




CONSENT TO TREATMENT FOR PROBATION YOUTH - BY CUSTODY AND PLACEMENT

		TYPE OF HEALTH CARE SERVICE NEEDED BY MINOR				
		Emergency*	Medical exam that complies with regulations adopted by the Corrections Standards Authority	All other general care	Contraception, Pregnancy Testing, Abortion, Prenatal care, Sexual assault ¹⁰	STD, Mental Health, Drug Treatment ¹¹
C U S T O D Y S I T U A T I O N	Temporary Custody under 625	Parent/Guardian ¹ unless court order states otherwise. ¹	Parent/Guardian ¹ unless court order in place limits parent right		Minor of any age ¹⁵	Minor 12 and older ¹⁵
		Probation Officer ² after reasonable efforts to notify and obtain the consent of, the parent, guardian, or person standing in loco parentis prior to authorizing emergency medical, surgical, dental, or other remedial care.	Probation Officer may authorize a medical examination that complies with regulations adopted by the Corrections Standards Authority.	Probation Officer ³ if based on written recommendation of health provider and only after reasonable effort to notice and obtain consent of parent/legal guardian of care found to be needed. If parent/guardian objects, court authorization is required for care.		
	Licensed health provider may use emergency exception ⁹ if insufficient time to obtain consent from authorized person.	If no parent is capable or willing to authorize and after due notice to parent, the Court ⁸ may make an order authorizing care based on written recommendation of health provider.				
Declared Delinquent but not removed from parent custody	Parent/Guardian ¹ unless court order limits parent right	Parent/Guardian ¹ unless there is a court order limiting parent right		Minor of any age ¹⁵	Minor 12 and older ¹⁵	
	Probation Officer ² after reasonable efforts to notify and obtain consent of the parent /guardian	If no parent is capable or willing to authorize and after due notice to parent, the Court ⁸ may make an order authorizing care based on written recommendation of health provider,.				
	Emergency exception ⁹					

* Child requires immediate treatment for the alleviation of severe pain or an immediate diagnosis and treatment of an unforeseeable medical, surgical, dental, or other remedial condition or contagious disease which if not immediately diagnosed and treated, would lead to serious disability or death.

		TYPE OF HEALTH CARE SERVICE NEEDED BY MINOR					
		Emergency*	Ordinary medical and dental care, incl. immunizations, physical exams, X-rays	All other general care	Psychotropic medications for youth in foster placement	Contraception, Pregnancy Testing, Abortion, Prenatal care, Sexual assault ¹⁰	STD, Mental Health, Drug Treatment ¹¹
C U S T O D Y S I T U A T I O N	Delinquent placed in care and custody of probation, in non-secure group home, foster care, other	Parent/Guardian¹ unless court order limits parent right	Parent/Guardian^{1,5} unless court order limits parent right	Parent/Guardian¹ unless court order limits parent right	If a minor who has been adjudged a ward of the court under Section 601 or 602 is removed from the physical custody of the parent and placed into foster care, only a juvenile court judicial officer shall have authority to make orders regarding the administration of psychotropic medications for that minor. ⁷	Minor of any age ¹⁵	Minor 12 and older ¹⁵
		Probation Officer² after reasonable efforts to notify and obtain consent of parent /guardian	Court may make order authorizing probation officer to consent to care if after due notice to parent, it appears to court that there is no parent/guardian capable or willing to authorize care. ⁴	Court may make order authorizing probation officer to consent to care if, after due notice to parent, it appears to court that there is no parent/guardian capable or willing to authorize care. ⁴			
		Emergency exception⁹	Court⁸ may make an order authorizing care based on written recommendation of health provider, if no parent is capable or willing to authorize and after due notice to parent.	If no parent is capable or willing to authorize and after due notice to parent, Court⁸ may make an order authorizing care based on written recommendation of health provider.			
		If no parent is capable or willing to authorize and after due notice to parent, Court⁸ may make an order authorizing care based on written recommendation of health provider,	Licensed caregiver⁶ if placed pursuant to juvenile court order in residential foster care or voluntarily placed by person having legal custody				

