



# Informed Consent in Pennsylvania

## Act 61 (Senate Bill 425) of 2021

### **BACKGROUND:**

Issues related to “informed consent” were brought about by the state Supreme Court’s interpretation of the Medical Care Availability and Reduction of Error (MCare) Act, under the *Shinal v. Toms* case, regarding a physician’s ability to delegate the duty to obtain the “informed consent” of a patient prior to specified procedures. The Court’s June 20, 2017, ruling implied that only a physician can obtain informed consent, a decision that had profound consequences for the administration of anesthesia. On June 30, 2021, Gov. Tom Wolf signed into law Senate Bill 425, now **Act 61 of 2021**, that remedies the years-long fallout from a complex ruling by the state’s top court.

### **WHAT YOU NEED TO KNOW:**

The Court’s interpretation **had a profound effect on advanced practice providers like CRNAs**, especially those who work without physician anesthesiologists, because under the Supreme Court decision the surgeon, whom is not an expert in anesthesia, was technically required to obtain patient consent for anesthesia care.

Anesthesia teams comprising CRNAs and anesthesiologists also were affected, because in many cases CRNAs obtained their own consents prior to the ruling, but then **faced additional barriers** as anesthesiologists suddenly had to be pulled off other tasks to perform this duty.

The new law essentially clarifies that while physicians remain responsible for the overall medical management of their patients, **the task of obtaining a patient’s informed consent may be performed, once again, by a physician or a qualified practitioner, including CRNAs and APRNs.**

The law took effect immediately upon enactment.