

What to consider before surgery

Most operations are planned, which gives patients the opportunity to ask questions and deal with consent issues. Although consent forms differ depending on the institution, they should include the name of the doctor performing the operation and the procedure you're authorizing. It might also ask permission to administer anesthesia and attend to unforeseen problems discovered during surgery.

A teaching facility might ask for approval for other things as well, such as use of photographic or other nonmedical equipment and the presence of observers. Some hospitals and doctors will hand you a consent form early on; others will offer it closer to surgery, maybe even the same day.

If you have concerns about who will be providing your surgical care, experts suggest that you:

Request the surgical consent form in advance of your operation and give yourself enough time to read it.

Consider who will perform all aspects of your procedure, including the anesthesia.

Educate yourself about the facility's and surgeon's policies on teaching and supervising students and trainees.

Ask if the surgeon is going to perform the entire operation.

Find out if the surgeon will be present the entire time, and if not, how long he might be gone and who will be in charge during his absence.

Cross out parts of the consent form you are not in agreement with and write down your expectations, initialing the changes, but discuss it with your surgeon first. Don't wait until the last minute.

Realize that if your surgeon disagrees with you, he could cancel your operation and you might have to find another doctor. You, too, can call off your operation.

Make sure your surgeon is named on the consent form; don't sign a blank form.

Inquire about the policy for informing patients about changes in who will perform parts, or all, of your operation.

Remember that informed consent involves more than just filling out a form. It involves communication and transparency. Try to be respectful and nonconfrontational throughout this process.



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Mary Ann Bart, seen with grandchildren Madison Bart and Dominic VanDerWal, sued a urologist at Northwestern Memorial Hospital, alleging he did not perform her kidney operation as promised. Instead, she says, one of his urology fellows did the operation, and she has since suffered medical problems.

When your surgeon isn't the one you thought you'd get

Continued from Page 1

heart was severely damaged in a cardiac operation. She had sought out a renowned, triple board-certified cardiologist, but instead the procedure was performed by a less experienced provider. Now Richter requires a pacemaker.

"I sought the rock star, and I got the opening act," said Richter, whose case went to a jury in 2008 before being settled for an undisclosed amount.

In Chicago, an orthopedic surgeon filed a suit in 2004 that accuses Rush University Medical Center and a group of fellow surgeons of billing Medicare for operations conducted by unsupervised medical residents. And last month, a patient sued a urologist at Northwestern Memorial Hospital, alleging he did not perform her kidney operation as promised.

Patient advocates say it's not uncommon to hear from people with similar stories, though such cases can be difficult to win in court.

"We can go into the operating room, be sedated and have a different person we know nothing about cut into our bodies," said Dr. Julia Hallisy, a dentist who is president of The Empowered Patient Coalition, based in San Francisco. "It's alarming and disconcerting on so many levels, not just from a medical or legal standpoint, but from a trust and ethical standpoint."

Hallisy got interested in ghost surgery in 1998, when a review of her late daughter's medical records revealed that the name of the surgeon she had expected to perform a biopsy wasn't in the operative notes. Listed instead were two medical residents, Hallisy said.

Yet the surgeon had appeared after the procedure — dressed in scrubs and holding a vial containing a piece of her daughter's bone — to say it went well, Hallisy said.

It "seemed intentionally misleading," she said, and although her young daughter wasn't harmed, the family felt manipulated and filed a complaint with the California medical board. Hallisy said the experience helped motivate her to start an advocacy group; patients, she said, want informed, transparent and

shared decision-making.

The American College of Surgeons tells its members that it's unethical to mislead a patient about the identity of the person performing an operation.

"This principle applies to the surgeon who performs the operation when the patient believes that another physician is operating (ghost surgery) and to the surgeon who delegates a procedure to another surgeon without the knowledge and consent of the patient," the organization's guidelines state.

The guidelines also make clear that the surgeon is responsible for the patient's welfare throughout the operation, including remaining in the operating room or the immediate vicinity.

"The surgeon may delegate part of the operation to associates or residents under his or her personal direction, because modern surgery is often a team effort," the guidelines state. "If a resident is to perform the operation ... under the general supervision of the attending surgeon, the patient should have prior knowledge."

Dr. Joanne Conroy, chief health care officer for the Association of American

parts of the procedure.

As stark as some situations may seem, experts say a gray area exists where misunderstandings between patients and providers can occur. Advocates advise patients to review their surgical consent form early enough to ask questions about who will be involved with the procedure and to discuss any concerns with their surgeons.

