

SwissAnaesthesia 2023

Is consent during labour acceptable?

(...or: Legal obligations in Switzerland)

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Annual Congress
Lausanne, 2 – 4 Nov. 2023

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Disclosure/Conflict of Interest

- 1. Lawyer at the legal department of the University Hospital Basel**
- 2. Member of the Ethics Committee of North-West and Central Switzerland (EKNZ)**
- 3. Member of the professional committee of the «Medizinische Gesellschaft Basel» (MedGes)**

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PDF Drucken Schliessen



3. November 2016 (Heilkunde)

SEITE 8

Welsche Frauen gebären deutlich häufiger betäubt

BERN. Gebärende aus der Romandie lassen sich häufiger ein Anästhetikum spritzen als Deutschschweizerinnen. Weshalb?

Frauen aus der Romandie scheinen am schmerzempfindlichsten zu sein. Eine Datenerhebung von 20 Minuten zeigt: Zwischen 62 und 80 Prozent der Gebärenden aus der Westschweiz lassen sich im Spital eine Periduralanästhesie (PDA) spritzen, um die Schmerzen zu lindern.

In der Deutschschweiz tun das nur 25 bis 30 Prozent. Eine Ausnahme bildet das Universitätsspital Basel. Dort wünscht sich rund die Hälfte der Frauen eine PDA, dasselbe gilt für die Spitäler im Tessin. Im Unispital Genf wird bei satten 80 Prozent der Gebärenden eine PDA eingesetzt. Die tiefste Rate hat das Inselspital Bern mit 25 Prozent. Sprecherin Susanne Bandi: «Unsere Ärzte raten nicht davon ab, drängen eine PDA aber auch nicht auf.»

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Women from the French-speaking part of Switzerland give birth significantly more often under anaesthesia.

Women from French-speaking Switzerland give birth more often with an anaesthetic (62-80%) than women from German-speaking Switzerland (25%-30%), with USB being an exception (~ 50%).

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Case

A woman is giving birth. The labour pains have already started. She wishes to get an Epidural. Before, this issue was never an issue.

>> What do you do?

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The principle of self-determination...

- ...is a result of patient's autonomy and his right of personal freedom;
- ... is a fundamental patient's right and a central concept of medical ethics;
- ... causes the respect towards the patient's will.

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The historical evolution of the Informed Consent concept

From Paternalism...

... to Self-Determination

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Informed consent (IC) – requirements

The IC is correct, if...

- the ***given information*** is correct; and
- the patient is competent to ***judge***

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What does «correct» mean (in relation to the given information)?

Complete – especially in terms of:

- the intervention's scope & effects
- the risks & burdens
- alternatives

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What does «correct» mean (in relation to the given information)?

Before the intervention - Adequate time to consider:

- 72 hours before difficult / "severe" interventions
- One night before "light" interventions

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Informed Consent @ Epidural? (I)

What's your opinion?

Taking into consideration, that...

... the patient is regularly in heavy pain;

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Informed Consent @ Epidural? (II)

... is facing a special situation (also from the *psychological* point of view);

... other factors?

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Informed Consent @ Epidural? – The solution

- Informed Consent: no, for...
- ... although being awake...
- ... the patient is not capable to give a **legally relevant consent**
- (BTW): Similar constellation @ **research in emergency situations**

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Informed Consent @ Epidural? – The solution

- Husband's IC (Clause 378 Swiss Civil Code)
- But what if husband also not capable...?

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Informed Consent @ Epidural? – The solution

- **Hypothetical / presumed consent;**
- **Acting in the best interest of the patient**

- Based on the question: «How would a normal and rationally thinking patient decide?»

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Formal aspects concerning IC

- Not necessarily by hand (might be contraproductive)
- Witnesses: good idea
- Essential: **Documentation** @ patient's record («KG»)

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Thank you for your attention.

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