



# **Managing High Profile and Patient Care Conflict Situations**

*A Guide for Hospital Public Relations, Legal and Facility Executives*

**March 2017**

# **Managing High Profile and Patient Care Conflict Situations**

*A Guide for Hospital Public Relations, Legal and  
Facility Executives*

---

March 2017

1st Edition

## CHA Publications

Several helpful publications are available through CHA including:

- *California Health Information Privacy Manual*
- *California Hospital Compliance Manual*
- *California Hospital Survey Manual — A Guide to the Licensing & Certification Survey Process*
- *Consent Manual*
- *EMTALA — A Guide to Patient Anti-Dumping Laws*
- *Guide to Release of Patient Information*
- *Healthcare Workplace Violence Prevention*
- *Hospital Financial Assistance Policies and Community Benefit Laws*
- *Mental Health Law*
- *Minors & Health Care Law*
- *Model Medical Staff Bylaws & Rules*
- *Principles of Consent and Advance Directives*
- *Record and Data Retention Schedule*
- *The Cal/OSHA Safe Patient Handling Regulation*
- *The California Guide to Preventing Sharp Injuries*

Plus numerous human resource and volunteer publications.



### Ordering Information

For more information, visit CHA online at [www.calhospital.org/publications](http://www.calhospital.org/publications)

This publication is designed to produce accurate and authoritative information with regard to the subject matter covered. It is sold with the understanding that CHA is not engaged in rendering legal service. If legal or other expert assistance is required, the services of a competent professional person should be sought.

© 2017 by the California Hospital Association

All rights reserved. First edition 2017.

With the exception of the checklist, forms and appendixes, no part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise, without the prior written approval of:

#### California Hospital Association

ATTN: Publishing  
1215 K Street, Suite 800  
Sacramento, CA 95814

It is the intent of CHA to strictly enforce this copyright.

Published by the California Hospital Association.  
Printed in the United States of America.

---

Mary Barker, *Vice President, Publishing and Education*  
Bob Mion, *Director, Publishing and Marketing*  
Emily Stone, *Publishing Manager*



# Managing High Profile and Patient Care Conflict Situations

---

|   |          |
|---|----------|
| <b>I. Introduction</b> .....  | <b>1</b> |
| <b>II. Key Considerations</b> .....   | <b>2</b> |
| <b>III. Pertinent Hospital Policies</b> .....   | <b>2</b> |
| <b>IV. Developing a Comprehensive Crisis Management and Communications Plan</b> .....             | <b>3</b> |
| <b>V. Patient Privacy and Legal Considerations are Critical When Dealing with the Media</b> ..... | <b>7</b> |
| A. Relevant CHA Publications .....  | 8        |
| <b>VI. Examples of High-Profile/Controversial Patient Care Cases</b> .....                        | <b>8</b> |
| A. California’s End-of-Life Option Act .....  | 8        |
| B. Brain Death .....  | 9        |

## **A CRISIS MANAGEMENT AND COMMUNICATIONS PLAN CHECKLIST**

### ***Disclaimer***

The purpose of this document is to provide crisis communications and management guidance to hospital public relations and facility executives who are responsible for responding to unusual and high-profile patient care situations — particularly those resulting from tragic circumstances where there is serious disagreement between the patient or patient’s family and the health care team, or one involving a high-profile or controversial situation such as the use of California’s End-of-Life Option Act. This booklet is not intended to serve as a substitute for legal counsel, and legal advice should be obtained when necessary.

Detailed information about the laws surrounding California’s End-of-Life Option Act and the legal definitions and requirements regarding brain death can be found in CHA’s *Consent Manual*; visit [www.calhospital.org/consent](http://www.calhospital.org/consent).



# Managing High Profile and Patient Care Conflict Situations

---

## I. INTRODUCTION

California's hospitals are on the front lines of medical care, open 24 hours a day, seven days a week to anyone in need. Some of life's greatest joys and deepest sorrows play out in hospitals.