 N C Y L		TYPE OF HEALTH CARE SERVICE NEEDED BY MINOR			
		Emergency*	General care	Contraception, Pregnancy Testing, Abortion, Prenatal care, Sexual assault ¹⁰	STD, Mental Health, Drug Treatment ¹¹
C U S T O D Y S I T U A T I O N	Delinquent placed in juvenile facility ^{12, 14}	Parent/Guardian¹⁴ unless court order limits parent right	Parent/Guardian^{1, 14} unless court order limits parent right	Minor must consent. ^{13, 15}	Minor 12 and older must consent. ^{13, 15}
		Probation Officer² after reasonable efforts to obtain consent of or notify parent /guardian	Court may make order authorizing probation officer to consent to care if after due notice to parent, it appears to court that there is no parent/guardian capable or willing to authorize care. ^{4, 14}		
		Emergency exception⁹	If no parent is capable or willing to authorize and after due notice to parent, Court^{8, 14} may make an order authorizing care based on written recommendation of health provider,		
		If no parent is capable or willing to authorize and after due notice to parent, Court⁸ may make an order authorizing care based on written recommendation of health provider,			

ENDNOTES/LAW:

- 1 Welf. & Inst. § 739(f) (“Nothing in this section shall be construed as limiting the right of a parent, guardian, or person standing in loco parentis, who has not been deprived of the custody or control of the minor by order of the court, in providing any medical, surgical, dental, or other remedial treatment recognized or permitted under the laws of this state.”).

 Welf. & Inst. § 739(g) (“The parent of any person described in this section may authorize the performance of medical, surgical, dental, or other remedial care provided for in this section notwithstanding his or her age or marital status....”).

 Welf. & Inst. § 726(a) (“In all cases in which a minor is adjudged a ward or dependent child of the court, the court may limit the control to be exercised over the ward or dependent child by any parent or guardian and shall in its order, clearly and specifically set forth all those limitations....”).
- 2 Welf. & Inst § 739(d) (“Whenever it appears that a minor [in temporary custody, for whom a petition has been filed, or under the care of a probation officer]... requires immediate emergency medical, surgical, or other remedial care in an emergency situation, that care may be provided by a licensed physician and surgeon, or if the child needs dental care..., by a licensed dentist, without a court order and upon authorization of a probation officer. ... The probation officer shall make reasonable efforts to obtain the consent of, or to notify, the parent, guardian or person standing in loco parentis prior to authorizing emergency...care. ‘Emergency

situation' for the purposes of this subdivision means a minor requires immediate treatment for the alleviation of severe pain or an immediate diagnosis and treatment of an unforeseeable medical, surgical, dental, or other remedial condition or contagious disease which if not immediately diagnosed and treated, would lead to serious disability or death.”).

- 3 Welf. & Inst. § 739(a) (“Upon referral to the probation officer of a minor who has been taken into temporary custody under Section 625, the probation officer may authorize a medical examination that complies with regulations adopted by the Corrections Standards Authority. If the minor is retained in custody by the probation officer, and prior to the court detention hearing required under Section 632, the probation officer may authorize medical or dental treatment or care based on the written recommendation of the examining physician and considered necessary for the health of the minor. No treatment or care under this subdivision may be authorized by the probation officer unless the probation officer has made a reasonable effort to notify and to obtain the consent of the parent, guardian, or person standing in loco parentis for the minor, and, if the parent, guardian, or person standing in loco parentis objects, the treatment or care shall be given only upon order of the court in the exercise of its discretion. The probation officer shall document the efforts made to notify and obtain parental consent under this subdivision and shall enter this information into the case file for the minor.”).
- 4 Welf. & Inst. § 739(c) (“Whenever a person is placed by order of the juvenile court within the care and custody or under the supervision of the probation officer of the county in which the person resides and it appears to the court that there is no parent, guardian, or person standing in loco parentis capable of authorizing or willing to authorize medical, surgical, dental, or other remedial care or treatment for the person, the court may, after due notice to the parent, guardian, or person standing in loco parentis, if any, order that the probation officer may authorize the medical, surgical, dental, or other remedial care for the person by licensed practitioners, as may from time to time appear necessary.”).
- 5 Welf. & Inst. § 366.27(a) (“If a court, pursuant to paragraph (3) of subdivision (g) of Section 366.21, Section 366.22, or Section 366.26, orders the placement of a minor in a planned permanent living arrangement with a relative, the court may authorize the relative to provide the same legal consent for the minor’s medical, surgical, and dental care as the custodial parent of the minor.”).
- 6 Health & Saf. § 1530.6 (“Notwithstanding any other provision of law, persons licensed pursuant to this chapter to provide residential foster care to a child either placed with them pursuant to order of the juvenile court or voluntarily placed with them by the person or persons having legal custody of such child, may give the same legal consent for that child as a parent except for the following: (1) marriage; (2) entry into the armed forces; (3) medical and dental treatment, except that consent may be given for ordinary medical and dental treatment for such child, including, but not limited to, immunizations, physical examinations, and X-rays; and (4) if the child is voluntarily placed by the parent or parents, those items as are agreed to in writing by the parties to the placement. To this effect, the state department shall prescribe rules and regulations to carry out the intent of this section. This section does not apply to any situation in which a juvenile court order expressly reserves the right to consent to those activities to the court.”).
- 7 Welf. & Inst. § 739.5(a) (“ If a minor who has been adjudged a ward of the court under Section 601 or 602 is removed from the physical custody of the parent under Section 726 and placed into foster care, as defined in Section 727.4, only a juvenile court judicial officer shall have authority to make orders regarding the administration of psychotropic medications for that minor. The juvenile court may issue a specific order delegating this authority to a parent upon making findings on the record that the parent poses no danger to the minor and has the capacity to authorize psychotropic medications. Court authorization for the administration of psychotropic medication shall be based on a request from a physician, indicating the reasons for the request, a description of the minor’s diagnosis and behavior, the expected results of the medication, and a description of any side effects of the medication.”).
- 8 Welf. & Inst. § 727(a) (“When a minor is adjudged a ward of the court on the ground that he or she is a person described by Section 601 or 602, the court may make any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the minor, including medical treatment, subject to further order of the court.”).

