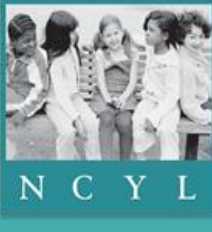


## CONSENT TO TREATMENT FOR MINORS IN FOSTER CARE - BY CUSTODY AND PLACEMENT

		TYPE OF HEALTH CARE SERVICE NEEDED BY MINOR					
		Emergency*	Ordinary medical and dental care, incl. immunizations, physical exams, X-rays	All other general care	Contraception, Pregnancy Testing, Abortion, Prenatal care, Sexual assault <sup>10</sup>	STD, Mental Health, Drug Treatment (DT) <sup>11</sup>	Psychotropic Medication
CUSTODY SITUATION	Temporary Custody – Child taken into custody under Article 7 but “300” petition not yet filed	Parent/Guardian <sup>1</sup> unless court order in place limits parent right	Parent/Guardian <sup>1</sup> unless court order in place limits parent right	Parent/Guardian <sup>1</sup> unless court order in place limits parent right	Minor of any age	Minor 12 and older.  For MH and DT, minor also may be placed in treatment per consent rules for “All other general care” <sup>12</sup>	Parent/Guardian <sup>1</sup> unless court order in place limits parent right
		Social worker <sup>2</sup> after reasonable efforts to obtain consent of or notify parent /guardian	Social worker <sup>3</sup> based on recommendation of health provider and only after notice to parent/legal guardian of care found to be needed. If parent/guardian objects, care may only be provided by order of court in exercise of its discretion.	Social worker <sup>3</sup> based on recommendation of health provider and only after notice to parent/legal guardian of care found to be needed. If parent/guardian objects, care may only be provided by order of court in exercise of its discretion.		Court	
		No consent/Licensed health provider may use <b>emergency exception</b> <sup>9</sup> if insufficient time to obtain consent from authorized person.					
	Declared dependent but not removed from parent physical custody	Parent/Guardian <sup>1</sup> unless court order in place limits parent right	Parent/Guardian <sup>1</sup> unless court order in place limits parent right	Parent/Guardian <sup>1</sup> unless court order in place limits parent right	Minor of any age	Minor 12 and older For MH and DT, minor also may be placed in treatment per consent rules for “All other general care” <sup>12</sup>	Parent/Guardian <sup>1</sup> unless court order in place limits parent right
		Social worker <sup>2</sup> after reasonable efforts to obtain consent of or notify parent /guardian	Court <sup>8</sup> 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.	Court <sup>8</sup> 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.			Court <sup>8</sup>
		<b>Emergency exception</b> <sup>9</sup>					


\* 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.



N C Y L

**TYPE OF HEALTH CARE SERVICE NEEDED BY MINOR**

		Emergency*	Ordinary medical and dental care, incl. immunizations, physical exams, X-rays	All other general care	Contraception, Pregnancy Testing, Abortion, Prenatal care, Sexual assault <sup>10</sup>	STD, Mental Health, Drug Treatment <sup>11</sup>	Psychotropic Medication
<b>C U S T O D Y  S I T U A T I O N</b>	<p><b>Declared dependent + Care, custody and supervision placed with social worker/ child welfare agency + Physical custody removed from parent</b></p> <p>(See next page for additional caregiver options)</p>	<p><b>Parent/Guardian<sup>1</sup></b> unless court order in place limits parent right</p>	<p><b>Parent/Guardian<sup>1</sup></b> unless court order in place limits parent right</p>	<p><b>Parent/Guardian<sup>1</sup></b> unless court order in place limits parent right</p>	<p><b>Minor</b> of any age</p>	<p><b>Minor</b> 12 and older</p> <p>For MH and DT, minor also may be placed in treatment per consent rules for “All other general care” at times<sup>12</sup></p>	<p><b>Court<sup>7</sup></b></p>
		<p><b>Social worker<sup>2</sup></b> after reasonable efforts to obtain consent of or notify parent /guardian</p>	<p>Court may make order authorizing <b>social worker</b> 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.<sup>4</sup></p>	<p>Court may make order authorizing <b>social worker</b> 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.<sup>4</sup></p>			<p><b>Parent</b>, only if court has issued specific order delegating authority to parent upon finding parent poses no danger to child and has capacity to authorize psychotropic medication<sup>7</sup></p>
		<p><b>Emergency exception<sup>9</sup></b></p>	<p><b>Court<sup>8</sup></b> 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.</p>	<p><b>Court<sup>8</sup></b> 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.</p>			
		<p><b>Licensed caregiver<sup>6</sup></b> if placed pursuant to juvenile court order or voluntarily placed by person having legal custody</p>					

