



# Department of Children and Family Services Policy and Procedure Guide

Division No: 3–Child Welfare Effective Date: 4/4/07  
 Chapter No: 3–Initial Response/Detention  
 Item No: 24–Authorization/Consent for Routine Medical Care

**POLICY:** Welfare and Institutions Code (WIC) section 369 outlines the legal basis for obtaining permission for routine medical and mental health care for minors who are in or might be in the child welfare system. There is no need to contact a judge without going through the ex-parte process for medical, surgical, dental or remedial care that is beyond routine but not emergency care; there would be enough time to use this process.

**PURPOSE:** It is the purpose of this Policy and Procedure Guide to outline the legal and social work procedures for obtaining authorization/consent for necessary routine medical care for children in the child welfare system.

**REFERENCE:** Welfare and Institutions Code (WIC) § 369  
 Fresno Rules of Court 6.6.1  
 PPG concerning authorization/consent for emergency care

**DEFINITIONS:**

- I. PERSON STANDING IN LOCO PARENTIS MAY INCLUDE:
  - A. somebody to whom a parent has given written authorization to consent to any medical, dental or surgical care
  - B. any person authorized to give consent by the Juvenile Court, e.g., care provider, to the extent of such authorization. Note: care provider is usually limited to “routine medical or dental care”.

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II. ROUTINE MEDICAL CARE INCLUDES:

- A. A comprehensive health assessment and physical examination.
- B. Any clinical laboratory tests the physician determines are necessary for the evaluation of the minor's health status.
- C. Upon consent of the minor, sexually active minors may be screened for venereal disease. Contraceptive devices may be furnished to any minor upon the minor's request.
- D. Any immunization necessary to bring a minor's immunization up to date, and, if immunizations are recommended by the American Academy of Pediatrics for that child's age.
- E. Any routine medical care required based on the results of the comprehensive health assessment, and
- F. Any routine medical care required for the care of illnesses and injury, including the use of standard X-rays.
- G. Routine medical care as referred to above also includes:
  - 1. first aid care for conditions which require immediate assistance from a person trained in basic first aid as defined by the American Red Cross or its equivalent;
  - 2. clinic care for ambulatory minors with health care complaints which are evaluated and treated on an out-patient basis;
  - 3. inpatient bed care for illness or injury which requires limited observation and/or management and does not require admission to a licensed hospital.
- H. A mental health status evaluation and necessary mental health services except no placement in an inpatient psychiatric facility shall occur without compliance with Welfare & Institutions Code §§ 319.1, 500 et seq., 5585 et seq. and 6550 et seq.

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- I. A dental assessment, including:
  - 1. X-rays when appropriate
  - 2. any routine dental treatment required based on the results of the dental assessment.
- J. Routine dental treatment does include the use of local anesthesia but excludes any procedure requiring general anesthesia.

III. ROUTINE MEDICAL CARE EXCLUDES:

- A. any medical procedure requiring local or general anesthesia.
- B. blood transfusions or inpatient care for illness or diagnosis which requires optimal observation and/or management in a licensed hospital.
- C. condition(s) that requires immediate treatment for the alleviation of severe pain or
- D. an immediate diagnosis and treatment of an unforeseeable medical, surgical, dental, or other remedial condition or contagious disease which is not immediately diagnosed and treated, would lead to serious disability or death.

PROCEDURE:

- IV. WHENEVER ANY PERSON IS TAKEN INTO TEMPORARY CUSTODY UNDER ARTICLE 7 (COMMENCING WITH SECTION 305) THE SOCIAL WORKER MAY UNDER THE FOLLOWING CONDITIONS, AUTHORIZE THE PERFORMANCE OF THE MEDICAL, SURGICAL, DENTAL, OR OTHER REMEDIAL CARE:
  - A. upon the recommendation of the attending physician and surgeon, that the person is in need of medical, surgical, dental, or other remedial care, or,
  - B. if the person needs dental care and there is an attending dentist, the attending dentist, authorize the performance of the medical, surgical, dental, or other remedial care.
  - C. The social worker shall notify:
    - 1. the parent, guardian, or person standing in loco parentis of the person (eg., legal guardian, relative, etc.), if any, of the care found to be needed before that care is provided, and

