

1 **13-1104B. Duty to inform.**

2 In treating ~~[[his]-[her]]~~a patient, a doctor is under the duty to communicate to the patient [,  
3 or to the patient<sup>[']</sup>'s representative when the patient is a minor or is incapacitated,] that information  
4 which a reasonably prudent patient under similar circumstances would need to know about:

- 5 1. the patient<sup>[']</sup>'s condition; [and]
- 6 2. the alternatives for treatment; [and]
- 7 3. the inherent and potential hazards of the proposed treatment; [and]
- 8 4. the likely result if the condition remains untreated.

9 The duty to inform does not require a doctor to discuss with ~~[[his]-[her]]~~a patient every risk  
10 of proposed treatment no matter how small or remote. [A doctor has no duty to discuss risks which  
11 the doctor can reasonably expect to be obvious or known to the patient.]

12 [There is no duty to inform where reasonably well-qualified doctors, acting under similar  
13 circumstances, would reasonably conclude that informing the patient of the [condition] [inherent  
14 and potential hazards of the proposed (treatment) (operation)] would seriously endanger the  
15 patient<sup>[']</sup>'s life or health.]

16 USE NOTES

17 This instruction should be given where there is an issue of the doctor<sup>[']</sup>'s failure to give  
18 necessary information to the patient, including cases in which the patient alleges lack of informed  
19 consent. Where the patient is a minor or is incapacitated, the bracketed reference to the patient<sup>[']</sup>'s  
20 representative should be included in the first paragraph. Depending on the way(s) in which the  
21 information conveyed by the doctor is alleged to be deficient, the appropriate bracketed subparts  
22 of the first paragraph should be selected.

1           The bracketed sentence in the second paragraph should not be used unless the jury could  
2 find that the information which the patient contends was not disclosed is information which the  
3 patient already knew or is a matter of common understanding.

4           The bracketed third paragraph is given only where the defendant contends and the jury  
5 could find that disclosure of a risk to the patient would endanger the patient[']s life or health.

6           Where the claim is lack of informed consent, UJI 13-1104A NMRA is to be given with this  
7 instruction.

8 [UJI 13-1104A SCRA 1986; as amended, effective January 1, 1987; November 1, 1991; as  
9 recompiled and amended effective August 15, 1997; February 24, 1998; as amended by Supreme  
10 Court Order No. S-1-RCR-2025-00126, effective for all cases pending or filed on or after  
11 December 31, 2025.]

12 **Committee commentary.** — Compensable harm may be caused by the breach of the duty to  
13 inform without "informed consent" being at issue under UJI 13-1104A. For example, a doctor may  
14 negligently fail to tell a patient the nature of the patient's condition, *see* annotation at 49 A.L.R.3d  
15 501, or the side effects of a proposed treatment that would require immediate attention, without  
16 regard to any decision to be made by the patient consenting to treatment.