Research Assistant Training: Statutory and Administrative Law Research

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The majority of “law” is here

1L curriculum focuses here
Legislative Research
Quick review

• Session laws: statutes enacted during a legislative session; compiled at end of each session
• Statutory codes: compilation and arrangement of those statutes by subject; constantly updated as new statutes add to or change prior law

• Federal and state
• Text, history, annotations, citators
Today’s legislative research topics

• Local/municipal codes
• 50-state surveys
• Tracking pending legislation
• Historical statutes
• Legislative history
Local/Municipal Codes
Local/municipal codes

• Created by local governing bodies, e.g. County Board of Supervisors, City Council
• Various names: codes, ordinances, bylaws, measures
• Have the force and effect of law; can’t conflict with state law
Sources of municipal codes

• No comprehensive source
• Lexis Advance includes some municipal codes (see e.g. California municipal codes [here](#), but nothing for San Diego-area governments)
• Westlaw Edge includes only the New York City and Washington, D.C. codes
• Municipal code publishers: [American Legal Publishing](#), [Code Publishing Co.](#), [General Code](#), [Municode](#), etc.
• Best approach: search the website of the municipality in question to find a link to its code
City of San Diego Municipal Code

Available on City of San Diego’s website
San Diego County Ordinances

Available via American Legal Publishing website
50-State Surveys
50-state surveys

Manually collecting each state’s law on a topic is time-consuming and difficult (variations in terminology and code structure). Look for an existing compilation—even if incomplete or out of date, can save considerable time. May be found in various places:

- HeinOnline
- Westlaw and Lexis
- Secondary sources: law review articles, A.L.R. annotations, practice guides, etc.
- National Conference of State Legislatures
- Advocacy organizations often collect state statutes on topics of interest to them
50-state surveys: HeinOnline

**National Survey of State Laws**
Searchable and browsable database of 50-state surveys on more than 50 topics. Includes citations to and brief summaries of state laws.

**Subject Compilations of State Laws**
Searchable and browsable index of articles, books, current-awareness materials, websites, and more which include comparisons of state laws on more than 1,200 subjects. Includes direct links to materials which are also available on HeinOnline; may have to locate other materials elsewhere.
50-state surveys: Westlaw

From the main Westlaw page: Secondary Sources → 50 State Surveys (or via this direct link)

- Separate pages for surveys of regulations and statutes
- Organized topically (e.g. Criminal Laws, Environmental Laws, Health Care, etc.); also full-text searchable
Favorite Publications

Secondary Sources (2)

Home > Secondary Sources

Add to Favorites  Copy link

Click Scope icon for coverage information.

Filtered Publications

50 State Surveys

1 - 2

Select all items  No items selected

50 State Regulatory Surveys

50 State Statutory Surveys

50 per page
50 State Statutory Surveys

Browse Table of Contents below or search above.

- Bankruptcy
- Blue Sky Laws
- Business Organizations
- Civil Laws
- Criminal Laws
- Education
- Election Law
- Employment
- Environmental Laws
- Family Law
- Financial Services
- Government
- Health Care
- Insurance
- Intellectual Property
- Real Property
50-state surveys: Lexis

From the main Lexis Advance page: Secondary Materials → 50 State Surveys → 50 State Surveys: Statutes and Regs (or via this direct link)

- Single page includes surveys of regulations and statutes
- Organized topically (e.g. Criminal Law & Procedure, Environmental Law, Healthcare Law, etc.); also full-text searchable
50-state surveys: chart builders

- Westlaw, Lexis, Bloomberg Law and some specialty databases have tools that will collect provisions for you across states
- Not available for all topics
- Often allow exporting to an Excel spreadsheet
# Health Privacy: Medical Record Access, Retention and Disposal

## Jurisdictions

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## Topics

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<td>Applicable Law</td>
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<td>Patient Access</td>
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<td>Maintenance and Storage Requirements</td>
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<tr>
<td>Minimum Retention Period</td>
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<td>Cessation of Operation, Destruction and Disposal</td>
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# Health Privacy: Medical Record Access, Retention and Disposal Chart