 N C Y L		TYPE OF HEALTH CARE SERVICE NEEDED BY MINOR					
		Emergency*	Ordinary medical and dental care, incl. immunizations, physical exams, X-rays	All other general care	Contraception, Pregnancy Testing, Abortion, Prenatal care, Sexual assault <sup>10</sup>	STD, Mental Health, Drug Treatment <sup>11</sup>	Psychotropic Medication
<b>C U S T O D Y  S I T U A T I O N</b>	Can a licensed caregiver consent to the following care?	See page 2 in addition to below.					
	“Licensed caregiver” includes resource families and those licensed under the CA Community Care Facilities Act	Licensed caregiver may not consent without specific court order.	<b>Licensed caregiver<sup>6</sup></b> may consent if child was placed with caregiver pursuant to juvenile court order or voluntarily placed by person having legal custody.	Licensed caregiver may not consent without specific court order.	Minor must consent.	Minor 12 and older  For MH and DT, minor also may be placed in treatment per consent rules for “All other general care” at times <sup>12</sup>	Licensed caregiver may not consent.
	Can a relative caregiver in planned permanent living consent to the following care?	See page 2 in addition to below.					
		<b>Relative caregiver</b> in planned permanent living arrangement if court makes order authorizing relative to consent <sup>5</sup>	<b>Relative caregiver</b> in planned permanent living arrangement if court makes order authorizing relative to consent <sup>5</sup>	<b>Relative caregiver</b> in planned permanent living arrangement if court makes order authorizing relative to consent <sup>5</sup>	Minor must consent.	Minor 12 and older.  For MH and DT, minor also may be placed in treatment per consent rules for “All other general care” at times <sup>12</sup>	Relative caregiver may not consent.

## FOOTNOTES/LAW:

- 1 Welf. & Inst. Code § 361(a)(1); 369(f); 369(g).
- 2 Welf. & Inst. Code § 369(d).
- 3 Welf. & Inst. Code § 369(a).
- 4 Welf. & Inst. Code § 369(c).
- 5 Welf. & Inst. Code § 366.27(a)(“ If a court, pursuant to paragraph (5) of subdivision (g) of Section 366.21, Section 366.22, Section 366.25, 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 Welf. & Inst. Code § 16519.57 (resource families); Health & Saf. Code § 1530.6 (persons licensed or approved pursuant to the California Community Care Facilities Act).
- 7 Welf. & Inst. Code § 369.5(a).
- 8 Welf. & Inst. Code § 369(b).
9. Bus. & Prof. Code § 2397(a)(“A licensee shall not be liable for civil damages for injury or death caused in an emergency situation occurring in the licensee's office or in a hospital on account of a failure to inform a patient of the possible consequences of a medical procedure where the failure to inform is caused by any of the following: (1) The patient was unconscious. (2) The medical procedure was undertaken without the consent of the patient because the licensee reasonably believed that a medical procedure should be undertaken immediately and that there was insufficient time to fully inform the patient. (3) A medical procedure was performed on a person legally incapable of giving consent, and the licensee reasonably believed that a medical procedure should be undertaken immediately and that there was insufficient time to obtain the informed consent of a person authorized to give such consent for the patient.”).
- 10 Foster 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. Lngren*, 16 Cal.4<sup>th</sup> 307 (1997). *See also* Welf. & Inst. Code § 16001.9(a)(24).
- 11 Foster 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). *See also* Welf. & Inst. Code § 16001.9(a)(24).
- 12 Fam. Code § 6929(g)(“It is the intent of the Legislature that the state shall respect the right of a parent or legal guardian to seek medical care and counseling for a drug- or alcohol-related problem of a minor child when the child does not consent to the medical care and counseling, and nothing in this section shall be construed to restrict or eliminate this right.”). *See also* Fam. Code § 6924, Health & Saf. Code § 124260.