Welf. & Inst. § 739(b) (“Whenever it appears to the juvenile court that any person concerning whom a petition has been filed with the court is in need of medical, surgical, dental, or other remedial care, and that there is no parent, guardian, or person standing in loco parentis capable of authorizing or willing to authorize the

remedial care or treatment for that person, the court, upon the written recommendation of a licensed physician and surgeon, or if the person needs dental care, a licensed dentist, and after due notice to the parent, guardian, or person standing in loco parentis, if any, may make an order authorizing the performance of the necessary medical, surgical, dental, or other remedial care for that person.”).

- 9 Bus. & Prof. § 2397(no civil liability when in an emergency, licensee performs medical procedure without obtaining informed consent from the person authorized to give consent).
- 10 Probation youth of any age may consent to contraception, pregnancy testing, prenatal care, abortion (Fam. Code § 6925), and sexual assault services (Fam. Code § 6928). Welf. & Inst. Code § 369(h); *American Academy of Pediatrics v. Lungren*, 16 Cal.4th 307 (1997).
- 11 Probation youth 12 and older may consent to prevention, diagnosis and treatment of sexually transmitted diseases (Fam. Code § 6926), diagnosis and treatment of infectious, contagious or communicable diseases that are required to be reported (Fam. Code § 6926), outpatient mental health treatment or counseling if in the opinion of the professional person, the minor is mature enough to participate intelligently in the treatment (Fam. Code § 6924, Health & Saf. Code § 124260), and medical care and counseling relating to the diagnosis and treatment of a drug or alcohol related problem (Fam. Code § 6929).
- 12 15 C.C.R. § 1434(a)(“All examinations, treatments, and procedures requiring verbal or written informed consent in the community also require that consent for confined minors.”).
- 13 15 C.C.R. § 1434(c)(When a minor is placed in a juvenile facility, “Policy and procedures shall be consistent with applicable statutes in those instances where the minor’s consent for testing or treatment is sufficient or specifically required.”).
- 14 15 C.C.R. § 1434(b)(When a minor is placed in a juvenile facility, “[t]here shall be provision for obtaining parental consent and obtaining authorization for health care services from the court when there is no parent/guardian or other person standing in loco parentis.”).
- 15 Welf. & Inst. § 727(h) (“Nothing in this section shall be construed to interfere with a minor’s right to authorize or refuse medical, surgical, dental, or other care when the minor’s consent for care is sufficient or specifically required pursuant to existing law, or to interfere with a minor’s right to refuse, verbally or in writing, nonemergency medical and mental health care.”).