
**ORANGE COUNTY SOCIAL SERVICES AGENCY
CFS OPERATIONS MANUAL**

Effective Date: June 1, 1989
Current Revision Date: September 14, 2018

Number: I-0206

Consent for Medical Care and Physical Examination

Purpose To provide guidelines to obtain consent for medical care and OCFC Admission Medical Exams for children in out-of-home placement

Approved This policy was approved by Anne Bloxom, Director of CFS.
Signature on file.

Most Recent Revision This revision of the Policy and Procedure (P&P), previously titled Medical Care Authorization, includes:

- Changes to the following terminology:
 - “Routine medical care” is now referred to as “basic medical care”
 - “Non-routine medical care” is now referred to as “medical procedures”
 - “Comprehensive Physical Examination (CPE)” is now referred to as “OCFC Admission Medical Exam”
- Procedural changes to obtain consent for basic medical and dental treatment and medical procedures
- Procedures to obtain consent for OCFC Admission Medical Exams, previously detailed in the Consent for Physical Examinations Desk Guide
- Clarification that procedures to obtain consent for basic medical care are also applicable to obtaining consent for mental health treatment
- Revision to *Authorization for Medical Care (F063-28-13)* now entitled *Consent for Medical Care and Physical Examination*
- Revision to the *Application and Court Findings & Orders Authorizing Medical Care and/or OCFC Admission Medical Exam (F063-25-761)*, previously titled *Application and Declaration in Support of Court Order for Comprehensive*

Physical Examination, to include the ability to request court authorization for basic medical care, medical procedures, and mental health treatment prior to the Detention hearing

- Inclusion of the following newly created attachments:
 - [Attachment 1—Guidelines for Completing Consent for Medical Care and Physical Examination Form](#)
 - [Attachment 2—Guidelines for Completing Application and Declaration in Support of Court Order for Medical Care and/or OCFC Admission Medical Exam](#)
 - [Attachment 3—Frequently Asked Questions Consent for OCFC Admission Medical Exam](#)
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Background

The Fourteenth Amendment to the United States Constitution provides a liberty interest in family association, and the right to due process. This liberty interest includes a parent's right to make decisions about their child's medical care and treatment, and to be present when such treatment is provided.

Generally, a parent or guardian must provide medical consent for his/her child unless these rights have been restricted by the Juvenile Court (Court). In the absence of parental consent, the Court may:

- Authorize the child to undergo an OCFC Admission Medical Exam and/or medical care
- Authorize the Social Services Agency (SSA) or other individual to make medical decisions on behalf of the child in place of the parents

State law also provides that, the child has the right to make his or her own medical decisions for limited types of treatment.

The intent of this policy is to ensure parents' constitutional rights are not infringed upon and that proper authorization is obtained before medical and dental care is provided to a child.

Definitions

For the purposes of this P&P, the following apply:

Allow for Natural Death (AND): An alternative to a Do Not Resuscitate (DNR) order in which a patient or family permits a person's vital functions to cease without medical intervention, such as the maintenance of an artificial airway or the provision of advanced cardiac life support.

Assigned Senior Social Worker (SSW): A social worker currently assigned to conduct an investigation/assessment of alleged child abuse/neglect and/or provide case management on an open referral or case. This designation may include, but is not limited to an Emergency Response SSW, Intake/Investigations SSW, and case-carrying SSW.

Basic Medical Care: Treatment for non-emergent/ordinary medical, dental and/or other remedial care, including mental health screening and treatment, provided by or under the supervision of a licensed practitioner, to protect or enhance a child's health. This may include, but is not limited to immunizations, medical/physical examinations, and x-rays.

Do Not Resuscitate (DNR) Order: An order written by a licensed physician indicating a patient is not to be resuscitated and that no extraordinary means will be taken to save the patient's life. These measures may include: chest compressions (CPR), assisted ventilation (breathing), endotracheal intubation, defibrillation, and cardiotoxic drugs (drugs which stimulate the heart).

Emergency Situation: Per Welfare and Institutions Code (WIC) Section (§) 369, when the child requires immediate treatment to alleviate 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.

Life-Sustaining Medical Treatment: The provision of nutrition, hydration, and medication to sustain life. Also includes treatments that might be considered extraordinary, such as machines to maintain breathing or circulation.

Medical Procedures: Procedures not considered basic, such as, but not limited to surgery, sedation, and anesthesia.

Nursing Assessment: Non-invasive assessment of the child's body to determine overall health or need for urgent care.

OCFC Admission Medical Exam: A complete (unclothed) examination of the child's body by a licensed physician to determine if any medical issues that may require treatment exist, which may include diagnostic and/or laboratory tests, X-rays, immunizations, etc. conducted when a child is temporarily placed at First Step/Orangewood Children and Family Center (OCFC).

Note: Forensic Medical Exams are addressed in CFS P&P [Child Abuse Services Team \(CAST\) \(A-0401\)](#).

Parent: The person having legal authority to give medical consent, (i.e., parent, guardian or person standing in loco parentis). This may also include foster parents or relative caregivers of children in a planned permanent living arrangement, to whom the Court has specifically given this authority under WIC § 366.27.

Note: An alleged parent does not have standing until he/she establishes that he/she is a legal parent.