## Applicable Law

<table>
<thead>
<tr>
<th>Topic</th>
<th>Arizona</th>
<th>California</th>
<th>Nevada</th>
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<tbody>
<tr>
<td></td>
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<td></td>
<td>Nev. Admin. Code § 449.794 (home health agencies)</td>
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<td></td>
<td></td>
<td>Nev. Admin. Code § 433.27 (NEW) (mental health providers) community-based living arrangement services</td>
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## Patient Access

<table>
<thead>
<tr>
<th>Topic</th>
<th>Arizona</th>
<th>California</th>
<th>Nevada</th>
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<tbody>
<tr>
<td><strong>Patient Access</strong></td>
<td>Health professionals must have written protocols for patient medical records specifying how to timely respond to requests for record access and copies. Ariz. Rev. Stat. § 32-3211(A)(2)</td>
<td>Businesses that maintain medical information must provide patients with copies of their medical profiles and other information at no charge. Cal. Civ Code § 56.07</td>
<td>Health-care providers must make a record available to the patient, his representative or other specified individuals, within 10 working days for in-state patients, for a reasonable cost. Nev. Rev. Stat. § 629.061(1), (2), (4)</td>
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<td></td>
<td>Healthcare providers must provide access to or copies of medical or payment records to patients or their health care decision makers upon written request; however, providers may deny requests in certain situations, such as when they believe access is reasonably likely to endanger the life or physical safety of the patient or another person. Ariz. Rev. Stat. § 12-2293</td>
<td>Patients' rights to access electronic medical records are consistent with their rights to other medical information. Cal. Civ Code § 56.101(b)(2)</td>
<td>Ambulance owners and operators must make a record available to the patient, his representative or other specified individuals. Nev. Rev. Stat. § 629.061(6)</td>
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<td></td>
<td>Psychologists may not condition the release of client records on payment for services and must provide access to or a copy of a client’s record to the client or his/her healthcare decision maker with the client’s written consent unless the release violates copyright laws or rules of professional conduct. Psychologists may deny requests to provide access to or a copy of a client’s record if they determine that, among others things, access is reasonably likely to endanger the client’s life or physical safety or cause substantial harm to the client or another person; or access may result in misuse or misrepresentation of the information and may potentially harm the client. Ariz. Admin. Code R4-26-106</td>
<td>Patients and their representatives have the right to inspect their records upon request and payment of reasonable costs within five working days; and to receive paper or electronic copies of the record in the form and format requested or agreed to by the provider and patient or representative, within 15 days of a request. Minor patients may inspect only records relating to health care to which they can lawfully consent. Parties aggrieved by access violations may bring an action against the provider. Providers may prepare a summary of the record to meet access requirements within 10 working days. Cal. Health and Safety Code § 123110, Cal. Health &amp; Safety Code § 123120, Cal. Health &amp; Safety Code § 123130</td>
<td>Skilled nursing facilities must allow a patient and his representative to inspect the records within 24 hours of receiving a request. Nev. Admin. Code § 449.7444(3)</td>
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<td></td>
<td>It is unprofessional conduct for psychologists to fail to make a copy of a client’s or patient’s record available to the client, patient or his/her representative upon written request. Ariz. Rev. Stat. § 32-2061(16)(cc)</td>
<td></td>
<td>Mental health providers must make records available for review by the patient or patient’s guardian. Nev. Admin. Code § 433.27 (NEW)</td>
</tr>
</tbody>
</table>
Bill Tracking
Tracking pending legislation

- Westlaw, Lexis bill tracking tools
- National Conference of State Legislatures
- Advocacy organizations’ legislative action centers
- GovTrack
- BillTrack50
Historical Statutes
Historical statutes

