

13-1104C. Duty to inform; evidence.

What is customarily disclosed by reasonably well-qualified doctors practicing under similar circumstances is evidence of the information which ought to be communicated to the patient [or patient's representative]. However, what ought to be disclosed to a patient shall be determined by you in accordance with the standard of what a reasonably prudent patient would regard as material to [his] [her] decision.

USE NOTES

This instruction should be given where there is an issue of the doctor's failure to give necessary information to the patient, see UJI 13-1104B, including informed consent cases, and there has been expert testimony as to what information is customarily disclosed. Where the patient is a minor or is incapacitated, the bracketed reference to the patient's representative should be included in the instruction. If the trial court determines that expert testimony is required to establish the standard of care for disclosure, this instruction should not be given.

[Adopted effective January 1, 1987; UJI 13-1104B SCRA 1986; as amended, effective November 1, 1991; as amended and recompiled effective August 15, 1997; approved, effective February 24, 1998.]