POLICY

General Responsibilities

A child in out-of-home placement will be provided appropriate care, treatment, and guidance to maintain and promote the child's physical and emotional well-being consistent with his or her best interest and the best interest of the public, per WIC § 202. CFS staff will:

A. Advise parents of their right to consent to the child's medical care unless otherwise restricted by the Court. For parents who:

- Decline to provide consent, inform the parent(s) that Court authorization may be sought
- Provide consent, inform the parent(s) the authorization remains in effect until any of the following occur:
 - The parent revokes consent in writing
 - The petition is dismissed
 - Dependency is terminated

Note: Per WIC § 366.27, for a dependent child placed in a planned permanent living arrangement with a relative, Court may authorize the relative to provide legal consent for the child's medical, surgical, and dental care using form *JV-448 Order Granting Authority to Consent to Medical, Surgical, and Dental Care*.

B. Make reasonable efforts to obtain parental consent before seeking Court authorization for medical or dental care, treatment, or procedure.

C. Use the *Consent for Medical Care and Physical Examination (F063-28-13)* to obtain parental consent for basic medical care, dental care, mental health treatment, and an OCFC Admission Medical Exam:

- At the time the child is removed from the physical custody of a parent/legal guardian
- When the child requires basic medical care and/or OCFC Admission Medical Exam and there is no record of the completed form signed by a parent
- An absent parent comes forward and a parent has not previously signed consent for the child to receive basic medical care and/or an OCFC Admission Medical Exam
- **Each time** a pre-adjudicated or dependent child is removed from the care of a parent and returned to out-of-home placement

Note: The form will also be included in the Detention hearing packet for Court Officers to seek parental signature if not already obtained.

D. Inform parents of their right to be present at the child's medical appointments, including an OCFC Admission Medical Exam for a child temporarily placed at First Step/OCFC.

This includes coordinating opportunities for parents to be present at the child's medical appointments.

E. As applicable, inform children and parents of minor consent laws. Refer to the "Child Consent" Policy section.

F. Document efforts to obtain consent from a parent in the permanent record. Refer to the "CWS/CMS Documentation" Policy section.

G. Verify parental consent or court authorization has been obtained prior to the child receiving medical or dental care, treatment, procedure, or an OCFC Admission Medical Exam.

H. After securing proper consent, distribute a copy, if not already provided, to:

- Parent
 - Consenting child
 - Caregiver/residential facility, as applicable
 - Medical/clinical professional providing care/treatment
- I. Maintain a copy of the proper consent in the child's service file. Refer to CFS P&P [Referral and Case Filing \(E-0102\)](#) for further guidance.
 - J. Regularly engage parents, child and medical/clinical professionals in appropriately addressing the child's overall physical and emotional well-being.
 - K. Keep parents informed of the child's medical needs and treatment, on an ongoing basis.
 - L. Comply with all court orders, including any orders regarding notification requirements of medical treatment.
 - M. Prior to signing (as an authorized Representative of SSA) a treating professional's informed consent form for medical care, including mental health screening and treatment, thoroughly review the form and request the provider supply information represented on the form as having been provided.

Child Consent Children have the right to consent to their own medical treatment in limited circumstances, unless restricted by court order.

A. Children of any age may consent to:

- Medical care related to the prevention or treatment of pregnancy (except sterilization) which includes receiving birth control and obtaining an abortion per Family Code § 6925
- Diagnosis, treatment, and collection of evidence regarding a rape or sexual assault (acts of oral copulation, sodomy, or other violent crimes of a sexual nature) per Family Code § 6928

B. Children 12 years of age and older, may consent to:

- Outpatient mental health services (except convulsive therapy, psychosurgery or psychotropic drugs), if the minor is, in the opinion of the attending professional, a person mature enough to participate intelligently in the

outpatient services or residential shelter services and if the child would present a danger of serious physical or mental harm to self or others without treatment or services or is the alleged victim of incest or child abuse per Family Code § 6924

- Medical care related to the diagnosis and/or treatment for infectious, contagious communicable disease, sexually transmitted diseases, and HIV testing per Family Code § 6926
- Medical care and counseling related to drug and alcohol abuse treatment per Family Code § 6929

**Basic
Medical
Care and OCFC
Admission
Medical Exam**

For a child in out-of-home placement, per WIC § 369, parents who are capable and willing, maintain the authority to consent to medical treatment on behalf of their child. This includes the right to consent to basic medical care, dental care, mental health treatment, and OCFC Admission Medical Exam, unless the right to do so has been restricted by Court. Parents also have a constitutionally guaranteed right to make medical decisions on behalf of their children, and to be present during the provision of that treatment. If there is no capable or willing parent available, or if the parent objects, the Court has jurisdiction to authorize the child's medical treatment.

Note: It is only necessary to obtain the consent of one parent for basic medical care and/or an OCFC Admission Medical Exam; however, if the other parent expresses objection, Court authorization is required.

A. **Children in Temporary Custody:**

A child in temporary custody may not receive basic medical care and/or an OCFC Admission Medical Exam without parental consent or court order. The assigned SSW will obtain consent prior to the child being treated, as follows:

1. **Parental Consent:**

At the time a child is removed from the physical custody of a parent, the assigned SSW will make reasonable efforts to obtain parental consent by requesting the parent sign the *Consent for Medical Care and Physical Examination (F063-28-13)*.

Note: Written parental consent is preferred, however verbal consent is sufficient and will be documented on the *Consent for Medical Care and Physical Examination (F063-28-13)*, and in a CWS/CMS contact narrative.

Refer to [Attachment 1—Guidelines for Completing Consent for Medical Care and Physical Examination Form](#) for guidance on completing and filing the consent form.

