



August 12, 2021

Route to Directors of: Admissions  
Bioethics Committee  
Clinics  
Compliance Office  
Discharge Planning  
Emergency Dept.  
Health Information  
Home Health  
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Institutional Review Board  
Legal Affairs  
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Nursing Services  
Obstetrics  
Pediatrics  
Privacy Office  
Psychiatric Service  
Risk Management  
Social Services

TO: CHA Members and Consent Manual Users

FROM: Lois J. Richardson, Vice President and Legal Counsel

SUBJECT: Major Changes in Consent Law – 2021

**Summary**

This memorandum highlights major changes in state and federal consent-related laws, all of which are discussed in detail in the 2021 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 2021 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 2021 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 federal regulations about auxiliary aids and interpreter/translation services issued under Section 1557 of the Affordable Care Act have been revised. (See chapter 1.)
- All documentation of children’s medical exemptions for immunizations must now be done through the state’s electronic medical exemption system. (See chapter 5.)
- Skilled nursing facilities must offer COVID-19 vaccinations to residents. (See chapter 5.)
- Prescribers can check the CURES activity report every six months, instead of every four months, starting July 1, 2021. Additional minor changes were made to the law requiring prescribers of opioids to check the CURES database. (See chapter 5.)
- The law permitting a pharmacist or physician to furnish hypodermic needles and syringes without a prescription has been extended until Jan. 1, 2026. (See chapter 5.)
- Incarcerated women in labor may choose to have a support person present during labor, childbirth, and postpartum recovery while hospitalized. In addition, Incarcerated women in labor and delivery must be given the maximum level of privacy possible; guards must usually be stationed outside the room. (See chapter 13.)
- Most examinations, assessments, and evaluations of involuntarily detained mental health patients may be conducted using telehealth. (See chapter 15.)
- For purposes of child abuse reporting, the term “sexual assault” has been redefined to exclude voluntary conduct that violates Penal Code Sections 286 (sodomy), 287 or 288a (oral copulation), or 289 (sexual penetration) if there are no indicators of abuse, unless the conduct is between a person 21 years of age or older and a minor who is under 16 years of age. (See chapter 17.)
- Any adult (employee or volunteer) whose duties require direct contact with and supervision of minors in the performance of the minors’ duties in the workplace is a mandated reporter of sexual abuse (but not other types of abuse, such as physical abuse, unless the adult also falls into another category of mandated reporter). These mandatory reporters must be provided training in child abuse and neglect identification and reporting. In addition, human resource employees of a business that employs minors are now mandated reporters for child abuse reporting purpose. (See chapter 17.)

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](http://www.calhospital.org/free-resources).

CHA members with questions regarding this memorandum or the content of the Consent Manual may contact me at [lrichardson@calhospital.org](mailto:lrichardson@calhospital.org).

LJR