Among the most difficult patient care situations a hospital can face are those that surround end-of-life decisions, particularly when there is a high-profile patient or serious disagreement between the patient or patient's family and the health care team. A 2015 study found that in more than one-half of cases examined, there was disagreement between family members and physicians about a critically ill patient's prognosis.<sup>1</sup> Researchers found that family members or others involved in making treatment decisions for patients were far more optimistic (46 percent) about a patient's chance of recovery than were the patient's medical team. These dynamics can create conflict, and in some circumstances lead to media interest or lawsuits.

High-profile events may generate unusual activity and media coverage in and around hospitals. There may be protests or a need for crowd control. Having thorough communications and operational plans will benefit not only the hospital, but also patients and their families, and the community at large.

---

**This guide aims to help hospital communications and facility executives navigate complex, high-profile patient cases, especially those that involve the diagnosis of "brain death" or California's "End of Life Option Act."**

---

This guide aims to help hospital communications and facility executives navigate complex, high-profile patient cases, especially those that involve the diagnosis of "brain death" or California's "End of Life Option Act," which became effective June 9, 2016. This guide isn't designed to tell you what to say. Rather, it provides key information to help frame your thinking and responses, and identifies issues to consider when your hospital is facing a crisis situation or high-profile event.

---

<sup>1</sup> White DB, Emecoff N, Buddahumaruk P, Prevalence of and Factors Related to Discordance About Prognosis Between Physicians and Surrogate Decision Makers of Critically Ill Patients. JAMA 2015; 315(19): 2086-2094

## II. KEY CONSIDERATIONS

Providing comfort and support to patients and their families during the final phase of life is at the heart of what hospitals and caregivers do every day. Hospitals encourage physicians, families, loved ones, religious representatives and caregivers to have open conversations about medical care and end-of-life decisions. This includes encouraging all patients to complete an Advance Health Care Directive that explicitly states their end-of-life preferences while the patient has the capacity to understand the consequences of his or her decisions and the ability to express them.

Sometimes, however, situations occur with patients who have not memorialized their treatment ahead of time, or when families disagree with the patient's expressed wishes, or when the patient or patient's decision-maker disagrees with the position of the medical team. When these cases catch media attention, a hospital can quickly find itself the subject of critical attention and in a crisis mode that can continue for weeks or even months. Recent examples include the cases of Jahi McMath in Oakland, Israel Stinson in the Sacramento area, and Marlise Munoz in Texas.

When developing plans to respond to tragic or high-profile patient care situations, it is important for the hospital to consider the full range of possible short- and long-term impacts. Things to consider include:

1. The continuing relationship with the patient and family, and how to best manage it.
2. The need to respond to media inquiries and what should be communicated.
3. Whether others should be advised of the situation, including the hospital's governing board, regulatory bodies, elected officials, and insurance carriers.
4. The impact on hospital staff — those directly involved and others.
5. The impact on hospital operations.

Issues to be considered and the hospital personnel who may need to be involved are discussed more fully below.

## III. PERTINENT HOSPITAL POLICIES

To better respond to high-profile patient situations, hospital communications and facilities executives should be familiar with pertinent hospital and medical staff policies, rules and regulations that address the following subjects:

1. Accommodation of family gathering at the bedside [California Health & Safety Code Section 1254.4] (see: [http://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=1254.4.&lawCode=HSC](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1254.4.&lawCode=HSC))
2. Visitation policies
3. Determining death (cardiopulmonary criteria or neurologic criteria, as appropriate)
4. California's End of Life Option Act/Advance Directive/Physician Orders for Life-Sustaining Treatment (POLST), as appropriate (see CHA's Consent Manual, [www.calhospital.org/consent](http://www.calhospital.org/consent), for more information)

5. Futility of care
6. Media relations, including designating a spokesperson, referral of inquiries, and authorization/approval of statements
7. The composition and role of the Medical Staff's Ethics Committee
8. Medical Staff policies/procedures/rules and regulations relating to a patient's condition
9. Procedures for managing public access to the facility, including access for the patient's family and visitors
10. Patient privacy/release of information to the media (see CHA's Guide to Release of Patient Information to the Media, [www.calhospital.org/freeguide](http://www.calhospital.org/freeguide), for more information).
11. Peer review policies and procedures, including confidentiality of peer review (in the event of questions regarding the care provided to the patient)

