

LEXSTAT CA HEALTH SAF 24177.5

DEERING'S CALIFORNIA CODES ANNOTATED
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*** THIS DOCUMENT REFLECTS ALL URGENCY LEGISLATION ENACTED THROUGH

2007-2008 THIRD EXTRA. SESSION CH. 7 AND CH. 201 OF THE 2008 REGULAR
SESSION APPROVED 7/22/08, AND PROPOSITION 99 APPROVED BY VOTERS 6/3/08

HEALTH AND SAFETY CODE
Division 20. Miscellaneous Health and Safety Provisions
Chapter 1.3. Human Experimentation

GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Health & Saf Code § 24177.5 (2007)

§ 24177.5. (Repealed January 1, 2011) Exemption for patient subject to life-threatening emergency

(a) This chapter shall not apply to any medical experimental treatment that benefits a patient subject to a life-threatening emergency if all of the following conditions are met:

(1) Care is provided in accordance with the procedures and the additional protections of the rights and welfare of the patient set forth in Part 50 of Title 21 of, and Part 46 of Title 45 of, the Code of Federal Regulations, in effect on January 1, 1997.

(2) The patient is in a life-threatening situation necessitating urgent intervention and available treatments are unproven or unsatisfactory.

(3) The patient is unable to give informed consent as a result of the patient's medical condition.

(4) Obtaining informed consent from the patient's legally authorized representatives is not feasible before the treatment must be administered. The proposed investigational plan shall define the length of time of the potential therapeutic window based on scientific evidence, and the investigator shall commit to attempting to contact a legally authorized representative for each subject within that length of time and, if feasible, to asking the legally authorized representative contacted for consent within that length of time rather than proceeding without consent.

(5) There is no reasonable way to identify prospectively the individuals likely to become eligible for participation in the clinical investigation.

(6) Valid scientific studies have been conducted that support the potential for the intervention to provide a direct benefit to the patient. Risks associated with the investigation shall be reasonable in

relation to what is known about the medical condition of the potential class of subjects, the risks and benefits of standard therapy, if any, and what is known about the risks and benefits of the proposed intervention or activity.

(b) Nothing in this section is intended to relieve any party of any other legal duty, including, but not limited to, the duty to act in a nonnegligent manner.

(c) This section shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2011, deletes or extends that date.

HISTORY:

Added Stats 2001 ch 122 § 1 (SB 1188), effective July 30, 2001, repealed January 1, 2011.

NOTES:

Former Sections:

Former § 24177.5, relating to exemption for experimental treatment benefiting patient who is subject to life-threatening emergency and is unable to give informed consent, was added Stats 1997 ch 68 § 1, effective July 14, 1997, and repealed, operative January 1, 2001, by its own terms.

Collateral References:

5 Witkin Summary (10th ed) Torts § 412.

Hierarchy Notes:

Div. 20, Ch. 1.3 Note