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2. if the parent, guardian, or person standing in loco parentis objects, that care shall be given only upon order of the court in the exercise of its discretion.
- V. WHENEVER IT APPEARS TO THE JUVENILE COURT THAT ANY PERSON CONCERNING WHOM A PETITION HAS BEEN FILED WITH THE COURT IS:
- A. in need of medical, surgical, dental, or other remedial care,
  - B. this care is beyond routine, and
  - C. 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 may make an order authorizing the performance of the necessary medical, surgical, dental, or other remedial care for that person:
    1. upon the written recommendation of a licensed physician and surgeon or,
    2. 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.
- VI. WHENEVER A DEPENDENT CHILD OF THE JUVENILE COURT:
- A. is placed by order of the court within the care and custody or under the supervision of a social worker of the county in which the dependent child resides,
  - B. the care is beyond routine
  - C. 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 dependent child,
  - D. the court may, after due notice to the parent, guardian, or person standing in loco parentis, if any, order that the social worker may authorize the medical, surgical, dental, or other remedial care for the dependent child, by licensed practitioners, as may from time to time appear necessary.

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- VII. IN ALL CASES, WHEN A CHILD REQUIRES MEDICAL, SURGICAL, DENTAL AND/OR REMEDIAL CARE:
- A. The social worker shall make reasonable efforts to obtain the consent of, or to notify, the parent(s)/guardian(s)
  - B. The foster parent who has a court order giving him/her authorization for routine medical/dental care is considered to have in parentis loco status and is, therefore, able to give authorization for routine medical/dental care.
  - C. For care that is beyond routine the social worker is to obtain court authorization using the ex-parte court process. The social worker shall also attach the *Physician Questionnaire* (Attachments "A" and "B") to the ex-parte application.
  - D. If the parents refuse to consent to their child's medical treatment due to religious practices, the social worker shall inquire whether the hospital staff has consulted with representatives of the parent's religion, and if so, what information was provided to the staff.
- VIII. DCFS STAFF SHALL NEVER GIVE MEDICAL CONSENT FOR:
- A. the administration of psychotropic medications or psychiatric hospitalizations even if the physician defines the situation as an emergency. In these situations, the caller should be directed to contact the Fresno County Department of Children's Mental Health.
  - B. HIV/AIDS testing even if the physician defines the situation as an emergency
  - C. in other situations if the situation is not an emergency.
  - D. for a treatment that has already been performed or one that *might* be performed in the future.
- IX. PARENTAL CONSENT IS NOT NECESSARY IN THE FOLLOWING SITUATIONS:
- A. The minor is or was married.
  - B. The minor's condition is an emergency as defined in WIC § 369(d) and the parent(s) are not available.
  - C. The minor is emancipated (and has a DMV identification card to that effect).
  - D. The minor is over 15 years old, not living at home and manages his or her own financial affairs.

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- E. The minor is seeking care for the treatment of pregnancy, except sterilization.
  - F. The minor is under 18 years old and over 12 years old and is seeking care for a contagious reportable disease or condition, a rape, sexual assault, care of alcohol or drug abuse, or outpatient mental health treatment.
  - G. The minor is over 12 years old and is seeking HIV/AIDS testing.
- II. NOTE: PER WIC § 369(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 [THE PARENT’S] AGE OR MARITAL STATUS. IN NONEMERGENCY SITUATIONS THE PARENT AUTHORIZING THE CARE SHALL NOTIFY THE OTHER PARENT PRIOR TO THE ADMINISTRATION OF THAT CARE.”



# Department of Children and Family Services

Catherine Huerta, M.S.W., Interim Director

*Protecting and healing children from abuse and neglect is everyone's responsibility*

## PHYSICIAN QUESTIONNAIRE—NON-EMERGENCY

Dear Physician:

RE: Child: \_\_\_\_\_ DOB: \_\_\_\_\_

**In order to expedite DCFS/Court approval of your recommended surgical treatment/special procedure of the child above, the following information will be needed. Please have the information typed or neatly written. If the judge is unable to read the information, approval will be delayed.**

