel, MC
Commanding

Copy furnished:
Chief Surg, USARAL

MEDJA

SUBJECT: Contents of Standard Form 89 (Report of Medical History)

TO: Dir, Medical Statistics Agency FROM: Judge Advocate DATE: 9 Dec 1965 CMT 3
Mr. Naimon/ef/65988

1. Whether any question on SF 89 constitutes an unwarranted invasion of privacy depends on all of the circumstances surrounding the execution of such Form by a given individual, including the government's instructions for proper completion of such form.

2. It would appear, based on preceding comments of Dir, Prof Svcs, that there is at least a possible professional basis for all questions included in SF 89, for at least some examinees.

3. Reference the question of who decides which persons are authorized to see SF 89, it is suggested that the head of each department thru the issuance of regulation makes such decisions. In the Army the regulations essentially adopt the criterion in this connection of "Need to know".

4. It is requested that your proposed reply be coordinated with this office.

MERLE C. RIDEOUT, JR
Colonel, JAGC
Judge Advocate



ALEXANDER NAIMON
Asst Chief, Legal Office

Judge Advocate

DISPOSITION FORM

(AR 340-15)

REFERENCE OR OFFICE SYMBOL

SUBJECT

MEDPS-CS

Medical Liability

TO JA, OTSG

FROM Dir, Prof Svc

DATE 15 Sep 65

CMT 1

Col Vogel/bcb/62384

1. The Surgical Consultant, this office, has received an informal query from the Obstetrics and Gynecology Consultant in the European theater, relative to what legal responsibility or liability an obstetrician would have in the following situation: Patient is a primipara who is a Christian Scientist and has stated that she will not accept anesthesia, the use of instruments, or an episiotomy at the time of the delivery of her child. The obstetrician can very well go along with no anesthesia, but there is a significant likelihood that a laceration may occur in the absence of an episiotomy, and good medical practice would necessitate that this be repaired. Furthermore, should such a thing occur, the possibility of hemorrhage, infection, abscess, or other similar sequelae is great.

2. Could you help me with an opinion as to rights and procedures of patient and physician under these circumstances.

FOR THE DIRECTOR, PROFESSIONAL SERVICE:



EDWARD H. VOGEL, JR.
Colonel, MC
Chief Surgical Consultant and
Chief, Consultant Division