

Albert

You are working as the anaesthetic practitioner one Saturday morning. Your first patient is Albert Meakin, a 76 year old gentleman who is listed for a Hemi-arthroplasty for #®NOF. The anaesthetist, Dr. Chowdry arrives and informs you that Albert was discovered by a neighbour 2 days after having a fall in his flat. He is not very communicative and 'keeps himself to himself'. Dr. Chowdry has discussed the anaesthetic with Albert and agreed to perform a spinal with sedation.

When Albert is brought from the ward a few minutes later, you perform the usual check-in procedure and everything appears in order until you ask Albert what procedure he will be having. At this point he becomes a bit vague and seems unsure as to why he is being brought to theatre. He has signed the consent form himself. You seek advice from Dr. Chowdry as to Albert's ability to give consent and he assures you that Albert seemed to have capacity when he spoke to him on the ward. He does take your concerns on board however and checks with the surgeon, Dr. White who confirms this was also the case when she saw Albert. They agree with you that Albert does appear confused but feel that this is understandable in view of pain relief and dehydration. Both doctors agree to proceed in Albert's 'best interests'. They record this on the consent form and in the notes.

The operation proceeds without incident and Albert is returned to the ward.

6 Weeks later your manager calls you to one side and asks you for an account of what happened. You explain the circumstances and she informs you that, although nothing went wrong during surgery, Albert's son is lodging a complaint against the trust for performing surgery without proper attention to the consent process. He claims that Albert has insufficient capacity to consent and to be acting on Albert's behalf with 'powers of attorney'.