

HARBOR-UCLA MEDICAL CENTER

**SUBJECT: CONSENT FOR MEDICAL TREATMENT
FOR PATIENT LACKING CAPACITY
TO PROVIDE CONSENT**

POLICY NO. 620

PURPOSE:

To provide guidelines for the Probate 3200 petition process.

POLICY:

The Probate Code 3200 has been set up to allow the court to authorize an individual to give consent for medical treatment on behalf of a patient who lacks the capacity to give informed consent and for whom a surrogate decision maker is not available.

A petition requesting court authorization may be filed by the patient; the patient’s spouse, or a relative or friend of the patient or other interested person. When none of the above parties exist or are able to file the petition, it may be filed by a person acting on behalf of the hospital.

When initiated by a person acting on behalf of the hospital, the full procedure generally requires seven to ten business days following receipt, in the Office of County Counsel, of the completed petitions required to initiate a Probate 3200 hearing. Except in extremely rare instances, the County will only file a Probate 3200 petition for a patient who has no surrogate decision maker.

This procedure should not be used for the following:

- For placement of gravely disabled patients. These patients will need either a probate conservatorship (different from the Probate 3200) or, in the presence of a treatable psychiatric condition, an LPS conservatorship.
- For discharge of patients to skilled nursing facilities.
- For emergency situations, in which case the informed consent requirement is exempt.
- To use experimental drugs or therapy.
- To provide electroconvulsive therapy.
- To perform sterilization.

EFFECTIVE DATE: 01/99

SUPERSEDES:

REVISED: 08/95, 03/96, 12/98, 02/05, 10/06, 12/13

REVIEWED: 10/92, 08/95, 03/96, 12/98, 02/02, 10/06, 07/11, 12/13, 1/17

REVIEWED COMMITTEE:

APPROVED BY:

**Kim McKenzie, RN, MSN, CPHQ
Chief Executive Officer**

**Anish Mahajan, MD
Chief Medical Officer**

**Patricia Soltero Sanchez, RN, BSN, MAOM
Interim Chief Nursing Officer**

Signature(s) on File.

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Note: For probate conservatorship involving #1 and #2 above, coordinate with the Clinical Social Worker to contact the Office of the Public Guardian (213.974.0566 or 213.979.0424) to proceed with the necessary requirements. For LPS conservatorship, contact the Chief of Consultation Liaison Psychiatry, on extension 8125.

PROCEDURE FOR PERSON ACTING ON BEHALF OF THE HOSPITAL:

The steps in obtaining Probate Code 3200 authorization for health care decision are as follows:

- A physician determines that his/her patient lacks the capacity to consent to medical or surgical treatment that the physician feels is medically appropriate.
- Social Work is consulted to perform a diligent search for family members who may be able to consent on behalf of the patient.
- Except in cases of undisputed, obvious patient mental incapacity such as coma, the physician will generally obtain a psychiatric consultation regarding the question of capacity to consent for the treatment.
- If it is determined that the Probate 3200 authorization for health care decision is appropriate, and a physician and psychiatrist agree that the patient lacks capacity to give consent:
 - The physician will discuss the case with a risk management professional (ext. 2168) to verify appropriateness of the Probate 3200 authorization for health care decision.
 - Risk Management will inform County Counsel that the Probate 3200 authorization for health care decision is being considered.
 - Both the physician and psychiatrist obtain and complete the appropriate worksheets for Probate 3200 petition (**ATTACHMENT** Exhibit A: Medical Consent Capacity Declaration by Physician or Psychologist ; Document #1 by Risk Management; Document #2 by Treating Attending Physician; Document #3 by Psychiatry; and Document #4 by Clinical Social Work). These exhibits' may be copied for such use. Generally, the worksheets request the physician and psychiatrist to provide information based upon which a petition will be prepared for their signatures.

These forms must be filled out by licensed physicians. The physician's petition should emphasize the nature of the treatment being recommended (including any and all subsequent treatment that may be needed). The reasons for such treatment, the possible side effects or complications of the treatment, any alternative treatments that could also be considered, the consequences to the patient if the treatment is delayed or denied by the Court, and efforts at contacting the patient's family. Adjuncts to treatment such as sedation and restraints should be included as well as discharge placement in an appropriate level of care.

The psychiatrist's petition should emphasize the objective assessment upon which the determination of lack of capacity is based.

- Completed worksheets for Mental Health patients are returned to Consultation Liaison Psychiatry (Building 1-South, Room 21, extension 3128), or faxed to (310) 222-3150 as soon as possible. All other patients and petition request should be returned to the Risk Management office (Main Hospital Building,

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Room 1-0-2, extension 2168 or fax to (310)320-3084. If necessary, the physician and or psychiatrist is contacted for clarification.

- The worksheet is then forwarded via email or fax to:
The Probate 3200 Coordinator
Office of County Counsel
500 West Temple Street, Room 605
Los Angeles, California 90012
- County Counsel will provide the facility with a legal typed petition for proofreading and review. The involved petitioners (physician, psychiatrist, social worker and facility representative (conservator) will sign the petitions. The facility will forward the signed petitions back to County Counsel to file in court. The conservator is often the Risk Manager or an Administrator.
- County Counsel Office files the petition in Court and the judge appoints an attorney to represent the patient. This attorney will often make arrangements to come to Harbor-UCLA Medical Center and interview the patient, review records and speak with the medical team. A return court date is also set.
- Once a court decision has been made the medical team is notified. If the request is approved, County Counsel will provide the facility with a statement of the court's findings and the requested care can begin. The official court order is sent to the hospital within three business days and is affixed to the chart. The individual granted authorization to consent, however, may sign the consent form (after being consented by the physician) as soon as desired following the notification that authorization was approved.

Questions related to the policy should be addressed to the Hospital Risk Manager on extension 2168, or the Chief of Consultation Liaison Psychiatry, on extension 8125.

SOURCE:

California State Probate Code Section 3200-3211
Consent Manual of California Healthcare Association 2006