

**Patient Rights: Authorization and Consent to Surgery or
Special Diagnostic or Therapeutic Procedures (1.17)**

Patient Care Policy

POLICY: Under California Law, patients must give "informed consent" prior to certain medical treatment. In order to give informed consent, the patient must be informed of the nature of the procedures; the risks, complications and expected benefits or effects of the procedure; and any alternatives to the treatment and their risks and benefits. Pursuant to these requirements, Saint Francis Memorial Hospital will 1) identify the types of procedures for which informed consent shall be required, and, 2) verify, before the physician is permitted to perform the medical procedure, that the patient's informed consent was obtained by the physician. **It is the treating physician's responsibility to obtain the patient's informed consent and to document in the patient's medical record that informed consent was obtained.**

PURPOSE: To protect patients' rights to provide informed consent prior to initiation of surgery or special diagnostic or therapeutic procedures.

(See also: Blood Transfusion Consent
Consent to experimental treatment or treatment with investigational drugs or devices.
HIV Testing
Consent to Sexual Sterilization
Consent to Treatment of Breast Cancer and Prostate Cancer
Consent to Antipsychotic Medications
Consent to Psychosurgery, Convulsive Therapy
SNF - Informed Consent for use of physical restraints, etc.)

I. PROCEDURES FOR WHICH DOCUMENTED INFORMED CONSENT SHALL BE REQUIRED.

The patient's "informed" consent, as distinguished from consent, is not required for all medical treatments. At Saint Francis Memorial Hospital, documentation of a patient's informed consent shall be required for any surgical, special diagnostic or therapeutic procedure in which 1) general, spinal or other regional anesthesia or sedation, with or without analgesia, will be administered, **and/or** 2) the risk of significant complication arising from the procedure exists.

II. EMERGENCY TREATMENT EXCEPTION

A. In the case of a medical emergency, treatment may proceed without the patient's consent if no evidence exists to indicate that the patient, or the patient's legal representative would refuse treatment. A medical emergency is defined as:

- 1) Immediate services are required for the alleviation of severe pain or
- 2) Immediate diagnosis and treatment of unforeseeable medical conditions are required, if such conditions would lead to serious disability or death if not immediately diagnosed and treated.

B. In such circumstances – only the emergency condition can be treated.

C. The medical determination that an emergency exists should be carefully documented by the physician in the medical record. The physician does not sign a consent form.

D. A consult is not required; however if obtained, the consulting physician must also document findings in the medical record.

III. WHO MAY GIVE INFORMED CONSENT

- A. Individual over the age of 18 with capacity to make health care decisions.
- B. Minor under 18 who has:
 - 1) Entered into valid marriage
 - 2) On active duty in the military
 - 3) Declared emancipated by California law.
- C. Authorized power of attorney for health care.
- D. Conservator, if conservatorship specifies the patient has the inability to make health care decisions.
- E. Nearest relative in the absence of a legal guardian or power of attorney for health care.

IV. TELEPHONE CONSENT

- A. Consent for medical or surgical treatment will be obtained by telephone, fax or e-mail only if the person having the legal ability to consent for the patient is not otherwise available.
 - 1) The physician must follow standard protocol for obtaining consent.
 - 2) When telephone consent is obtained, the hospital must verify that the legal representative has given consent. This is done by a telephone discussion between the patient's legal representative and a responsible hospital employee. The discussion should be witnessed by a second responsible hospital employee. The legal representative must be informed two people are on the phone. Both employees must sign date and time the consent form and document that informed consent was by phone.

V. THE ROLE OF THE PHYSICIAN

- A. Obtaining Informed Consent.

The duty to obtain a patient's informed consent is the exclusive duty of the treating physician. How the physician obtains informed consent is within the discretion of the physician. Hospital personnel shall not be involved in providing the information necessary to secure the patient's informed consent.

- B. Documentation of Informed Consent.

The physician must document in the patient's medical record (progress notes) that a discussion was held with the patient and that informed consent was obtained. The physician should also place in the record a copy of any written material provided to the patient. Any special circumstances should also be documented.

VI. THE ROLE OF THE HOSPITAL

- A. Verification that Informed Consent has been Obtained.

The hospital's role in the consent process is limited to verifying, before the physician is permitted to perform the medical procedure, that the patient's informed consent was obtained by the physician. The Saint Francis Memorial Hospital "Authorization for and Consent to Surgery or Special Diagnostic or Therapeutic Procedures" form (#8550-04 5/92) shall be used by hospital staff after informed consent has been obtained by the physician. This form is a mechanism for obtaining the patient's acknowledgement that he/she has discussed the risks, benefits and alternatives to the procedure with the treating physician.

- VII. A. Informed Consent has continuing force and effect until the patient revokes the consent, or:
- B. Circumstances have changed which would affect the nature of the risks of the procedure and/or alternatives to the procedure and/or the alternatives to the procedure for which the patient gave the consent.
- C. Documentation of informed consent (form 10076-09) is valid for 30 days; after which time re-verification of the informed consent must be obtained and documented on a new consent form.

Sponsoring Department or Committee	Approval Date
Department of Surgery Operations	02/13/14
Other Approvals	Approval Date
Director of Perioperative Services	02/14/14
Surgical Care Executive Committee	05/11/11
MEC	05/17/11
Board of Trustees	046/02/11
Past Approval	Approval Date
7/99, 7/01, 7/05, 3/30/10	