

### **13-1105A. Consent no excuse for negligent treatment.**

The fact that a doctor communicates the inherent and potential hazards of a proposed [procedure] [treatment] does not necessarily mean that those hazards, should they arise, are not the result of negligence in performing the proposed [procedure] [treatment].

The fact that a patient expressly or impliedly consents to a proposed [procedure] [treatment] does not mean that the patient consents to the negligent performance of that [procedure] [treatment] and therefore does not prevent you from considering whether the [procedure] [treatment] was negligently performed.

The fact that a patient consents to an adequately performed [procedure] [treatment] does not excuse the doctor from negligence in choosing an unnecessary or contraindicated [procedure] [treatment].

#### **USE NOTES**

Only the appropriate paragraph(s), if any, of this instruction should be given, depending on the case. Bracketed language should be selected as appropriate. [Adopted, effective August 15, 1997; approved, effective February 24, 1998.]