- a. Parent Not Available: If a parent is unavailable to provide consent, the assigned SSW will:
 - Make reasonable efforts to locate and contact a parent, which may include, but are not limited to:
 - In-person contact
 - Telephone
 - E-mail correspondence
 - Written notice to known addresses (Include a copy of the *Consent for Medical Care and Physical Examination [F063-28-13]* with an enclosed, self-addressed, self-stamped return envelope)
 - Document efforts to obtain parental consent in a CWS/CMS contact narrative
 - Complete the *Consent for Medical Care and Physical Examination (F063-28-13)* and indicate the appropriate choice under “Parental Signature Absent”
 - As needed, request the Court make a decision as to whether to authorize basic medical care and/or an OCFC Admission Medical Exam. Refer to the “Court Consent” section below

- b. Parent Unwilling to Consent or Parents Disagree: If a parent is available, but expresses objection to consent, or parents express disagreement with one another on providing consent, the assigned SSW will:
 - Inform the parent(s) Court authorization for basic medical care and/or an OCFC Admission Medical Exam may be sought
 - Document parent unwillingness or disagreement with one another in a CWS/CMS contact narrative
 - Complete the *Consent for Medical Care and*

Physical Examination (F063-28-13) and indicate the appropriate choice under “Parental Signature Absent”

- Request the Court make a decision as to whether to authorize basic medical care and/or an OCFC Admission Medical Exam. Refer to the “Court Consent” section below

2. Court Consent:

Per WIC § 369, the Court may authorize a child in temporary custody to obtain basic medical, dental or other remedial care, including mental health treatment and an OCFC Admission Medical Exam as may be necessary.

When a parent cannot be located, refuses to provide consent, parents disagree with one another on consent, or a parent revokes a previously signed authorization, the assigned SSW will seek Court authorization as follows:

- a. Prior to Detention Hearing: Before seeking Court authorization, consider whether the child is in need of basic medical care and/or an OCFC Admission Medical Exam prior to the Detention hearing:
- For medical and exam requests, consult the ER Public Health Nurse (PHN) and/or First Step/OCFC Medical Unit Nurse. Factors to consider include, but are not limited to:
 - Medical history
 - Current health status
 - Visible injuries requiring attention
 - Medications the child is taking (including psychotropic medications)
 - Ramifications of added delays in processing referrals for other medical and/or specialty care the child may need
 - For mental health requests, consult the Court Evaluation and Guidance Unit (CEGU)
 - As needed, consult a Court Officer Senior Social Services Supervisor (SSSS)/designee and/or County Counsel regarding the appropriateness of seeking Court authorization for an OCFC Admission Medical Exam prior to the Detention hearing

If basic medical care and/or an-OCFC Admission Medical Exam can be postponed until after the Detention hearing, the assigned SSW will inform the Dependency Intake/Investigations SSW and SSSS of the need to obtain parental consent or Court authorization at the Detention hearing. Refer to the “At Detention Hearing” section below.

If basic medical care and/or an OCFC Admission Medical Exam cannot be delayed until after the Detention Hearing, the assigned SSW will seek Court authorization via completion and submission of the *Application and Court Findings & Orders Authorizing Medical Care and/or OCFC Admission Medical Exam (F063-25-761)* to Court. Refer to [Attachment 2—Guidelines for Completing Application and Court Findings & Orders Authorizing Medical Care and/or OCFC Admission Medical Exam](#) for further guidance.

Note: If Court authorization is obtained, the Court’s findings and orders expire at the Detention hearing, and authorized treatment must be provided before the Detention hearing.

- b. At Detention Hearing: If efforts to obtain parental consent for basic medical care and/or an OCFC Admission Medical Exam have been unsuccessful, the assigned SSW will:
- Document the following under the “Supporting Evidence” section of the Detention Hearing Report (DHR), as applicable:
 - Description of medical/mental health care requested, or the need for an OCFC Admission Medical Exam
 - Treating professional’s recommendations
 - Efforts to obtain parental consent
 - Parent unwillingness to provide consent
 - Parental disagreement
 - Include a recommendation in the DHR for Court to authorize basic medical care and/or an OCFC Admission Medical Exam (refer to the Detention Hearing Recommendation

Desk Guide contained on the [Manuals/Autotext](#) page of the CFS Intranet)

- c. If the Court authorizes basic medical care and/or an OCFC Admission Medical Exam:

The Court Officer SSSS or designee will:

- Notify the assigned SSW of the Court orders
- For children placed at First Step/OCFC, email the *Detention Disposition Sheet (F063-28-18)* or other court orders to the OCFC Social Worker Inbox

The assigned SSW may complete and sign the *Consent for Medical Care and Physical Examination (F063-28-13)* with Court authorization to sign. Refer to [Attachment 1—Guidelines for Completing Consent for Medical Care and Physical Examination Form](#)

Note: *The Consent for Medical Care and Physical Examination (F063-28-13)* may be signed by the assigned SSW only to authorize basic medical care. For OCFC Admission Medical Exams authorized by Court, the court order will be given to the provider OCFC Medical Unit staff as evidence of consent.

B. **Pre-Adjudicated/Dependent Children in Out-of-Home Placement:**

If a pre-adjudicated or dependent child in out-of-home placement requires basic medical care and/or an OCFC Admission Medical Exam, the child may be treated if either of the following applies:

- A *Consent for Medical Care and Physical Examination (F063-28-13)* is on file authorizing basic medical care and/or an OCFC Admission Medical Exam, signed by any of the following:
 - A parent
 - Social Services Agency (SSA) representative with verbal parental consent
 - SSA representative authorized by the Court (applicable to basic medical care only)

–Or–

- A court order exists authorizing the child to obtain an OCFC Admission Medical Exam

Note: If Court authorization for basic medical care and/or an OCFC Admission Medical Exam was obtained prior to the Detention hearing, the authorized treatment must be provided prior to the termination date as indicated per the court order.

