

DEPARTMENT OF HEALTH SERVICES
PUBLIC HEALTH LICENSING SERVICES
BUREAU OF MEDICAL FACILITIES LICENSING
#SP-098-PHL-MED

EXCEPTIONS TO INFORMED CONSENT REQUIREMENTS IN AN EMERGENCY

This substantive policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona Administrative Procedure Act. If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties, you may petition the agency under Arizona Revised Statutes Section 41-1033 for a review of the statement.

The purpose of this substantive policy statement is to notify the public of the interpretation of the Arizona Department of Health Services (Department) regarding when a hospital would not need to obtain informed consent from a patient before providing treatment.

Arizona Administrative Code (A.A.C.) R9-10-203(C)(2)(d) requires policies and procedures to be established, documented, and implemented to protect the health and safety of a patient that include when general consent and informed consent are required.

A.A.C. R9-10-208(3) requires that “[e]xcept in an emergency, informed consent is obtained from a patient or the patient’s representative before or at the time of admission.”

A.A.C. R9-10-212(B)(3)(a) requires that an administrator of a hospital ensure that, except in an emergency, a patient or the patient’s representative either consents to or refuses treatment.

A.A.C. R9-10-101 defines “emergency” as “an immediate threat to the life or health of a patient.”

The Department interprets these rules as covering situations in an acute care setting when an unconscious patient or a patient otherwise incapable of providing either verbal or written consent arrives at a hospital requiring immediate treatment to avoid a threat to the patient’s life or health. The Department also interprets these rules as allowing verbal informed consent in an emergency from a patient who is incapable of providing a signed informed consent, with the verbal informed consent witnessed by at least two personnel members and documented in the patient’s medical record. A hospital would include in the hospital’s policies and procedures other acute care situations when informed consent could not practically be obtained while protecting the health and safety of a patient, then follow the policies and procedures.

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