

1 **13-1109C. Lack of consent; damages.**

2 A patient need not prove that ~~[[he] [she] was]~~they were physically harmed by the  
3 [operation] [treatment] [examination or touching] [procedure] to recover damages resulting from  
4 the doctor[']s failure to obtain the patient[']s consent. Damages may be awarded solely because  
5 the doctor[']s action was not consented to.

6 USE NOTES

7 This instruction should be given with UJI 13-1109A NMRA where the patient seeks to  
8 recover for an unconsented to touching without proof of resulting physical harm. An appropriate  
9 element of damages should be added to the general damage instruction, UJI 13-1802 NMRA.  
10 [As amended, effective November 1, 1991; August 15, 1997; approved, effective February 24,  
11 1998; as amended by Supreme Court Order No. S-1-RCR-2025-00126, effective for all cases  
12 pending or filed on or after December 31, 2025.]  
13 **Committee commentary.** — *See Gerety v. Demers*, 92 N.M. 396, 589 P.2d 180 (1978); *see also*  
14 Restatement (Second) of Torts § 18 (1965).