#### IV. DEVELOPING A COMPREHENSIVE CRISIS MANAGEMENT AND COMMUNICATIONS PLAN

When a high-profile patient care situation occurs, straightforward, factual communications must be balanced with compassion for the patient and family. The hospital must protect patient privacy and comply with Health Insurance Portability and Accountability Act (HIPAA) requirements, and address legal and risk management considerations, security concerns, the impact on staff and other patients, and its image in the community. Obligations to the patient must be paramount, even if this limits a hospital's communications, regardless of what is being shared by the patient's family or friends.

The hospital's crisis management and communications plan should take into account the interests of key stakeholders:

1. **Patient/Family** — This is the most important priority. The hospital must demonstrate compassion for the issues and emotions patients and their families experience. The hospital also should make efforts to facilitate patient/family decision making and protect their privacy, all while adhering to stated policies and values.
  - a. The hospital may consider identifying one individual (e.g. a physician, nurse leader, chaplain) to be the primary point of contact with the patient/family. This continuity will help ensure consistent communications, establish a stronger level of understanding of the various parties' perspectives, and foster a trusting relationship between all concerned. Furthermore, identifying a "go to" person for updates on the patient's medical status and other matters can lead to more efficient planning and communications within the hospital administration, which is critical in high-profile situations.
  - b. In developing a communications plan for responding to the media and other third-party inquiries, the critical question is whether the family has consented to disclosure of the patient's medical information.

- Bear in mind that just because the family may elect to disclose protected health information to the media or others, this does not allow hospital staff to do the same. For details, see CHA's *Guide to Release of Patient Information to the Media*, [www.calhospital.org/freeguide](http://www.calhospital.org/freeguide).
  - c. The hospital should evaluate whether it is providing adequate social and spiritual support to the patient's family. A higher level of outreach by the hospital chaplain and social services may be desirable to help identify the family's needs, provide support, and improve communication. If a clergy member or other spiritual adviser is close to the family, communication with this individual may shed light on the family's concerns and decision-making process.
  - d. The hospital should consider whether there are "cultural competency" issues to be addressed, such as social or value-based differences or language or other communication barriers. If issues do exist, the hospital should determine the best course of action to address them to ensure appropriate, respectful care and effective patient/family communications.
  - e. In some cases, special accommodations may be needed or desirable for the patient/family:
    - It is important that the family have a safe entrance/exit from the hospital. If reporters or crowds are congregating at the hospital's main entrance, consider offering family members an escort or making arrangements for them to use an alternative, more private entrance.
    - The hospital may designate a specific room or location in the hospital for family and friends to gather. This can afford the family greater privacy as they deal with difficult decisions, and may minimize disruption or upset for other patients and visitors.
    - Other accommodations that may be warranted include extended visiting hours for the patient's family; parking, transportation and/or meal vouchers; and/or lodging in the hospital's "family house."
2. **Medical Staff** — The physicians who serve on the hospital's medical staff guide all patient care treatment decisions at the hospital. When a high-profile or controversial patient care situation arises, the medical staff leadership may need to provide important clinical information and context to patients, family members, the media and public. There also may be medical staff policies and protocols that are relevant to the patient's situation that may not be well-known to the hospital's communications professionals and members of hospital administration involved in responding to the patient care conflict situation. It is recommended that the medical staff leadership be briefed on the situation and continuing developments, and that appropriate hospital policies and procedures be reviewed with them. Communications with medical staff leadership should be coordinated within the context of the broader communications plan.

Additionally, conflict with the patient's family can be challenging and stressful for the physicians most involved in the patient's care. Medical staff leadership, including the medical staff's Physician Well-Being Committee, can help identify these situations and provide support for affected physicians.

