

Excerpt from: The Legal and Ethical Foundations of the Rights of Pregnant Women

The doctrine of informed consent/refusal is upheld by common law; case law; Constitutional law (the right to privacy and self determination protected by the 1st and 14th amendments); federal law (The Emergency Medical Treatment and Active Labor Act and The Patient Self-Determination Act); international tort law (which US courts sometimes cite); state law; state mandated medical ethics; and the ethical guidelines of the American Medical Association (AMA) and the American College of Obstetricians and Gynecologists (ACOG). The doctrine of informed consent/refusal upheld by these laws provides all patients, pregnant or not, with certain fundamental rights:

- The right to exercise self-determination and autonomy in making all medical decisions, including the decision to refuse treatment.
- The right to bodily integrity; any form of non-consensual touching or treatment that occurs in a medical setting constitutes battery.
- The right to be provided with the necessary information on which to base medical decisions, including a diagnosis; recommended treatments and alternatives; the risks, benefits, discomforts, and potential disabilities of proposed medical treatments; realistic expectation of outcomes; the right to a second opinion, and any financial or research interests a physician may have in proposing certain treatments.
- The right to be informed of any potentially life threatening consequences of a proposed treatment, even if the likelihood of experiencing such an outcome is rare.
- The right to make medical decisions free from coercion or undue influence from physicians.
- The right to have informed medical decisions witnessed, signed and documented by the attending physician and another adult.
- The right to revoke consent to treatment at any time, either verbally or in writing.

The only exceptions to these rights occur when a patient is in an immediately life-threatening situation that demands treatment to preserve her life; when the physician determines that disclosure of all facts would have an adverse effect on the patient, though medical ethics dictate that this “therapeutic privilege” is rarely, if ever, justified; when a court orders a treatment, though it’s important to note that courts have upheld the right of pregnant women to decline treatment even in situations where the life of their fetus is threatened; when diagnostic tests are required by law enforcement agencies, such as drawing blood to test intoxication levels in impaired drivers.