

## Court Cases Relevant to Refusal by Surrogates of Treatment

***In re Quinlan***: In 1975 a 21 year old New Jersey woman, Karen Ann Quinlan, suffered severe brain damage after an alcohol/drug overdose. She was diagnosed as in a permanent vegetative state and was ventilator dependent. Her father asked to be appointed guardian so he could remove the ventilator, against the resistance of the physicians, appealing ‘standard of care.’ The lower court refused but the state supreme court agreed. [Her parents did not ask for medical nutrition and hydration to be withdrawn.] She was weaned from the ventilator but lived for another 10 years.  
(See SAL, 327)

***Cruzan v. Harmon*** (1987) In 1983 a 25 year old Missouri woman was injured in a car accident and suffered permanent brain damage. After 4 years her parents asked for artificial nutrition and hydration to be withdrawn, citing her statements to friends that if she were brain-injured she would not want to be kept alive. [=substituted judgment] A lower court approved the request; the state appealed to the state supreme court, that overturned the lower court judge’s opinion. The family appealed it to the US Supreme Court.

The Supreme Court ruled that yes, surrogates could withdraw life-supporting treatments; yes, artificial nutrition and hydration are on a par with other medical treatments in this respect; but that each state was allowed to set standards for what would count as evidence of the patient’s prior wishes [and Missouri’s standards didn’t allow verbal testimony].

Missouri withdrew their objections to the withdrawal; Nancy Cruzan died 6 months after the supreme court decision and 13 days after the withdrawal of nutrition and hydration.  
(See SAL, 328)

Informed consent cases:

***Schloendorff v. Society of N.Y. Hospital*** (1914). S.C. Justice Benjamin Cardozo articulated the doctrine of informed consent in this turn-of-the-century case, writing “Every human being of adult years and sound mind has a right to determine what shall be done with his body, and a surgeon who performs an operation without his patient’s consent commits an assault for which he is liable in damages.”

***Salgo v. Leland Stanford University Hospital*** (1957). Patient was paralyzed from a new treatment for which he had not given explicit consent.

***Natanson v. Kline*** (1960). In a Kansas case a woman sued for damages following the injection of cobalt prior to her mastectomy.

***Cobbs v. Grant*** (1972). Another California case. (cf. SAL 47-8) Cobbs felt he had not been sufficiently warned of possible risks of his operation for peptic ulcer; the court agreed and changed the standard of disclosure from physician-based (“what do doctors normally disclose?”) to patient-based (“what would a competent patient need to know to make a rational decision?”) Cf. also *Canterbury v. Spence* (1972)