3. **Hospital Employees** — Hospital staff may become aware that an unusual patient care situation is occurring at the facility. Communicating at least some basic information with employees, while conforming to patient privacy (HIPAA) requirements, may help instill a sense of calm, ensure compliance with protocols for ongoing hospital operations, and reinforce a message of support for staff. As with the physicians involved, staff engaged with the patient's care team or interacting with the family may be especially stressed. The hospital's human resources staff or employee assistance program may need to reach out to these employees to ensure their needs are being met.
4. **Governance** — Members of the hospital's Board of Trustees are often well-known individuals in their community. As such, they may receive inquiries about a high-profile patient care situation from elected officials, community leaders, and the media. Special attention should be paid to making sure that hospital board members are kept informed and provided with appropriate communications resources, including reminders about patient privacy requirements to assist them in responding to inquiries. Consider instructing individuals to refer inquiries to a designated spokesperson.
5. **Legal/Risk Management** — All communications activities should be developed in cooperation with the hospital's legal and/or risk management departments. The legal/risk management staff should consider whether the situation needs to be reported to the hospital's insurance carrier.
6. **Medical Staff Ethics Committee** — When there is a conflict between the patient or patient's family and the medical care team (or within the care team) regarding the appropriateness of continuing medical interventions, mechanical support for the patient or related issues, the Medical Staff Ethics Committee can establish an appropriate forum for addressing issues and providing guidance regarding ethical ramifications. If litigation results, the fact that the Medical Staff Ethics Committee was consulted and reached a conclusion may be useful in any subsequent legal process.
7. **News Media** — Reporters will pursue high-profile stories. That is their job. It is the responsibility of hospital communications professionals to put the needs/wishes of patients and their families first while trying to be responsive to the media. In high-profile and/or controversial patient care situations, this balancing act will require close coordination with hospital leadership, clinicians, legal/risk management, and others.
  - a. While certain details of high-profile or controversial patient care situations may not be made public due to privacy laws, hospital communications professionals should provide as much context as possible. This key

messaging may include information about the medical staff's ethics and/or peer review process; broad, medically accepted definitions; the hospital's quality of care/patient safety practices; etc. The hospital also may include messaging about efforts being made to accommodate the needs of the patient/family, though patient privacy laws must not be violated.

- b. News media representatives likely are familiar with the basics of patient privacy laws. However, the hospital may provide more detailed information on how these requirements (including patient/family refusal to consent to disclosure, peer review confidentiality laws, etc.) limit the information that can be shared.
  - c. The media spokesperson is the link between the hospital and the public at-large. Consider the voice that will represent the organization. Depending on the circumstances, hospitals may want to identify a physician leader or other clinical expert to serve as the designated media spokesperson. The public is highly receptive to the opinions of physicians and nurses regarding clinical issues. If this option is chosen, ensure that the individual has had media training.
  - d. The hospital may consider utilizing third-parties such as outside clinical experts, medical ethicists, trade associations, and others to provide broader context to the situation.
  - e. Consider establishing a designated media briefing room, especially if there are multiple media representatives on-site. This may facilitate more orderly communication with reporters. It also may minimize disruptions caused by media representatives congregating at the hospital entrance or lobby.
8. **Social Media** — Hospitals and health systems have increased their use of digital media — websites and social media channels — to communicate with the news media and public. Hospital employees, patients and families also are using social media to share and consume information. In high-profile situations, social media can cause a hospital or health system to be vulnerable, depending on the nature of communications being posted. However, if integrated into the larger communications response plan, social media can be an effective tool for disseminating updates, correcting unfounded rumors, dampening negative social conversations, and integrating positive social conversations about the hospital, its staff and role in the community.

The media, community leaders and others undoubtedly will look to a hospital's social media presence for updates and to assess the community response. The hospitals' social media team should be involved early in crisis communications planning. Redistributing the organization's social media policies to medical staff and all employees should be considered. If an employee, patient or other "interested" party posts an inappropriate comment through social media, the hospital may consider removing these posts and managing the issues offline. Proactive social

media responses and regular monitoring of hospital websites and social media channels (including trending Twitter handle/hashtags) will help ensure consistent communications to the news media and others.

