

'Informed Refusal'

In 1980, the California Supreme Court created a new legal doctrine, "Informed Refusal," which holds that a physician may be liable for failing to tell patients the consequences of refusing to have diagnostic tests or medical treatment [*Truman v. Thomas* (1980) 27 Cal.3d 285, 291].

As with the definition and jury instruction for informed consent, the CACI definition of informed refusal and the instruction have replaced the BAJI instructions. CACI 534 and 535 read (paraphrased):

534. Informed Refusal—Definition: A (specialty-specific) medical practitioner must explain the risks of refusing a procedure in language that the patient can understand and give the patient as much information as [he/she] needs to make an informed decision, including any risk that a reasonable person would consider important in deciding not to have [a/an] [insert medical procedure]. The patient must be told about any risk of death or serious injury or significant potential complications that may occur if the procedure is refused. [A/An] [insert type of medical practitioner] is not required to explain minor risks that are not likely to occur. (New September 2003)

Informed refusal is where a person has refused a recommended medical treatment based upon an understanding of the facts and implications of not following the treatment. **Informed refusal** is linked to the **informed** consent process, as a patient has a right to consent, but also may choose to refuse.