

April 24, 2018

Route to Directors of:

- Admissions
- Business Office/Revenue Cycle
- Clinics
- Compliance Office
- Emergency Dept.
- Health Information
- Infection Control
- Institutional Review Board
- Interpreter Services
- Legal Affairs
- Medical Staff
- Nursing Services
- Pharmacy
- Privacy Office
- Psychiatric Service
- Risk Management
- Skilled Nursing Facility
- Social Services

TO: CHA Members and *Consent Manual* Users

FROM: Lois J. Richardson, Vice President and Counsel
Privacy and Legal Publications/Education

SUBJECT: Major Changes in Consent Law – 2018

Summary

This memorandum highlights major changes in state and federal consent-related laws, all of which are discussed in detail in the 2018 *Consent Manual: A Reference for Consent and Related Health Care Law*.

As always, the manual contains many changes in the law of lesser significance; changes in names, addresses, phone numbers, and websites; additional resources; and clarifications that are too numerous to list. Because laws often change after publication of the manual, CHA advises hospitals to consult their attorney when a legal question arises.

This memorandum should be kept with the 2018 *Consent Manual* for convenient reference. In addition, CHA recommends that a copy of this memorandum be routed to the people listed in the upper right-hand corner of this page so they are aware of the changes in the law that affect their areas of responsibility.

New Laws and Revisions

A brief description of significant new laws and revisions to current law are included in this memorandum. Each new law or revision is in effect now, unless otherwise noted. For details about the requirements of each law, see the 2018 *Consent Manual*.

Changes have been made to several of the model forms in the manual. You can tell if a form has been changed in two ways: by referring to the date that appears on the bottom, outside corner of the page, or by looking at the List of Forms found at the very beginning of the manual — forms with an asterisk following the title are new or have been revised.

The following is a summary of major changes, listed by chapter.

- A discussion of concurrent or overlapping surgeries has been added. (*See chapter 2.*)
- A discussion of the requirements related to prescribing opioids has been added. (*See chapter 5.*)
- State law no longer requires that pain be assessed every time vital signs are taken. (*See chapter 7.*)
- The Centers for Medicare & Medicaid Services has clarified its position on texting protected health information and texting orders. (*See chapter 7.*)
- State law now requires hospitals to retain most medical records, employment and payroll records, billing records, purchase invoices, and other records for at least ten years. (*See chapter 7.*)
- A new state law prohibits employers, including hospitals, from allowing Immigration and Customs Enforcement (ICE) agents in parts of the workplace. (*See chapter 9.*)
- The federal government has delayed the implementation date for a federal regulation that will revise the requirements for obtaining informed consent to participate in research. (*See chapter 10.*)
- Facilities must attempt to notify family members of the time and place of certification review hearings to extend an involuntary hold. (*See chapter 15.*)
- Marriage and family therapists and professional clinical counselors may now co-sign a notice of certification notice to extend an involuntary hold beyond 72 hours. (*See chapter 15.*)
- Information about reporting patients with animal bites has been added. (*See chapter 18.*)
- State law requiring hospitals to notify emergency medical personnel when they have transported a patient with a communicable disease has been revised. (*See chapter 18.*)
- Information about California's laws regarding medical and recreational marijuana has been updated. (*See chapter 20.*)

Consent Law Seminars: Educational seminars on consent law will be held April 24 in Fresno; May 9 in San Diego; May 10 in Ontario; May 15 in Costa Mesa; May 30 in Sacramento; and May 31 in San Ramon. To register, or for more information, visit the CHA website at www.calhospital.org/consent-law or call (916) 552-7637.

Forms and Appendices: Forms and appendices are included in the back of the manual; electronic copies of forms and handouts are available to CHA members at: www.calhospital.org/free-resources.

CHA members with questions regarding this memorandum or the content of the *Consent Manual* may contact me at (916) 552-7611 or lrhardson@calhospital.org.

LJR