9. **Media Support and Monitoring** — To the extent possible, hospital media relations staff should designate someone to screen media calls, monitor press sources (online and traditional), develop materials, and disseminate information. Information, true or false, can spread quickly on social media. It is critical that hospitals monitor all media channels and respond, as needed, in a timely manner to the extent permitted by health information privacy laws.
10. **Regulatory Considerations** — The hospital may need to report the situation to regulators. It is also possible that family members may make a complaint to regulators. In any event, staff should be prepared for regulatory inquiries and/or an investigation.
11. **Legislative Relations** — Unique or high-profile cases may draw interest from elected officials or regulators. Hospital government relations executive and/or senior leadership may need to reach out to appropriate elected officials or community stakeholders to address concerns that arise in these situations. Relying on the hospital's key messages/talking points will help ensure consistent communication with these audiences.
12. **Security** — If the patient care situation attracts sufficient public attention, members of the public and news media may be drawn to the hospital for vigils, protests, and other activities. In addition to congregating at the hospital entrance or lobby, individuals may attempt to gain access to patient care areas. Hospital security may need to be consulted to ensure that appropriate access to the hospital is maintained, and staff and visitors are protected. The hospital should evaluate what crowd control or parking management measures may be needed. Security precautions should be reviewed and local law enforcement may need to be notified.

## V. PATIENT PRIVACY AND LEGAL CONSIDERATIONS ARE CRITICAL WHEN DEALING WITH THE MEDIA

Hospitals are required by both state and federal law to safeguard the privacy and confidentiality of all patients' medical conditions. Releasing information to the news media on the condition of any patient requires scrupulous adherence to these laws, notwithstanding the media's desire for facts and whatever information — correct or incorrect — the patient or family may be disclosing. A patient may opt for complete confidentiality — a "no information" situation. Legal counsel should be consulted to determine what may be said to avoid a privacy breach while defending the reputation of the organization around the broader issues at play.

### A. Relevant CHA Publications

CHA has produced several publications that provide hospitals with detailed information on state and federal laws dealing with patient privacy, release of patient information to the media, Advance Health Care Directives, and California's End-of-Life Option Act. These publications are available through the CHA website — [www.calhospital.org/publications](http://www.calhospital.org/publications):

1. *Guide to Release of Patient Information to the Media* — [www.calhospital.org/freeguide](http://www.calhospital.org/freeguide)
2. *Consent Manual* — [www.calhospital.org/consent](http://www.calhospital.org/consent)
3. *California Health Information Privacy Manual* — [www.calhospital.org/privacy](http://www.calhospital.org/privacy)
4. Advance Health Care Directive Form (English & Spanish) — [www.calhospital.org/resource/advance-health-care-directive](http://www.calhospital.org/resource/advance-health-care-directive)
5. The End of Life Option Act Webinar — [www.calhospital.org/end-of-life-option-act-webinar-recording](http://www.calhospital.org/end-of-life-option-act-webinar-recording)

## VI. EXAMPLES OF HIGH-PROFILE/CONTROVERSIAL PATIENT CARE CASES

### A. California's End-of-Life Option Act

On Oct. 5, 2015, Governor Jerry Brown signed the End of Life Option Act (Act), making California the fifth state to allow physicians to prescribe an aid-in-dying drug for terminally ill patients who request it. The Act, which became effective June 9, 2016, is not intended to alter the mission or role of the hospital in caring for dying patients; rather it allows terminally ill patients who are able to make a conscious and voluntary choice about their final days to do so, and allows physicians, if they choose to do so, to assist these patients by providing information and a prescription for aid-in-dying medication.

In most cases, the activities associated with the End-of-Life Option Act will not occur within a hospital. The communication between patient and physician is more likely to occur in the doctor's office, while the actual ingestion of the medication will likely occur in the patients' home or other setting. Hospitals, however, should be aware of this law, develop appropriate policies to guide staff and patients, and include provisions specific to the Act in their comprehensive crisis communications plans.

Participation in activities authorized by the Act is completely voluntary. No person (including a physician), hospital, pharmacy or other entity that objects based on conscience, morality, or ethics is required to provide any services in support of this law.