Following the Detention hearing, the assigned SSW will make efforts to obtain consent as follows:

1. **Parental Consent:** The assigned SSW will make reasonable efforts to obtain parental consent by requesting the parent sign the *Consent for Medical Care and Physical Examination form (F063-28-13)*, **if a signed copy is not already on file.**

Note: Written parental consent is preferred, however verbal consent is sufficient and will be documented on the *Consent for Medical Care and Physical Examination (F063-28-13)*, and in a CWS/CMS contact narrative.

Refer to [Attachment 1—Guidelines for Completing Consent for Medical Care and Physical Examination Form](#) for further guidance on completing and filing the consent form.

- a. **Parent Not Available:** If efforts to contact the parent to obtain consent are unsuccessful, the assigned SSW will:

- Document efforts to locate and obtain parental consent in a CWS/CMS contact narrative
- Request the Court make a decision as to whether to authorize basic medical care and/or an OCFC Admission Medical Exam. Refer to the “Court Consent” section below

Note: If a court order is in effect authorizing an SSA Representative to sign for basic medical care, and the parent is not available to provide consent, the assigned SSW may provide consent for basic medical care by signing the *Consent for Medical Care and Physical Examination (F063-28-13)*.

- b. **Parent Unwilling to Consent or Parents Disagree:** If a parent is available, but expresses objection to consent, or parents express disagreement with one

another on providing consent, or the parent has revoked a previously signed authorization, treatment will not proceed without a court order. In these circumstances the assigned SSW will:

- Inform the parent(s) Court authorization for basic medical care and/or an OCFC Admission Medical Exam may be sought
- Document parent unwillingness, disagreement with one another, or revocation, in a CWS/CMS contact narrative
- Request the Court make a decision as to whether to authorize basic medical care and/or an OCFC Admission Medical Exam. Refer to the “Court Consent” section below

2. Court Consent: Per WIC § 369, the Court may authorize a child in out-of-home care, to obtain basic medical, dental or other remedial care, including mental health treatment and an OCFC Admission Medical Exam, as may be necessary.

When efforts to obtain parental consent for basic medical care and/or an OCFC Admission Medical Exam are unsuccessful and there is no court order authorizing a SSA Representative to sign for basic medical care, the assigned SSW will seek Court authorization via an Ex Parte Application and Order (Ex Parte) **or** the court report prepared for the next regularly scheduled hearing, if doing so would not delay needed treatment.

The Ex Parte or court report will address the following, as applicable:

- Description of medical/mental health care requested or the need for an OCFC Admission Medical Exam
- Treating professional’s recommendations
- Efforts to obtain parental consent
- Parent unwillingness to provide consent
- Parental disagreement on consent

The Ex Parte or court report will also include a recommendation for Court to authorize any or all of the following, as applicable:

- SSA Representative to sign consent for basic medical care
- OCFC Admission Medical Exam
- Specific medical treatment to which a parent is objecting

Refer to the Jurisdictional/Dispositional Hearing Recommendation Desk Guide, contained on the [Manuals/Autotext](#) page of the CFS Intranet.

The assigned SSW may complete and sign the *Consent for Medical Care and Physical Examination (F063-28-13)* if Court makes an order authorizing an SSA Representative to sign consent for basic medical care.

Note: The *Consent for Medical Care and Physical Examination (F063-28-13)* may be signed by the assigned SSW only to authorize basic medical care. For OCFC Admission Medical Exams authorized by Court, the court order will be given to OCFC Medical Unit staff as evidence of consent.

**Scheduling
OCFC
Admission
Medical Exam**

Parents have the right to be present during their child's OCFC Admission Medical Exam conducted at First Step/OCFC.

The assigned SSW will make reasonable efforts to inform the parent of the right to be present, and to inquire as to the parent's interest in being present for the OCFC Admission Medical Exam.

Once parental consent or Court authorization has been obtained, an OCFC Admission Medical Exam will be scheduled, as applicable:

- A. Upon receipt of parental consent on the *Consent for Medical Care and Physical Examination (F063-28-13)*, First Step/OCFC Intake will:
 1. Review the consent form to verify whether a parent expressed interest in being present for the exam.
 2. Attempt to obtain a response from a parent who did not indicate his/her interest in attending the exam on the consent form.
 3. If contact is made with the parent, indicate on the consent form, the parent's interest in attending the exam.

4. Forward a copy of the consent form to the Medical Unit.
- B. Upon receiving a copy of the *Application and Court Findings & Orders Authorizing Medical Care and/or OCFC Admission Medical Exam (F063-25-761)*, *Detention Disposition Sheet (F063-28-18)* and/or court order authorizing an OCFC Admission Medical Exam, the OCFC Social Worker or designee will:
1. Review the court order to verify whether Court authorized an OCFC Admission Medical Exam
 2. Follow up with the assigned SSW to inquire as to a parent's interest in being present for the exam.
 3. Forward a copy of the court order authorizing the exam to the Medical Unit and inform the Medical Unit of parent's interest in attending the exam.
- C. Upon verification of parental consent or a court order authorizing an OCFC Admission Medical Exam, the Medical Unit Staff will notify a parent who wishes to be present for the exam when the appointment is scheduled.

Refer to [Attachment 3—Frequently Asked Questions Consent for Physical Examination](#) for more information on scheduling a OCFC Admission Medical Exam.

Emergency Medical Care

Per WIC § 369, in an emergency a child in out-of-home placement who requires immediate medical or dental care may be treated without parental consent or court order. Whenever possible, **prior** to the emergency medical or dental care being provided, the assigned SSW will:

- Make reasonable efforts to notify the parent of the need for emergency care and seek consent of the parent

–And–

- Document in a CWS/CMS Contact Narrative:
 - Efforts to obtain parental consent
 - The particular facts and/or circumstances that gave rise to the emergency and the need for emergency medical or dental care

Per CFS Policy, social work staff will not provide consent on behalf of the child for emergency medical or dental treatment.

