



April 17, 2019

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Psychiatric Service
Risk Management
Social Services
Transplant 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 – 2019

Summary

This memorandum highlights major changes in state and federal consent-related laws, all of which are discussed in detail in the *2019 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 *2019 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 *2019 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.

- The statutory advance health care directive has been updated to make the organ donation portion more understandable. *(See Form 3-1.)*
- Minors who are in a registered domestic partner relationship, or have been in one, are considered emancipated and may consent to their own health care treatment. *(See chapter 4.)*
- Minors are now able to consent for treatment for injuries resulting from intimate partner violence. *(See chapter 4.)*
- A prescriber of an opioid medication must offer the patient a prescription for naloxone hydrochloride (or a similar drug) under certain circumstances. *(See chapter 5.)*
- The text for Proposition 65 signs changed effective Aug. 30, 2018. These signs warn consumers of potential exposure to chemicals that cause cancer, birth defects or other reproductive harm. *(See chapter 5.)*
- State law requires hospitals to keep a log of patients experiencing homelessness as of July 1, 2019. *(See chapter 7.)*
- The California Consumer Privacy Act of 2018, effective Jan. 1, 2020, gives consumers more control over the personal information that businesses collect about them. It does not apply to non-profit entities or to patient information held by investor-owned facilities. *(See chapter 8.)*
- The federal government has updated its regulations regarding informed consent to human subject research, effective Jan. 21, 2019. *(See chapter 10.)*
- Discharge planners are now required to report unlicensed or unsafe residential care facilities for the elderly. *(See chapter 12.)*
- State law has been clarified that a copy of the application for detention under Welfare and Institutions Code Section 5150 must be treated as the original. Formerly, some ambulance companies and other entities were declining to provide services to involuntary patients without having the original document. *(See chapter 15.)*
- Hospitals with perinatal services are required to provide maternal mental health screening and education. *(See chapter 13.)*

- The list of employees who are required to make “suspicious injury reports” has been expanded to include any employee of an entity under contract with a local government agency to provide medical services. This would include paramedics and emergency medical technicians working for ambulance companies or hospitals that have a contract with a local government agency. *(See chapter 17.)*
- The definition of “dependent adult” for the purpose of the dependent adult abuse and neglect reporting requirement has been expanded. It now includes persons who meet the former definition, but live independently. *(See chapter 17.)*
- Effective July 1, 2018, state law requires healthcare providers diagnosing or providing treatment to Parkinson's disease patients to report each case to the California Department of Public Health. *(See chapter 18.)*

Consent Law Seminars: Educational seminars on consent law will be held April 17 in Ontario; April 18 in San Diego; April 25 in Fresno; May 15 in Pasadena; May 16 in Costa Mesa; May 23 in Oakland; and June 6 in Sacramento. CHA will Live Stream the Sacramento Consent Law seminar; Live Stream allows you to hear and view the seminar from the convenience of your own office or conference room and lets multiple people experience the seminar with a single registration fee. To register, or for more information, visit 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 lrharrison@calhospital.org.

LJR