Additionally, hospitals and other health care providers may prohibit their employees, medical staff, independent contractors and others from engaging in any activities associated with the Act in the following situations:

1. While those individuals are on premises owned or under the management or direct control of the provider (e.g. clinics, pharmacies, medical office buildings, etc.)

Or

2. While those individuals are acting within the course and scope of any employment by or contract with the provider (e.g. home health and hospice workers, etc. who work away from the provider-owned or managed premises).

Hospitals, however, cannot prohibit employees, medical staff, independent contractors or others from providing information about the End-of-Life Option Act to patients or others, nor can they prohibit them from referring a patient to another provider for the purposes of participating in activities under the Act.

For more information on the End-of-Life Option Act, see CHA's *Consent Manual* ([www.calhospital.org/consent](http://www.calhospital.org/consent)). CHA also has developed talking points regarding the End-of-Life Option Act that may be helpful in responding to media inquiries ([www.calhospital.org/end-of-life-option-act](http://www.calhospital.org/end-of-life-option-act)).

Even though it is unlikely the most patients will choose to utilize the End-of-Life Option Act within a hospital, it is recommended that all hospitals have a comprehensive crisis communications plan in place should the need arise.

## B. Brain Death

The unexpected death of a patient is a heartbreaking situation for family and caregivers alike. It can be particularly difficult if the cause of death is the often misunderstood diagnosis of brain death.

California's Health and Safety Code Section 7180 states that brain death is defined as the irreversible cessation of all functions of the entire brain, including the brain stem. According to the National Institutes of Health (NIH), "the three essential findings in brain death are coma, absence of brainstem reflexes, and apnea... A patient determined to be brain dead is legally and clinically dead."

A determination of brain death can be difficult for a patient's family to accept. The advent of ventilators, feeding tubes, and other mechanical devices can create the illusion that a patient is still alive because the machines are "breathing" for the patient. Despite multiple, comprehensive medical evaluations that support the determination of brain death, some families refuse to accept the diagnosis and turn to the news media or legal system for help and attention.

Hospitals should have a comprehensive crisis communications plan in place that can be adapted to respond to the uniqueness of such a situation. When responding specifically to a brain death patient situation, the use of terminology in communications takes on added importance. For example, phrases such as "life support" or "medical treatment" imply that the patient is still alive. Given the finality of a brain death diagnosis, hospitals should consider using alternate terminology such as "mechanical support" or "medical intervention."

---

**When responding specifically to a brain death patient situation, the use of terminology in communications takes on added importance.**

---

It should be noted that the clinical definition of brain death is distinct and apart from two other clinical conditions:

1. Coma, and
2. Persistent vegetative state.

According to the NIH, a coma is “a profound or deep state of unconsciousness...Individuals in such a state have lost their thinking abilities and awareness of their surroundings, but retain non-cognitive function and normal sleep patterns.” Patients who remain in a coma for at least one month are generally considered to be in a persistent vegetative state.

# A Crisis Management And Communications Plan Checklist

---

## Communicate with Patient/Family Members

---

- Identify one individual (physician, nurse, chaplain) to be the primary point of contact with the family.
- Determine if the patient/family has consented, or will consent, to the hospital's disclosure of medical information. Properly document any consent to disclosure.
- Ensure adequate social and spiritual support is provided to the patient's family. Consider whether a higher level of outreach by the hospital chaplain and/or social services is appropriate.
- Identify any "cultural competency" issues that need to be addressed (social/value differences, language barriers, etc.).
- Determine if special accommodations are needed (designated room for family, extended visiting hours, parking/meal vouchers, lodging in the hospital's "family house," access to facility, etc.).

## Review Patient Privacy Requirements

---

- Review patient privacy law requirements and limitations (*see CHA's Guide to Release of Patient Information to the Media, [www.calhospital.org/freeguide](http://www.calhospital.org/freeguide), and Consent Manual, [www.calhospital.org/consent](http://www.calhospital.org/consent)*).
- Consult with hospital legal counsel as needed to determine what information can and cannot be shared. This may include what generic information can be shared to defend the reputation of the organization.
- Review/refresh privacy law principles with medical staff members, administration and employees as appropriate.