1. Diagnosis/nature of the problem  
\_\_\_\_\_
2. Type of surgery/procedure and **risk**: \_\_\_\_\_
3. Consequences if this surgical procedure is **not** done: \_\_\_\_\_
4. Type of anesthesia and **risk**: \_\_\_\_\_
5. Name of the Physician doing the surgery/procedure: \_\_\_\_\_
6. Name of the facility where the surgery/procedure is to be performed: \_\_\_\_\_
7. Date planned or urgency of problem: \_\_\_\_\_
8. Any previous therapy or treatment: \_\_\_\_\_
9. Length of expected hospital stay: \_\_\_\_\_
10. Expected length of recovery period: \_\_\_\_\_
11. Expected follow up required: \_\_\_\_\_

DCFS Social Worker	Date	Signature of Physician Providing Information	Date
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Address	Phone	Physician Name (print)	Phone
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*\*As defined in Welfare & Institutions Code section 369, subdivision (d). See reverse side for statute.*



# Department of Children and Family Services

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## PHYSICIAN QUESTIONNAIRE—EMERGENCY SITUATION\*

Dear Physician:

RE: Child: \_\_\_\_\_ DOB: \_\_\_\_\_

**In order to expedite DCFS/Court approval of your recommended surgical treatment/special procedure of the child above, the following information will be needed. Please have the information typed or neatly written. If the judge is unable to read the information, approval will be delayed.**

1. This is an emergency situation as the 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. The facts supporting this conclusion are:

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2. Type of surgery/procedure and **risk**: \_\_\_\_\_

3. Consequences if this surgical procedure is **not** done: \_\_\_\_\_  
Diagnosis/nature of the problem

4. Type of anesthesia and **risk**: \_\_\_\_\_

5. Name of the Physician doing the surgery/procedure: \_\_\_\_\_

6. Name of the facility where the surgery/procedure is to be performed: \_\_\_\_\_

7. Date planned or urgency of problem: \_\_\_\_\_

8. Any previous therapy or treatment: \_\_\_\_\_

9. Length of expected hospital stay: \_\_\_\_\_

10. Expected length of recovery period: \_\_\_\_\_

11. Expected follow up required: \_\_\_\_\_

DCFS Social Worker \_\_\_\_\_ Date \_\_\_\_\_ Signature of Physician Providing Information \_\_\_\_\_ Date \_\_\_\_\_

Address \_\_\_\_\_ Phone \_\_\_\_\_ Physician Name (print) \_\_\_\_\_ Phone \_\_\_\_\_

\*As defined in Welfare & Institutions Code section 369, subdivision (d). See reverse side for statute.

**Welfare and Institutions Code 369.**

**(a)** Whenever any person is taken into temporary custody under Article 7 (commencing with Section 305) and is in need of medical, surgical, dental, or other remedial care, the social worker may, upon the recommendation of the attending physician and surgeon or, if the person needs dental care and there is an attending dentist, the attending dentist, authorize the performance of the medical, surgical, dental or other remedial care. The social worker shall notify the parent, guardian, or person standing in loco parentis of the person, if any, of the care found to be needed before that care is provided, and if the parent, guardian or person standing in loco parentis objects, that care shall be given only upon order of the court in the exercise of its discretion.

**(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.

**(c)** Whenever a dependent child of the juvenile court is placed by order of the court within the care and custody or under the supervision of a social worker of the county in which the dependent child 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 dependent child the court may, after due notice to the parent, guardian, or person standing in loco parentis, if any, order that the social worker may authorize the medical, surgical, dental or other remedial care for the dependent child, by licensed practitioners, as may from time to time appear necessary.

**(d)** Whenever it appears that a child otherwise within subdivision (a), (b) or (c) 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 in an emergency situation, by a licensed dentist, without a court order and upon authorization of a social worker. The social worker 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 medical, surgical, dental or other remedial care. "Emergency situation," for the purpose of this subdivision means a 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.

**(e)** In any case in which the court orders the performance of any medical, surgical, dental or other remedial care pursuant to the section, the court may also make an order authorizing the release of information concerning that care to social workers, parole officers, or any other qualified individuals or agencies caring for or acting in the interest and welfare of the child under order, commitment, or approval of the court.

**(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 child by order of the court, in providing any medical, surgical, dental or other remedial treatment recognized or permitted under the laws of this state.

**(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. In non-emergency situations, the parent authorizing the care shall notify the other parent prior to the administration of that care.