A. **Consent Requirements for Emergency Medical Treatment:**

1. Parent Available and Willing to Consent: The assigned SSW will refer the parent to the medical/dental professional making the recommendation for the emergency treatment to sign consent forms.
2. Parent Not Available: Per WIC § 369, hospitals and health care providers are not required to secure consent from parents or Court prior to the provision of medical or dental treatment in an emergency situation, if parents are not available.

In situations where emergency treatment is provided without parental consent, the assigned SSW will document the particular facts and/or circumstances that gave rise to the emergency and the need for emergency medical or dental care, in a CWS/CMS Contact Narrative.

If a hospital or health care provider requests Court approval prior to providing emergency medical or dental treatment, and doing so would not delay needed treatment, the assigned SSW will inform the Court of the request through submission of an Ex Parte and request the Court to make a decision as to whether to authorize the treatment.

Refer to “Requesting Court Authorization for Emergency Medical Treatment” below.

3. Parent Unwilling to Consent or Parents Disagree: While WIC § 369 authorizes a child to be treated in an emergency situation without parental consent or court order, Court authorization will be sought when:
 - A parent expresses objection to the child receiving recommended emergency treatment

–Or–

 - Parents disagree with one another regarding consent

If either situation occurs, the assigned SSW will request the Court make a decision as to whether to authorize the recommended emergency treatment through submission of an Ex Parte.

Refer to “Requesting Court Authorization for Emergency Medical Treatment” below.

B. Requesting Court Authorization for Emergency Medical Treatment:

Should Court authorization be requested for emergency medical or dental care, the assigned SSW will submit an Ex Parte requesting the Court make a decision as to whether to authorize the emergency procedure. The Ex Parte will address, as applicable:

- Child’s medical/dental condition
- The particular facts and/or circumstances that give rise to the emergency and the need for emergency medical or dental care
- A detailed description of physician’s recommendation
- Specific procedure to be performed
- Risks involved for child
- Efforts to obtain parental consent
- Circumstances regarding the parent’s unavailability/inability to consent or parental disagreement
- Whether the hospital or health care provider is requesting Court authorization for the recommended emergency treatment

Following Court’s decision as to whether to authorize the emergency treatment, the assigned SSW will, as applicable:

1. Inform the child’s parent and caregiver regarding Court’s decision.
2. Provide the caregiver with a copy of the signed Ex Parte as authorization for the treating professional performing the procedure.

Medical Procedures

For a child in out-of-home placement who requires a medical procedure, per WIC § 369, parents maintain the authority to consent to medical treatment on behalf of their child, unless their right to do so has been restricted by Court. If there is no capable or willing parent available, Court has jurisdiction to authorize the child's medical treatment.

Per CFS Policy, **staff will not** authorize procedures, including but not limited to surgery, sedation, or anesthesia.

Should a licensed medical professional determine a child requires a medical or dental procedure, the assigned SSW will:

- Contact the parents to inform of the recommended procedure

–And–

- Document these efforts in a CWS/CMS Contact Narrative

A. **Consent Requirements for Medical Procedures:**

1. **Parent Available and Willing to Consent:** The assigned SSW will refer the parent to the medical/dental professional making the recommendation for the medical or dental procedure to sign consent forms.

The assigned SSW will apprise the Court that the parent provided consent for the recommended medical or dental procedure in the court report prepared for the next scheduled hearing and whether the child received that procedure.

2. **Parent Not Available, Unwilling to Consent, or Parents Disagree:** The assigned SSW will submit an Ex Parte requesting the Court make a decision as to whether to authorize the recommended medical or dental procedure.

Refer to “Requesting Court Authorization for Medical Procedures” below.

B. **Requesting Court Authorization for Medical Procedures:**

Should Court authorization be required for a medical/dental procedure, the assigned SSW will request authorization, as applicable:

1. Prior to Detention Hearing:
Before seeking Court authorization, consider whether the child is in need of the medical/dental procedure prior to the Detention hearing based on the recommendation of the treating professional:

If the medical/dental procedure can be postponed until after the Detention hearing based on the recommendation of the treating professional, the assigned SSW will inform the Dependency Intake/Investigations SSW and SSSS of the need to obtain parental consent or Court Authorization at the Detention hearing. Refer to the “At or After Detention Hearing” section below.

If the medical/dental procedure cannot be delayed until after the Detention Hearing per the recommendation of the treating professional, the assigned SSW will seek Court authorization via completion and submission of the *Application and Court Findings & Orders Authorizing Medical Care and/or OCFC Admission Medical Exam (F063-25-761)* to Court. Refer to [Attachment 2—Guidelines for Completing Application and Court Findings & Orders Authorizing Medical Care and/or OCFC Admission Medical Exam](#) for further guidance.

Note: If Court authorization is obtained, the authorized medical procedure must be provided prior to the termination date as indicated per the court order.

2. At or After Detention Hearing:
The assigned SSW will submit an Ex Parte requesting the Court make a decision as to whether to authorize the procedure. The Ex Parte will address, as applicable:
 - Child’s medical/dental condition
 - A detailed description of physician’s recommendation
 - Specific procedure to be performed
 - Risks involved for child
 - Efforts to obtain parental consent
 - The parents unavailability/inability to consent or parental disagreement

Following Court's decision as to whether to authorize the recommended medical/dental procedure, the assigned SSW will, as applicable:

- Inform the child's parent and caregiver regarding Court's decision
- Provide the caregiver with a copy of the signed Ex Parte as authorization for the professional performing the procedure

Consent for HIV/AIDS Testing

Testing for HIV/Acquired Immune Deficiency Syndrome(AIDS) may only be conducted with consent provided by:

- The parent
- The child, if 12 years of age or older, and deemed competent
- Juvenile Court order
- Under the provisions of Miscellaneous Order 701.5

Refer to CFS P&P [HIV/AIDS Case Management \(D-0602\)](#) for guidance on obtaining consent for HIV/AIDS antibodies testing.