- Westlaw and Lexis have some prior versions of statutes; varies widely state to state, but none prior to early-1990s
  - Westlaw: Current statute → *Tools & Resources* → *Historical*
  - Lexis: Current statute → *About This Document* → *Archived code versions*
- HeinOnline: [State Statutes: A Historical Archive](#)
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<td>Author(s)</td>
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<td>Practice Act of California, Entitled an Act to Regulate Proceedings in Civil Cases in the Courts of Justice in This State, as Passed April 29, and Amended May 18, 1853; May 18, 1854; April 28, May 4 and May 7, 1855</td>
<td>Labatt, Henry J.</td>
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<tr>
<td>California Probate Law and Practice</td>
<td>Belknap, D.P.</td>
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<td>Leyes de California. Dadas en la Duodécima Sesión de la Legislatura, 1861: Que Principio el Lunes, Día Siete de Enero, y Finalizo el Lunes Día Veinte de Mayo</td>
<td>Lies, Eugene</td>
</tr>
<tr>
<td>Civil Practice Act of the State of California, as Amended</td>
<td>Parker, Charles H.; Editor, California</td>
</tr>
</tbody>
</table>
Researching Legislative History
Overview of federal legislative process

(image courtesy https://www.dailyinfographic.com/how-our-laws-are-made-infographic)
Federal legislative history materials

Some of the documents you may find when researching legislative history:

- Bill text (all the versions throughout the process)
- Committee Reports
- Committee Hearings
- Congressional Debates
- Committee Prints
- Presidential or Executive Agency Documents
- Public statements, including blogs or podcasts
Sources of federal legislative history

ProQuest Congressional and Legislative Insight
- Subscription databases (use LRC website for access)
- Offer deeper coverage than Westlaw and Lexis, including materials related to both recent and historical legislation

Westlaw and Lexis
- Both include some legislative history materials, though not as comprehensive as the ProQuest databases
- Both have dedicated legislative history pages (Westlaw, Lexis)

Congress.gov
- Includes current and recent materials, including videos of hearings
Congressional Publications

New to ProQuest Congressional? Here are some useful starting places.

**Legislative Histories**

*Legislative Insight* provides compiled histories with full text PDFs and tools to facilitate research into the legislative histories of U.S. statutes.

*Go to Legislative Insight* →

**Congress in Context**

*Read our Congressional profiles* to gain an understanding of the historical context of each Congressional term, including an overview of party divisions and leadership, economic conditions, conflicts, major laws, Landmark Supreme Court cases and major events.

*Browse Congress in Context* →

**Research Reports**

*Nonpartisan Congressional Research Service (CRS) reports* are great starting points for research on a wide variety of topics, past and present. Reports often provide pro and con positions, overviews, statistics and analysis.

*Search for CRS Reports* →

**Members of Congress**

*Access Member profiles* to find information on Senators and Representatives, including sponsored bills, remarks, and floor votes.

*Search for a Member of Congress* →

**Bills by Number**

*Do you have a bill number* or another type of citation for a government document you would like to lookup?

*Search by Number* →

**Hearings**

*Explore Hearings* to find differing perspectives on the issues of the day as congressional committees take testimony from a wide range of individuals to inform decisions on legislative proposals or investigative proceedings.

*Search for Hearings* →
FEATURED LAW:
PL111-148, the Patient Protection and Affordable Care Act.

Enacted March 23, 2010, PL111-148, the Patient Protection and Affordable Care Act was the most comprehensive Federal reform of the U.S. healthcare system since the creation of the Medicare program nearly 35 years before. Viewed as the signature domestic policy achievement of the Obama administration and colloquially referred to as "Obamacare," after President Barack H. Obama, the act was passed following years of effort to address a variety of interrelated issues that were placing increasing strain on the nation's health care system. The result is a complex law with provisions addressing (among other things) precipitously rising healthcare costs, medical coverage for individuals with preexisting medical conditions, and the disproportionate costs of insuring young, healthy individuals in comparison to older individuals with more health problems.

