

Summary

This memorandum highlights major changes in state and federal consent-related laws, all of which are discussed in detail in the *2023 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 *2023 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

The Medical Board of California (MBC) has updated the sign that physicians must post in practice locations telling patients that MBC licenses and regulates physicians. (See chapter 1.)

Appendix 1-A has been updated to reflect the name change from the Department of Fair Employment and Housing to the Civil Rights Department. (See Appendix 1-A.)

California law has been revised to specifically state that certain relatives and friends may provide consent on behalf of an incapacitated adult patient. (See chapter 3.)

The law allowing patients to orally designate a surrogate decisionmaker by informing their physician has been revised to allow the patient to inform a representative of the hospital or other facility instead (or in addition to the physician). Hospitals may wish to have their admission personnel ask patients if they want to designate a surrogate decisionmaker. (See chapter 3.)

The discussion about the use of interdisciplinary team consent for incapacitated adults with no friend or relative has been updated to reflect revised law and the establishment of the California Office of the Long-Term Care Representative. (See chapter 3.)

There is no longer a requirement for a voluntary patient who agrees to take antipsychotic drugs to sign a consent form if the medical record includes a physician notation that the patient gave verbal consent. (See chapter 5.)

California now requires prescribers of an opioid to a minor patient to provide certain information prior to prescribing, with some exceptions. (See chapter 5.)

Various changes have been made to California's aid in dying law, including elimination of the requirement for a patient to complete a Final Attestation form and a new requirement for hospitals to post their medical aid in dying policy on their public website. (See chapter 6.)

A discussion of chaperone policies has been added to the manual. (See chapter 8.)

The Centers for Medicare & Medicaid Services has issued a new version of the Important Message from Medicare and the Notice of Observation Treatment and Implication for Care Eligibility that must be used no later than April 27, 2023. (See chapter 12.)

California requires certain facilities that provide psychiatric care to accept the transfer of a patient with a psychiatric emergency medical condition under some circumstances. (See chapter 12.)

Notifying the coroner is no longer required for a death following a known or suspected self-induced or criminal abortion. (See chapter 14.)

The law permitting involuntary detention for mental health patients who are a danger to self/others or gravely disabled has been clarified to state that the 72-hour detention period begins when the person is first detained. If a detained person has not been released within 72 hours, the facility must notify the county patients' rights advocate and a certification review hearing must be held within seven days of the date the person was initially detained (unless the patient has been certified for 14-day intensive treatment). Finally, provisions about care coordination plans and an additional detention period for gravely disabled patients have been added. (See chapter 15.)

The list of reportable diseases has been updated. In addition, laboratories are now required to submit certain isolates or specimens, and labs that perform tests ordered by an agricultural employee's supervisor to check pesticide toxicity must report certain information to the Department of Pesticide Regulation. (See chapter 18.)

State law has expanded when statements of sympathy or apologies offered to patients affected by adverse events or unexpected outcomes will be excluded from evidence in later malpractice trials. (See chapter 19.)

Information has been added about CDPH regulations for reporting adverse events. (See chapter 19.)

Regulations issued by the Board of Pharmacy require pharmacies to conduct a quality assurance review in response to a medication error. (See chapter 19.)

The law requiring hospitals to allow certain inpatients to use cannabis has been updated. (See chapter 20.)

A chapter on restraints and seclusion has been updated moved to the Consent Manual (previously in the Mental Health Law Manual). (See chapter 21.)