Authorization to Administer Psychotropic Medication

Juvenile Court consent is required prior to the administration of psychotropic medication for children in out-of-home placement. Parents, caregivers, and staff will not consent to the administration of psychotropic medication.

Refer to CFS P&P [Psychotropic Medication: Dependent Child \(I-0306\)](#) for guidance on obtaining authorization to administer psychotropic medication.

DNR or AND Orders and Removal of Life-Sustaining Medical Treatment

In cases of terminal illness or brain death, medical professionals may decide it is medically appropriate to order that a child not be resuscitated and that no extraordinary means be taken to save the child's life and/or that the child be removed from life-sustaining medical treatment.

For a child in out-of-home placement, per WIC § 369, as long as parents are capable and willing to consent, they retain the right to make medical decisions on behalf of the child, unless their right to do so has been restricted by Court. This includes authorizing a DNR or AND order and the removal of life-sustaining medical treatment.

When there is no parent capable or willing to provide consent, Court has jurisdiction to authorize a medical professional's recommended DNR or AND order on behalf of the child. *In Re: Christopher I.* (2003) also notes the Court's jurisdiction to intervene when parents disagree on providing consent. In order to make a determination regarding consent, the Court must set an evidentiary hearing.

Per CFS Policy, in no case or situation will any member of CFS staff consent to or authorize DNR or AND orders and/or the removal of life-sustaining medical treatment.

As soon as it becomes evident the child's medical condition is such that options provided by the medical professional include authorizing a DNR or AND order, or withholding or withdrawing life-sustaining medical treatment, the assigned SSW will immediately complete each the following **regardless of whether or not a parent has provided consent:**

- Make diligent attempts to locate and inform the parents and document these efforts in a CWS/CMS Contact Narrative
- Apprise immediate supervisor, assigned Program Manager (PM) and Deputy Director (DD) of the circumstances via submission of a *Special Incident Report (SIR) (F063-03-48)* (See SSA Administrative P&P [Special Incident Report \[F 13\]](#) and CFS P&P [Child Fatalities and Near Fatalities \[A-0204\]](#))
- Apprise assigned Deputy County Counsel and child's attorney of the circumstances
- Apprise Court via submission of an Ex Parte

Refer to "Consent Requirements for DNR or AND and/or Removal of Life-Sustaining Medical Treatment" below for further guidance.

A. **Consent Requirements for DNR or AND and/or Removal of Life-Sustaining Medical Treatment:**

1. Parent Available and Willing to Provide Consent: The assigned SSW will refer the parents to the medical professional making the recommendation to sign consent forms.

Note: *In Re: Christopher I.* (2003) and *J.N. v. Superior Court* (2007), set forth that after notice and an opportunity to be heard is provided to parents, the Court may remove a parent's general right to make medical decisions on behalf of the child, if a finding is made that he or she is unable act in the child's best interests.

The assigned SSW will contact the Deputy County Counsel assigned to the child's case and the child's attorney to advise of the circumstances, the parent's availability/willingness to consent, and that an Ex Parte will be submitted in order to provide the attorneys of record an opportunity to object to the parents' decision-making capacity.

The Ex Parte will address:

- Child's medical condition
- Medical professional's recommendation to authorize a DNR or AND order and/or withhold/withdraw life-sustaining medical treatment, as applicable
- Circumstances regarding parent availability/willingness to consent
- Any concerns regarding parent ability to make decisions that are in the best interest of the child

The assigned SSW will comply with any orders of the Court resulting from the submission of the Ex Parte.

Should Court set the matter for a hearing, refer to "Evidentiary Hearing" below.

2. Parent Not Available, Unwilling to Provide Consent, or Parents Disagree: The assigned SSW will contact the Deputy County Counsel assigned to the child's case and the child's attorney to advise of the circumstances, the parents' unavailability/inability to consent or the parents' disagreement, and that an Ex Parte will be submitted.

The Ex Parte will include a request that an evidentiary hearing be set to make a determination regarding consent and will address:

- Child’s medical condition
- Medical professional’s recommendation to authorize a DNR or AND order or withhold/withdraw life-sustaining medical treatment, as applicable
- Circumstances regarding the parent’s unavailability/unwillingness to consent or disagreement with one another
- Any concerns regarding parent ability to make decisions that are in the best interest of the child

The assigned SSW will comply with any orders of the Court resulting from the submission of the Ex Parte.

Should Court set the matter for a hearing, refer to “Evidentiary Hearing” below.

B. **Evidentiary Hearing:**

If Court determines it has jurisdiction to decide on providing consent, an evidentiary hearing must be held to determine whether authorization of a DNR or AND order and/or the withholding/withdrawal of life-sustaining medical treatment is in the best interest of the child.

Note: Prior to the child being declared a dependent, per *J.N. v. Superior Court* (2007), the Court’s authority is limited to ordering medical care that **sustains or improves** the child’s condition, and does not include authority to issue a DNR order.

