



## 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: 25–Authorization/Consent for Emergency Medical Care

---

**POLICY:** Welfare and Institutions Code (WIC) §369 outlines the legal basis for obtaining permission for emergency medical and mental health care for minors who are in the child welfare system. There is no need to contact a judge for authorization/consent for emergency medical care because a social worker can give this authorization/consent.

**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 emergency medical care for children in the child welfare system.

**REFERENCE:** Welfare and Institutions Code (WIC) §369  
PPG concerning authorization/consent for routine care  
Business and Professions Code §2397

**DEFINITIONS:**

- I. ***EMERGENCY MEDICAL CONDITION*** [PURSUANT TO WIC §369, (D)] IS A CONDITION WHICH:
  - A. requires immediate treatment for the alleviation of severe pain or
  - B. 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.

Submitting Party/Division/Program  
Manager/ Deputy Director Approval

– \_\_\_\_\_  
Name – Date

Assistant Director's Approval

– \_\_\_\_\_  
Name – Date

Director's Approval

– \_\_\_\_\_  
Name – Date

Item 25 – Authorization/Consent for Emergency Medical Care

- II. B. 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 such consent by the Juvenile Court. However, the court usually gives only limited authorization (e.g., care provider, who may consent to “routine medical or dental care”, which would exclude emergency care)

PROCEDURE:

- I. WIC §369 STATES THAT WHEN A CHILD HAS EITHER
  - A. been taken into temporary custody,
  - B. is the subject of a petition filed before the court, or
  - C. is a dependant of juvenile court, and
  - D. that the child described by one of above three conditions requires immediate emergency medical, surgical, other remedial dental care in an emergency situation, per the medical, surgical or dental provider, and
  - E. the parent, legal guardian
    - 1. is unavailable to authorize or
    - 2. refuses to authorize the required treatment
    - 3. the care may be provided by a licensed physician, surgeon or dentist without a court order and upon the authorization of a social worker.
- II. IN ALL CASES, WHEN A CHILD REQUIRES EMERGENCY MEDICAL, SURGICAL, DENTAL AND/OR REMEDIAL CARE:
  - A. the social worker will determine what the medical/surgical/ dental provider needs for valid consent, e.g., written, telephonic, e-mail, FAX, in person, etc.

Item 25 – Authorization/Consent for Emergency Medical Care

- B. the social worker shall make reasonable efforts to obtain the consent of, or to notify, the parent(s), guardian(s) or person *standing in loco parentis* (but in this case not the care provider or foster parent), prior to authorizing emergency medical, surgical, dental or other remedial care. Time taken to contact parents is not to jeopardize the child. These efforts are to include:
    - 1. attempting a phone call to parent or known relative or message phone
    - 2. if time permits, a personal visit
  - C. If no consent is obtained by the parent, legal guardian or person standing in loco parentis (but in this case not the care provider or foster parent), or reasonable efforts have been made to notify them and no consent is obtained, the social worker is authorized to consent to the requested procedure recommended by the medical doctor, surgeon or dentist.
  - D. Prior to consenting to/authorizing a procedure the social worker must have the Physician Questionnaire (Attachment “B”) completed/ signed and dated by the medical/surgical/dental provider. The social worker shall also refer the caller to Business and Professions Code §2397(a), which protects a physician from liability when s(he) performs a medical procedure on a person legally incapable of giving consent in an emergency situation.
  - E. The social worker shall then complete and sign the Authorization for Emergency Medical Care for a Child Pursuant to WIC §369 (Attachment “A”) and provide it to the medical, surgical, dental or remedial provider.
- III. C. 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.

Item 25 – Authorization/Consent for Emergency Medical Care

- IV. 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 the definitions section above and 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.
  - 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.
- V. 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.
- VI. NOTE: Per §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 [parent's] 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."



**Attachment A**

**AUTHORIZATION FOR EMERGENCY MEDICAL CARE  
FOR A CHILD PURSUANT TO WIC 369**

Name of \_\_\_\_\_ DCFS \_\_\_\_\_

The above-named child has been placed in temporary custody or has been placed in the care and custody of the Department of Children and Family Services. Pursuant to Welfare and Institutions Code (WIC) §369 (see reverse), authorization is hereby granted for:

\_\_\_\_\_  
Name of Physician/Dentist/Hospital

\_\_\_\_\_  
Address Telephone

to provide and perform the medical, surgical, general anesthesia, dental and other remedial care as described below:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This authorization alone does not include psychotherapy, psychological testing, treatment with psychotropic drugs, or HIV/AIDS testing.

CATHERIN HUERTA, MSW, INTERIM DIRECTOR  
DEPARTMENT OF CHILDREN AND FAMILY SERVICES

By \_\_\_\_\_ Date \_\_\_\_\_  
Social Worker  
Telephone No \_\_\_\_\_

**SEE REVERSE SIDE FOR TEXT OF WIC § 369**

CASE RECORDS CONFIDENTIAL PURSUANT TO WIC §§ 827 & 10850

**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 attending 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.



# 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—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:

\_\_\_\_\_  
\_\_\_\_\_

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.