



## CONSENT TO TREATMENT FOR FOSTER YOUTH - BY CUSTODY AND PLACEMENT


		TYPE OF HEALTH CARE SERVICE NEEDED BY MINOR						
		Emergency*	Ordinary medical and dental care, incl. immunizations, physical exams, X-ays	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	
CUSTODY	Temporary Custody – Child taken into custody 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	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, court must authorize care.	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, court must authorize care.			Court	
		No consent/Licensed health provider may use <b>emergency exception</b> <sup>9</sup> if insufficient time to obtain consent from authorized person.						
	SITUATION	Declared Dependent but not removed from parent 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	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.

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CUSTODY SITUATION	Declared dependent + Care, custody and supervision placed with social worker/child welfare agency + Physical custody removed from parent (See next page for additional caregiver options)	<b>Parent/Guardian<sup>1</sup></b> unless court order in place limits parent right	<b>Parent/Guardian<sup>1</sup></b> unless court order in place limits parent right	<b>Parent/Guardian<sup>1</sup></b> unless court order in place limits parent right	<b>Minor</b> of any age	<b>Minor</b> 12 and older	<b>Court<sup>7</sup></b>
		<b>Social worker<sup>2</sup></b> after reasonable efforts to obtain consent of or notify parent /guardian	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>	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>			<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>
		<b>Emergency exception<sup>9</sup></b>	<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.	<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.			
		<b>Licensed caregiver<sup>6</sup></b> if placed pursuant to juvenile court order or voluntarily placed by person having legal custody					

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CUSTODY SITUATION	Can a “licensed caregiver” consent to the following care?  “Licensed caregiver” includes licensed foster parents and licensed community care facilities.	See page 2 in addition to below.					
		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 must consent.	Licensed caregiver may not consent.
CUSTODY SITUATION	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 must consent.	Relative caregiver may not consent.

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## 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 Health & Saf. Code § 1530.6.
- 7 Welf. & Inst. Code § 369.5(a).
- 8 Welf. & Inst. Code § 369(b).
- 9 Bus.& Prof. Code § 2397.
- 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).
- 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).