If an evidentiary hearing is calendared, the assigned SSW will prepare and file an Interim Report. Per *In re: Christopher I.* (2003), the Interim Report will address the following, as applicable:

- Child’s present levels of physical, sensory, emotional, and cognitive functioning
- Quality of life, life expectancy, and prognosis for recovery with and without treatment, including futility of continued treatment
- Various treatment options, and risks, side effects, and benefits of each
- Nature and degree of physical pain or suffering resulting from medical condition
- Whether medical treatment being provided is causing or may cause pain, suffering, or serious complication

- Pain or suffering to child if medical treatment is withdrawn
- Whether any particular treatment would be proportionate or disproportionate in terms of benefits to be gained by child versus the burdens caused to child
- Likelihood that pain or suffering resulting from withholding or withdrawal of treatment could be avoided or minimized
- Degree of humiliation, dependence, and loss of dignity resulting from condition and treatment
- Opinions of family, reasons behind those opinions and reasons why the family either has no opinion or cannot agree on a course of treatment
- Motivations of family in advocating a particular course of treatment
- Child's preference, if it can be ascertained, for treatment

Upon conclusion of the evidentiary hearing, the assigned SSW will comply with any orders of the Court resulting from the hearing.

**CWS/CMS
Documentation**

A. **Contacts:**

The assigned SSW will document the following in a CWS/CMS Contact Narrative, as applicable:

- Efforts to obtain parental consent for medical or dental care, treatment, or procedure
- Parent unwillingness to provide consent
- Parental disagreement on consent
- Verbal consent received by a parent for basic medical care and/or an OCFC Admission Medical Exam, as indicated on the *Consent for Medical Care and Physical Examination (F063-28-13)*
- Receipt of written revocation of a previously signed authorization

B. **Consent Forms:**

The assigned SSW (or designee) will upload the following into CWS/CMS:

1. *Consent for Medical Care and Physical Examination (F063-28-13)* each time the form is completed. Refer to [CWS/CMS Data Entry Standards—Consent for Medical Care and Physical Examination](#) for further guidance.

2. *Application and Court Findings & Orders Authorizing Medical Care and/or OCFC Admission Medical Exam (F063-25-761)* signed by the Juvenile Court Bench Officer.

Refer to [CWS/CMS Data Entry Standards—Import a Document into CWS/CMS](#) for further guidance.

REFERENCES

Attachments and CWS/CMS Data Entry Standards

Hyperlinks are provided below to access attachments to this P&P and any CWS/CMS Data Entry Standards that are referenced.

- [Attachment 1—Guidelines for Completing Consent for Medical Care and Physical Examination Form](#)
 - [Attachment 2—Guidelines for Completing Application and Court Findings & Orders Authorizing Medical Care and/or OCFC Admission Medical Exam](#)
 - [Attachment 3—Frequently Asked Questions Consent for Physical Examinations](#)
 - [CWS/CMS Data Entry Standards—Consent for Medical Care and Physical Examination](#)
 - [CWS/CMS Data Entry Standards—Import a Document into CWS/CMS](#)
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Hyperlinks

Users accessing this document by computer may create a direct connection to the following references by clicking on the link provided.

- CFS P&P [HIV/AIDS Case Management \(D-0602\)](#)
 - CFS P&P [Psychotropic Medication: Dependent Child \(I-0306\)](#)
 - SSA Administrative P&P [Special Incident Report \(F 13\)](#)
 - CFS P&P [Child Fatalities and Near Fatalities \(A-0204\)](#)
 - CFS P&P [Emergency Response On-Call System \(A-0406\)](#)
 - CFS P&P [Abuse Investigations—Practice Guidelines \(A-0412\)](#)
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Other Sources

Other printed references include the following:

None.

FORMS

Online Forms

Forms listed below may be printed out and completed, or completed online, and may be accessed by clicking on the link provided.

Form Name	Form Number
Application for Ex Parte Order Authorizing Testing of a Child for Presence of Human Immunodeficiency Virus or its Antibodies	F063-28-147
Order Granting Authority To Consent To Medical, Surgical, and Dental Care	JV-448
Special Incident Report (SIR)	F063-03-48
Application and Court Findings & Orders Authorizing Medical Care and/or OCFC Admission Medical Exam	F063-25-761

Hard Copy Forms

Forms that may be completed in hard copy (including multi-copy NCR forms) are listed below. **For reference purposes only**, links are provided to view these hard copy forms, where available.

Form Name	Form Number
Consent for Medical Care and Physical Examination	F063-28-13
Medical Acco	F063-25-1115

CWS/CMS Forms

Forms that may **only** be obtained in CWS/CMS are listed below. **For reference purposes only**, links are provided to view these CWS/CMS forms, where available.

Form Name	Form Number
Ex Parte Application and Order	Access through CWS/CMS

Brochures

Brochures to distribute in conjunction with this policy may include:

Brochure Name	Brochure Number
None.	

LEGAL MANDATES

[WIC § 202](#) provides minors under the jurisdiction of the Juvenile Court who are in need of protective services shall receive care, treatment, and guidance consistent with their best interest and the best interest of the public.

[WIC § 362](#) provides authority for Court to make any and all reasonable orders for the care and supervision of the child, including medical treatment at the time the child is made a dependent of the court.

[WIC § 366.27](#) provides authority for Court to authorize the relative with whom the Court orders the child placed in a planned permanent living arrangement, to provide the same legal consent for the child's medical, surgical, and dental care as the custodial parent of the child.

[WIC § 369\(a\)](#) when a child has been taken into temporary custody, allows the social worker to consent to medical, surgical, dental or other remedial care for the child upon the recommendation of the attending physician/dentist/surgeon and after notifying the parent, unless the parent objects; then a court order is required.