### **Communicate with Medical Staff**

---

- Brief medical staff leadership on patient care situation including any conflict between patient/family members and medical care team.
- Ensure communications staff and hospital administration are aware of applicable medical staff policies and protocols.
- Ensure medical staff leadership and involved physicians are aware of applicable hospital policies and protocols.
- Encourage medical staff leadership and Physician Well-Being Committee to provide emotional support and guidance to physicians most involved in the patient's care.

### **Involvement of Medical Staff Ethics Committee**

---

- Consider whether the hospital's Medical Staff Ethics Committee should be consulted regarding the appropriateness of continuing medical interventions or other issues.

### **Keep Hospital Employees Informed**

---

- To prevent rumors and instill a sense of calm, consider communicating at least some basic information about the situation to all hospital employees, consistent with HIPAA.
- Remind employees of the availability of appropriate HR and/or employee assistance resources to assist in managing stress.

### **Inform Hospital Board of Trustees**

---

- Advise members of the hospital Board of Trustees of developments in the situation, consistent with HIPAA.
- Provide Board members with appropriate communications resources to assist them in responding to inquiries.

### **Consult with Legal/Risk Management Departments**

---

- Ensure all communications messaging/activities are developed in coordination with the hospital's legal and/or risk management department(s).
- Ask legal/risk management staff whether notification needs to be made to hospital's insurance carrier.

### Plan for Appropriate Security Measures

---

- Consult with hospital security staff to ensure appropriate measures are taken in case a patient care situation draws media attention, protests, or other activities.
- Consider whether crowd control or parking management measures may be needed.
- Consider whether special arrangements should be made for family members entering and exiting the facility.
- Notify local law enforcement as needed.

### Communicate with Officials and Community Stakeholders

---

- Consider whether the hospital needs to file a report with appropriate regulatory officials.
- Ensure hospital staff is prepared to respond to regulatory inquiries and/or investigations.
- Determine whether outreach needs to be made to appropriate elected officials or other community stakeholders, without violating HIPAA.

### Communicate with the News Media

---

- Develop general Key Messages and Talking Points for use with the news media. Messaging may include information about the hospital's quality/patient safety practices; broad, medically accepted definitions; the medical staff's ethics and/or peer review processes; etc.
- Consider including messaging about the hospital's efforts to accommodate the needs of the patient/family, but this must be done in a manner that is HIPAA compliant.
- Remind media representatives of the limitations that patient privacy laws impose on the information that can be shared, especially if the patient/patient's representative has refused to consent to disclosure of additional information.
- Determine and identify the appropriate media spokesperson. Consider whether a physician leader or other clinical expert should serve as the designated spokesperson.
- Ensure the designated spokesperson has had media training and is prepared to respond to difficult media questions.
- Consider utilizing third-parties – such as outside clinical experts, medical ethicists, trade associations or others – to provide broader context to the patient care situation.
- Consider establishing a designated media briefing room, especially if there are multiple media representatives on-site.

### **Utilize and Monitor Social Media**

---

- Ensure social media communications strategies and tactics are incorporated into the hospital's crisis communications plan.
- Make certain all hospital employees, medical staff and volunteers are reminded of social media policies and patient privacy requirements.
- As appropriate, utilize social media to provide updates on the patient care situation that are HIPAA compliant.
- Respond as necessary to inappropriate comments posted on social media. This may involve removing inappropriate posts and managing issues offline.
- Proactively monitor the hospital's website, social media channels, and any trending Twitter handle/hashtags.

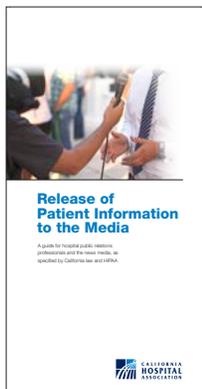
### **Provide Social and Traditional Media Support**

---

- Designate an individual(s) to screen media calls, monitor press reports (online, social media and traditional), and develop and disseminate materials and background information.
- Respond quickly to false rumors and misinformation circulating on social media, online reports or traditional media outlets, consistent with HIPAA.

