

Cite as: 9 TECH. L. REV., Dec. 2012, at 249.

“Who Did the Operation?”— Empirical Legal Study and Refinement on “Informed Consent”

Chia-Jui Su^{*}

Abstract

“Informed consent” is the clinical implementation and expression of a patient’s autonomy. However, it is very difficult to give a definite standard for the scope and the details to be contained in an informed consent. If a surgery was performed by a different operating surgeon without obtaining the patient’s prior informed consent, this conduct could be referred to as “ghost surgery”. While the opportunity to practice clinical skills has a unique role in the surgical education of a young physician, teaching hospitals may hesitate to frankly inform the patient to avoid patient’s refusal to be operated by a trainee physician. Therefore, this article aims to refine the concept of “informed consent” by analyzing this dilemma between medical education and patient’s autonomy. By adopting interdisciplinary studies of comparative laws, medical standards, judicial decisions and empirical

^{*} Orthopedic Surgeon of Min-Sheng General Hospital; Attorney at Law; Adjunct Lecturer, National Yang-Ming University; Ph. D. Candidate, National Chiao Tung University Institute of Technology Law.

legal verifications, this article seeks to enrich the substance and understanding of “informed consent” in Taiwan.

Keywords: Informed Consent, Ghost Surgery, Empirical Research,
Medical Education