

**EVIDENCE LAW CHART SUPPLEMENT**

(For the Bar Exam Survival Kit, 2005 Edition)

**(Add as last sentence under “Ancient Writings,” p. 95)**

CA requires 30 years.

**(Add as last sentence under “Dead Man Acts,” p.96)**

(FRE only)

**(Add as last sentence to “When is a witness UNAVAILABLE?” p. 96)**

CA does not recognize lack of memory or refusal to testify as grounds for unavailability.

**(Add to “Offer to Pay Medical Expenses,” on p. 97, last sentence)**

FRE admits an admission of fact that is made w/ an offer to pay medical expenses, while CA excludes both the admission and the offer to pay.

**(Add to “Character of Accused?” last sentence, p.97)**

CA allows D to introduce specific act evidence to prove V's character.

**(Replace last sentence “Character Evidence,” p. 98)**

Note: Some states, such as CA, permit W to be impeached with any misdemeanor conviction that involves moral turpitude in a criminal case.

**(Replace last sentence “Physician-Patient,” p. 98)**

MAJ and CA extends this privilege to psychotherapist-patient relationship. CA does not apply privilege if disclosure necessary to protect patient from being a danger to herself or others, or if patient is under 16 and disclosure in the child's best interest.

**(Add to “Eavesdroppers,” last sentence, p. 99)**

CA allows privilege holder to stop an eavesdropper from revealing confidential information.

**(Add to “DYING DECLARATION,” p. 99 replace “(CL: must be dead)” with:**

(CL/CA: must be dead)

**(Replace “SENSE IMPRESSION (FRE, not CL)” p. 99 with:**

SENSE IMPRESSION (FRE, not CL or CA)

and add as last sentence:

CA admits contemporaneous statements made to explain, qualify or understand what the declarant is doing when statement was made.

**(Add to “PRIOR TESTIMONY,” last sentence, p. 100)**

CA allows any prior inconsistent statement as substantive evidence of its truth, while FRE requires statement to be made under oath at prior hearing, trial or deposition before it is admissible for its truth. However, CA and FRE allows admission of any prior inconsistent statement for impeachment purposes.

**(Add to “PHYSICAL STATE,” last sentence, p. 100)**

(3) CA admits statements of past bodily conditions made to anyone.

**(Add to “IDENTIFICATION,” last sentence, p. 100)**

CA also requires 1) statement made while event was fresh in W's memory; 2) W must testify as to prior identification and confirm that it was his opinion when made.