# Related CHA Publications

---



## **GUIDE TO RELEASE OF PATIENT INFORMATION TO THE MEDIA**

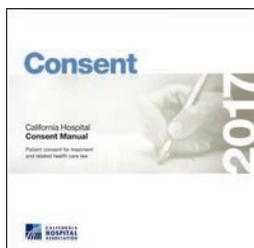
*A guide for hospital public relations professionals and the news media*

This invaluable handbook helps you quickly understand what information can and cannot be released to the news media under state and federal law.

Releasing information on the condition of hospital patients requires a careful balancing of patient privacy with the media's desire for information. California law has protected individual privacy for some time. The federal Health Insurance Portability and Accountability Act (HIPAA) adds federal protection to patient privacy rights. The HIPAA privacy regulations strictly limit what patient information hospitals may share with the media.

This quick-reference guide details what information can be released under specific situations and for different patient types including minors, public figures and celebrities. The guide also covers when information should not be released, matters of public record and how to respond in disaster situations.

Download the guide for free at [www.calhospital.org/freeguide](http://www.calhospital.org/freeguide) — or order a package of 5 guides for \$10.



## **CONSENT MANUAL**

*The trusted resource for consent and related health care law*

This easy-to-use manual doesn't just repeat the law, it explains it. The *Consent Manual* is your one-stop resource for all legal requirements related to patient consent for medical treatment, release of medical information, refusal of treatment, and reporting requirements.

The manual addresses state and federal law, and goes beyond the basics to cover situations involving minors and mental health treatment as well as issues regarding patients' rights, advance directives, protected health information, and related health care law. The *Consent Manual* gives you fast answers to complex questions, and can help hospitals comply with complicated laws.

The *Consent Manual* tells you exactly what the law requires and what you need to do to comply. With more than 600 pages and indexed for quick reference, the *Consent Manual* includes legal citations and practical guidance. More than 100 forms, many in Spanish, are provided on CD.

Order online at [www.calhospital.org/consent](http://www.calhospital.org/consent).



## THE END OF LIFE OPTION ACT WEBINAR

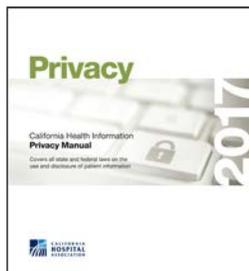
*Understanding the law, considerations for developing and implementing policies*

California's End of Life Option Act gives individuals who have a terminal illness and meet certain qualifications the right to ask their physician for prescription medication to end their life. The law is complicated and not without controversy.

The End of Life Option Act became law June 9, 2016. All health care providers will be impacted and should prepare policies and procedures to address the Act, whatever their philosophical position.

This webinar is recommended for hospital in-house legal counsel and health care attorneys, risk managers, chief medical officers and physicians, pharmacists, chief nursing officers and nurse managers, chief compliance officers, ethics committees, privacy officers, social workers, home health and hospice staff, quality management staff, skilled nursing staff and administrators.

Webinar recorded live April 18, 2016. Order online at: [www.calhospital.org/end-of-life-option-act-webinar-recording](http://www.calhospital.org/end-of-life-option-act-webinar-recording).



## CALIFORNIA HEALTH INFORMATION PRIVACY MANUAL

*Laws regarding patient privacy rights, use/disclosure of PHI, and breaches*

This comprehensive resource addresses all state and federal laws related to the privacy of health information, and provides guidance to help hospitals comply with increasingly complex regulations. Laws covered include:

- Health Insurance Portability and Accountability Act (HIPAA)
- Health Information Technology for Economic and Clinical Health (HITECH)
- Confidentiality of Medical Information Act
- Patient Access to Health Records Act
- Lanterman-Petris-Short Act

The *California Health Information Privacy Manual* includes information to assist providers in determining which provides greater patient protection and therefore must be followed when California and federal laws are both involved.

Order online at [www.calhospital.org/privacy](http://www.calhospital.org/privacy).



*Leadership in Health Policy and Advocacy*

1215 K Street, Suite 800  
Sacramento, CA 95814  
(916) 443-7401

[www.calhospital.org](http://www.calhospital.org)