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State of California—Health and Human Services Agency
California Department of Public Health

EDMUND G. BROWN JR.
Governor

April 7, 2014

AFL 14-11

TO: Skilled Nursing Facilities

SUBJECT: Informed Consent – Physician Assistants
(This AFL supersedes AFL 13-38)

AUTHORITY: Title 22 California Code of Regulations (CCR) Sections 72527 and 72528; Health and Safety Code Section 1418.9; Business and Professions Code Sections 2836.1 and 3502.1

This All Facility Letter (AFL) explains the informed consent process for skilled nursing facilities (SNF). This AFL and attachment supplements the prior information issued. The "questions and answers" reflect revised questions (7, 8, 16, 17, 18, 19, 20, 23) and a new question (25) in order to include physician assistants in the process for obtaining informed consent in skilled nursing facilities.

As initially provided in AFL 13-38, Title 22 CCR Section 72528(c) states:

> Before initiating the administration of psychotherapeutic drugs, or physical restraints, or the prolonged use of a device that may lead to the inability to regain use of a normal bodily function, facility staff shall verify that the patient's health record contains documentation that the patient has given informed consent to the proposed treatment or procedure. The facility shall also ensure that all decisions concerning the withdrawal or withholding of life sustaining treatment are documented in the patient's health record.

In accordance with previously issued guidance (AFLs 11-08, 11-31, and 13-38), the Department reaffirms that when admitting a patient to a SNF with *unchanged, preexisting orders* for psychotherapeutic drugs, physical restraints, or the prolonged use of a device that may lead to the inability to regain use of a normal bodily function, the SNF must verify that the patient's health records contain documentation that the patient gave informed consent for the ordered treatment.

When a SNF issues a new order for psychotherapeutic drugs, physical restraints, or the prolonged use of a device that may lead to the inability to regain use of a normal bodily function, the prescribing healthcare professional shall obtain the patient's informed consent and place the informed consent documentation in the patient's medical record.

In order for SNFs to be in full compliance with this regulation, the Department suggests the following methods that are permitted under current regulations and/or statutes:

1. Verify that informed consent had been obtained from the patient for the proposed therapy and ensure the documentation is in the patient's medical record; or
2. Obtain new informed consent as described in Section 72528(c) and place the informed consent documentation in the patient's medical record.

The L&C Program issued AFL 13-38 on December 31, 2013 which updated the initial "question and answers" regarding informed consent. The updated "questions and answers" are attached.

Please contact your local L&C District Office if you have any questions regarding the "questions and answers."

Sincerely,

Original signed by Jean Iacino

Jean Iacino
Interim Deputy Director
Center for Health Care Quality

Attachment: FAQ-Informed Consent

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