Passage of the Patient Protection and Affordable Care Act was the culmination of a dizzyingly complex history of Congressional action aimed at reforming healthcare in the United States. The legislative history for PL111-148 brings this history together, allowing the researcher to track the development of these disparate initiatives over the years. Related bills, Congressional hearings, as well as numerous Congressional reports and debates recorded in the Congressional Record are all aggregated to track the process of enacting this complex legislation.
Legislative History

State: Jurisdictions

Arizona
Arkansas
California
Colorado
Connecticut
Delaware
District of Columbia
Florida
Georgia
Illinois
Indiana
Iowa
Kansas
Kentucky
Louisiana
Maryland
Massachusetts
Michigan
Minnesota
Mississippi
Missouri
Nebraska
New Jersey
New York
North Carolina
Ohio
Oklahoma
Oregon
Pennsylvania
South Carolina
Tennessee
Texas
Virginia
Washington
West Virginia
Wisconsin

Federal

Congressional Record
Legislative History - United States Code
U.S. Code Congressional & Administrative News
U.S. Congressional Testimony
U.S. GAO Federal Legislative Histories
U.S. Political Transcripts

Tools & Resources

ABA Section of Taxation
Comments to U.S. Congress, Federal Agencies & U.S. Tax Court
CRS Bill Summaries
Federal Committee Schedules
Federal Taxation - Congressional Research Service
Joint Committee on Taxation Prints (Bluebooks)
Legislative History - 1776
State Committee Schedules
Sutherland Statutes & Statutory Construction
United States House Committee on Oversight and Government Reform
United States Statutes at Large
U.S. Public Laws
U.S. Public Laws - Historical
State legislative histories

The legislative process varies widely among states; fewer materials are generated than at the federal level, and they typically are more difficult to locate. Materials related to recent legislation are often easier to find; consult a reference librarian for assistance.

Two starting points for California:

- USD’s California Legislative History Research Guide
- California State Legislature: Legislative Information
WELCOME

Welcome to the California Legislative Information website! In response to your feedback, we are pleased to announce improved legislative research capabilities available with the new Advanced Search feature. Using the new search options, you can now find bills using the following criteria: status, author, committee or floor location, and date ranges for various legislative actions on a bill. In addition, you may perform a more complex bill search by combining criteria available on one or more of the Advanced Search tabs. Measures prior to 1999 can still be found at http://leginfo.ca.gov which will remain as an archive for legislative information.

To access a complete listing of California Law Codes and Bill Search features, click the California Law or Bill Information Tabs on the Tabbed Panel above.

Quick Bill Search:

Bill Number [AB1 or ab 1 or ABX1-1]

Keywords(s) [Search phrase]

Quick Code Search:

Code [Select Code]

Code Section [1 or 2 or 1001]

Keywords(s) [Keyword(s) input]

Pursuant to Section 10248.5 of the Government Code, the information described in subdivision (a) of Section 10248 of the Government Code and made available on this Website is within the public domain and the State of California retains no copyright or other proprietary interest in the information.

Privacy and Conditions of Use Policy  Website Accessibility Certification[PDF]
Researching Administrative Law
What is administrative law?

The law that governs the creation/operation of administrative agencies and the law that such agencies create.

Agencies create law in two ways:

1. Regulations
2. Agency adjudications
Administrative Law

Legislative

Executive

Judicial

Regulations: quasi-legislative

Hearings/adjudications: quasi-judicial
How agencies are created

Legislature passes a law, giving the broad strokes and “enabling” a government agency to implement the law.

To implement the legislature’s intent, the agency typically will have to do two things:

1. Promulgate regulations that provide more detailed rules and establish oversight processes;
2. Enforce the law through those processes, including administrative hearings/adjudications.
Regulations
Promulgation of regulations

Strict rules about what the agency must do (simplified):

1. Agency drafts and publishes proposed regulations in the Federal Register (Fed. Reg.)
2. Opportunity for public comment
4. Codify the final regulations in the Code of Federal Regulations (C.F.R.)
About the Code of Federal Regulations

The Code of Federal Regulations (CFR) annual edition is the codification of the general and permanent rules published in the Federal Register by the departments and agencies of the Federal Government. It is divided into 50 titles that represent broad areas subject to Federal regulation. The 50 subject matter titles contain one or more individual volumes, which are updated once each calendar year, on a staggered basis. The annual update cycle is as follows: titles 1-16 are revised as of January 1; titles 17-27 are revised as of April 1; titles 28-41 are revised as of July 1; and titles 42-50 are revised as of October 1. Each title is divided into chapters, which usually bear the name of the issuing agency. Each chapter is further subdivided into parts that cover specific regulatory areas. Large parts may be subdivided into subparts. All parts are organized in sections, and most citations to the CFR refer to material at the section level. 

