

LETTER

H.B. DANIELS

I Concur

JOE PURCELL

I Concur

NEWMAN WHITE

XIII

June 20, 1960

Honorable J. Morris Richards
State Senator
Box 151
Winslow, Arizona

LAW LIBRARY
ARIZONA ATTORNEY GENERAL

Dear Sir:

Your letter of June 8, 1960, has been handed to us for reply. You have outlined several questions which we will answer separately, as follows:

- 1-a. May a hospital proceed with surgery or medical treatment on a married minor with her own consent or with the consent of her husband, also a minor, in written permit form to the hospital, or must the permit be signed by her parents?
- 1-b. We ask the same question in connection with male married minors. May he give his own consent, or must he have the consent of his parents?

These two questions are answered together. These questions involve whether or not minors who are married are emancipated. The law is well settled that such persons are fully and completely emancipated by reason of having entered into a marriage ceremony. They can sign or consent to an operation. 67 C.J.S. 316, 89(C).

- 2. When a patient gives written permission for medical or surgical treatment upon entry to a hospital, may this permit be used as a blanket consent for any and all treatment while the patient is in the hospital?

The answer to this question is No. The general rule is that, in the absence of an emergency, a surgeon may not perform an operation different than the one for which consent was obtained, or perform an operation involving risk or results not contemplated. 70 C.J.S. 967, Section 348 G, Physicians and Surgeons. An unauthorized operation amounts to

Book

Honorable J. Morris Richards
State Senator

June 20, 1960
Page Two

malpractice. Physicians & Surgeons & Dentists Business Bureau v. Dray, 111 P.2d 563; Paulsen v. Gunnarson, 260 N.W. 448. And the fact that the operation is successful does not relieve the surgeon of liability. 70 C.J.S. 967, Section 348, supra.

3. Must there be a post-mortem in Arizona on all cases in which the person is dead on arrival at a hospital, or who dies within 24 hours after arrival at a hospital?

The answer to this question is No, the reason being that the Arizona Statutes provide that the coroner may, in his discretion, order an autopsy or post mortem, and when so done the medical examiner who performs such operation is immune from Court action. A.R.S. §§ 22-515, 36-337, 36-832.

The final question which you ask is too broad and ambiguous to permit answer. If you can furnish us with specific facts and circumstances on which we can give a concrete and specific opinion, we will be glad to do so.

Very truly yours,

WADE CHURCH
The Attorney General

H. B. DANIELS
Assistant Attorney General

HBD:ec

60-101-L