"A true informed consent process begins with a transparent sharing of information," said Patty Skolnik, executive director of Citizens for Patient Safety, a national organization based in Colorado, "and that has to be an effective and open communication between the patient and the health professional."

In the case involving Northwestern urologist Dr. Robert Nadler, Mary Ann Bart, of Springfield, said she made sure her consent form reflected her wishes by writing that "consent is for the operation ... under the general supervision of the attending surgeon, the patient should have prior knowledge."

But according to Bart's lawsuit, the doctor never scrubbed in for the procedure to remove her recurrent kidney stones, despite a verbal promise and Nadler's

develop and employ the very best physicians, nurses and health specialists," a statement from the hospital said. "It's this aspect of our health system — the fact that we're a teaching hospital — that speaks to how and why we are among the nation's most advanced and among patients' most preferred hospitals."

Regarding consent, the statement said that "generally speaking, surgical consent forms allow for supervision and assistance from multiple staff members. This differs significantly from 'informed consent,' which can't be generalized, as it signifies a patient-physician conversation, and every physician has a different approach."

Meanwhile, a lawsuit filed by Chicago orthopedic surgeon Dr. Robert Goldberg has raised questions about operations at Rush University Medical Center. His suit alleges that Rush and Midwest Orthopaedics, a group of surgeons who operate there, routinely violated the law by illegally billing Medicare for simultaneous operations, all conducted by unsupervised medical residents.

The suit says senior doc-

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Medical Colleges, the organization representing the nation's medical schools and teaching hospitals, said informed consent has greatly improved in an effort to be more transparent about who is doing what.

"Over the last 30 years, we have become much more explicit about the fact that students will be involved in your care," she said. "We have been much more granular about talking about their involvement and talking to patients about their presence."

But even patients who shop around for a surgeon need not take the time to understand what exactly will happen in the operating room. At least one study reported that most people don't read their consent form, which spells out who will be involved in critical

signature on the form. Instead, she alleges, one of his urology fellows did the operation.

Complications from the surgery required Bart to be resuscitated twice, and she has suffered medical and emotional problems that would not have happened had Nadler overseen her care during and after the operation, her lawsuit charges.

"There's no part of my mind or body that was not affected by this," Bart said.

Neither Nadler nor the urology fellow named in the suit, Dr. David Rebeck, responded to requests for an interview, and Northwestern declined to comment on the lawsuit, citing pending litigation.

"We are an academic medical center where it's part of our mission to teach,

tors who were supposed to be solely responsible for the operations were not present during critical portions of procedures as Medicare rules require.

"By carefully thought-out design, each doctor defendant ensured that while he was inserting the knee, hip or shoulder prosthesis in one operating room, he was simultaneously responsible for another surgery that was being actively conducted by residents in another operating room," the lawsuit states.

Doctors also tried to conceal what they were doing by ordering nurses not to record the times when they entered and exited operations, according to the lawsuit.

Rush disputes the allegations.

"This is a matter which

Rush University Medical Center has been defending and continues to vigorously defend," it said in a statement. "Rush stands fully behind its actions, past and present, and is fully supportive of the Rush Surgi-Center, Midwest Orthopaedics at Rush and its outstanding orthopedic surgeons."

The statement also said that surgical patients are informed of the primary surgeon at the time the case is scheduled, and that the hospital "endeavors to communicate if there are any specific changes in the treatment plan."

In Richter's case, she had opted to have an elective heart procedure so she could stop taking the medication that had kept her lifelong arrhythmia under control. Richter, 39 at the time, wanted to have a baby.

She said Dr. Laurence Epstein, chief of the cardiac arrhythmia service at Brigham and Women's Hospital in Boston, had agreed to handle her operation himself.

But he booked a conflicting appointment days earlier and, instead of notifying her or rescheduling, asked an associate to step in without telling her, her lawsuit said.

The physicians' attorney, Philip E. Murray Jr., said the associate was well-qualified, and the doctors did not try to carry out a bait-and-switch.

When Epstein realized he was running late because of another medical appointment, he called the hospital to instruct the associate, Dr. Kyoko Soejima, to offer Richter a choice between waiting for Richter or allowing Soejima to do the procedure, Murray said.

Richter then gave the OK to proceed without Epstein, Murray said. Richter said she does not recall discussing the matter with Soejima and said she would not have agreed to go ahead without Epstein.

"I was devastated," Richter said. "The outcome didn't need to happen, because if I had had the surgery I needed done, by the surgeon I contracted with, it probably wouldn't have happened. I was dumbfounded that they could do something like this without your knowledge."

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