Click here to access the e-CFR (Electronic Code of Federal Regulations), the regularly updated online version of the CFR.

Browse the Code of Federal Regulations

- 2020
- 2019
- 2018
- 2017
- 2016
- 2015
- 2014
Guidance documents

- Some agencies put out informal documents that lay out current thinking on issues
- Avoids strict requirements for promulgating regulations
- Not legally binding, but can be a good indicator of an agency’s position
- May not be formally published—look on agency’s website
Agency Adjudications
Administrative adjudications

- Differs widely among agencies
- Informal/formal
- Bind only parties/precedential effect
- Whether and how they’re published

- Agency websites are often a good place to start
- Westlaw, Lexis, Bloomberg Law and other specialty databases have selected agency adjudications
- HeinOnline has historical agency materials
Formal adjudications

- Look a lot like court cases
- Agency hearing (similar to trial)
- Conducted by administrative law judge (ALJ) (similar to trial court judge)
- Can be appealed up to a higher authority within the agency
- Once administrative remedies are exhausted, often can file suit in court
Informal adjudications

• Advice letters
• Attorney General opinions
• Advisory guidance
Westlaw, Lexis, & Bloomberg Law Practice Centers
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<th>Practice areas</th>
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<td>Data Privacy*</td>
<td>Health Law*</td>
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<td>Employment*</td>
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<td>Medical Litigation</td>
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* Practitioner Insights
Federal Tax Update on Checkpoint

**Code Sec. 501—Exempt orgs.—exempt status—final adverse determinations.**

IRS issued final adverse determination that org. didn’t qualify for exempt status under Code Sec. 501(c)(6) after it failed to file protest to proposed adverse determination within requisite 30 days. (PLR 202015022)

**Filing date for tentative refund applications extended - Category : Federal Tax Update**

In a Notice, the IRS has extended, for 6 months, the deadline for filing an application for a tentative refund with respect to the

Tax Administrative Decisions & Guidance

Navigate to specific content below or search all Tax Administrative Decisions & Guidance above.

Federal

All Internal Revenue Service (IRS) Materials
  - Private Letter Rulings
  - Revenue Procedures
  - Revenue Rulings

Joint Committee on Taxation Prints (Bluebooks)

State & Local

Alabama  Kansas  New York City
Alaska  Kentucky  Ohio
Arizona  Louisiana  Oklahoma
California  Maine  Rhode Island
Chicago  Massachusetts  South Carolina
Colorado  Michigan  Texas
Connecticut  Minnesota  Vermont
Delaware  Missouri  Virginia
Florida  Montana  Washington
Idaho  New Hampshire  West Virginia
Illinois  New Mexico  Wisconsin
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<td>Transportation Law</td>
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<td>Energy &amp; Utilities Law</td>
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<td>Criminal Law &amp; Procedure</td>
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<td>Employment Law</td>
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Agency Materials

**FEDERAL FINANCIAL REGULATORS**

- Commodity Futures Trading Commission (CFTC)  
  Go to: Fed. Reg.
- Consumer Financial Protection Bureau (CFPB)  
  Go to: Fed. Reg.
- Federal Deposit Insurance Corporation (FDIC)  
  Go to: Fed. Reg.
- Federal Financial Institutions Exam. Council  
  Go to: Fed. Reg.
- Federal Reserve Board (FRB)  
  Go to: Fed. Reg.
- Financial Stability Oversight Council (FSOC)  
  Go to: Fed. Reg.
- National Credit Union Administration (NCUA)  
  Go to: Fed. Reg.
- Office of the Comptroller of the Currency (OCC)  
  Go to: Fed. Reg.
Questions?

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