[WIC § 369\(b\)](#) provides after a petition has been filed, Court may make an order authorizing medical, surgical, dental, or other remedial care on behalf of a child upon the written recommendation of a licensed physician/surgeon/dentist after due notice to the parent, when there is no parent capable or willing to authorize the treatment.

[WIC § 369\(c\)](#) provides after a child has been declared a dependent and ordered placed within the care and custody or under supervision of a social worker, Court may make an order allowing the social worker to authorize medical, surgical, dental, or other remedial care or treatment by licensed practitioners, as necessary, for the child, when there is no parent capable or willing to authorize the care after due notice to the parent.

[WIC § 369\(d\)](#) allows the social worker to authorize medical treatment whenever a child requires immediate emergency medical, surgical, dental, or other remedial care, to be performed by a licensed practitioner. The social worker must make reasonable efforts to obtain the consent of or notify the parents.

[WIC § 369\(e\)](#) provides when Court orders any medical/surgical/dental/other remedial care, Court may also make an order authorizing the release of information concerning that care to social workers or any other qualified individuals or agencies caring for or acting in the interest and welfare of the child under order or approval of the Court.

[WIC § 369\(f\)](#) provides that a parent authorizing non-emergency medical care for a child must notify the other parent prior to administration of that care.

[WIC § 245.5](#) allows Court to direct orders to the parents or guardian of a child subject to dependency proceedings which may concern the care and supervision of the child, including medical treatment.

[WIC § 14059](#) in part, defines health care to include diagnostic, preventive, corrective, and curative services and supplies provided by qualified medical personnel for conditions that cause suffering, endanger life, result in illness or infirmity, and interfere with capacity for normal activity. Medical care includes other remedial care, which is not necessarily medical, such as, but not limited to treatment by prayer or healing by spiritual means.

[Health and Safety Code § 121020](#) details consent required for obtaining HIV testing on dependent children under 12 years of age, and infants under the age of 12 months who have been taken into temporary custody, are the subject of a dependency petition filed with the Juvenile Court, or have been adjudged a dependent.

[Health and Safety Code § 1530.6](#) in part, prohibits a foster parent to provide consent for the child to receive medical and dental treatment outside of ordinary treatment. This section does not apply to any situation in which the Court expressly reserves the right to consent to those activities.

[Business and Professions Code § 2397](#) provides exemption from civil liability damages to medical providers for performing a procedure on a minor in emergency situations if certain conditions are met.

[Family Code §§ 6900–6903](#) provides definitions for “medical care”, “dental care”, and “parent/guardian.”

[Family Code § 6922\(a\)](#) provides a child may consent to his or her own medical or dental care if the child is 15 years of age or older, lives separate and apart from parents or guardian, and is managing his or her own financial affairs.

[Family Code § 6924](#) authorizes a child, 12 years of age or older, to consent to mental health treatment or counseling on an outpatient basis if certain conditions are satisfied.

[Family Code § 6925](#) authorizes a child (of any age) to consent to medical care related to the prevention or treatment of pregnancy.

[Family Code § 6926](#) authorizes a child, 12 years of age or older, to consent to medical care related to the diagnosis or treatment of any infectious, contagious, or communicable disease, including a sexually transmitted disease.

[Family Code § 6927](#) authorizes a child, 12 years of age or older, to consent to medical care related to the diagnosis and treatment of rape.

[Family Code § 6928](#) authorizes a child (of any age) to consent to medical care relating to sexual assault.

[Family Code § 6929](#) authorizes a child, 12 years of age or older, to consent to medical care and counseling relating to the diagnosis and treatment of a drug or alcohol problem.

Probate Code [§ 2353](#) and [§ 2356](#) describe powers and duties of a guardian or conservator of the person concerning medical, mental, and behavioral health treatment.

[CDSS Manual of Policies and Procedures § 31-401.411–413](#) provides in relevant part that foster parents may not give the same legal consent as a parent for medical treatment falling outside ordinary, basic care.

American Academy of Pediatrics v. Lungren, 16 Cal. 4th 307, 66 Cal. Rptr. 2d 210, 940 P.2d 797 (1997) holds that a statutory provision requiring a pregnant child to obtain parental consent or judicial authorization in order to obtain an abortion is unconstitutional and therefore invalid, as the statute violates a pregnant child's constitutional right to privacy.

In re Christopher I., 131 Cal. Rptr. 2d 122, 106 Cal. App. 4th 533 (Ct. App. 2003) holds that the Juvenile Court has jurisdiction to determine whether life-sustaining medical treatment for a dependent child should be withdrawn subject to a finding that the decision is in the best interests of the child.

J.N. v. Superior Court, 156 Cal. App.4th 523 (2007) holds that prior to jurisdictional findings being made by clear and convincing evidence on the dependency petition, the court does not have authority to withdraw or withhold life-sustaining medical treatment on behalf of the child, but does have the authority to order medical care that sustain or improves the child's condition.

Swartwood v. County of San Diego et al, 84 F.Supp.3d 1093 (2014) holds in pertinent part, that the county's medical assessments of children implicated parents' due process right to make important medical decisions for their children, and that the county violated parents' due process rights through failure to obtain parental consent for and excluding parents from medical examinations performed on children under the Fourteenth Amendment to the United States Constitution.

Wallis v. Spencer, 202 F. 3d 1126 – Court of Appeals, 9th Circuit (2000) outlines that parents have a constitutional right arising from the liberty interest in family association to make important medical decisions for their children, and to be with their children when they are receiving medical attention.

Miscellaneous Order 702.4, Superior Court of California, County of Orange, provides authorization for Social Services Agency staff to sign medical care consents.

REVISION HISTORY

Since the Effective Date of this P&P, and prior to the Current Revision Date, the following revisions of this P&P were published:

July 6, 2007