

DEPARTMENT OF HEALTH SERVICES

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July 31, 1995

N.L. 19-0795

Index: Laws

TO: County California Children Services (CCS) Programs and State Children's Medical Services Branch (CMS) Regional Offices and Professional Consultant Staff

SUBJECT: NEW LAW ALLOWING CAREGIVERS TO AUTHORIZE HEALTH CARE INCLUDING MEDICAL AND DENTAL TREATMENT FOR A MINOR

Enactment of Senate Bill 592 (Statutes of 1994, Chapter 98), authored by Senator Newton Russell, adds Sections 6550 and 6552 to the Family Code (copy enclosed). Effective June 6, 1994, a non-parent adult caregiver relative with whom a minor is living may authorize medical and dental care for the minor by signing a "Caregiver's Authorization Affidavit."

In accordance with these laws, an adult caregiver relative who is not the parent, legal guardian, or conservator of a minor may provide consent for medical and dental treatment of the minor. All of the following conditions must be met in order for the authorization to be valid:

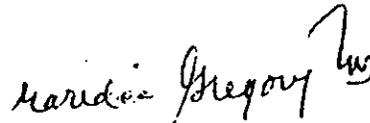
1. The minor must be living with the adult caregiver family member.
2. The adult caregiver must be a "relative" as defined in law as a spouse, parent, stepparent, brother, sister, stepbrother, stepsister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin, or any person denoted by the prefix "grand" or "great," or the spouse of any of the persons specified in the definition, even after the marriage has been terminated by death or dissolution.
3. The decision of the adult caregiver relative to consent to or to refuse medical or dental care for a minor shall not be in conflict with a decision of the parent or other person having legal custody of the minor, provided the decision of the parent or other person having legal custody of the minor does not jeopardize the life, health or safety of the minor.

4. The adult caregiver relative must complete an affidavit (model affidavit enclosed) in which he or she signs the form declaring the information provided is true and correct.
5. The affidavit is valid for one year from the date it is signed.

These laws also provide that a person who treats a minor in good faith by acting upon a signed affidavit is to be held harmless from criminal liability, civil liability, or professional disciplinary action as long as the applicable portions of the affidavit are completed. A person who relies on the affidavit has no obligation to make any further inquiry or investigation. The law defines "Person" to include an individual, corporation, partnership, association, the state, or any city, county, city and county, or other public entity or governmental subdivision or agency, or any other legal entity.

In discussion with Department legal staff, California Children Services (CCS) is required to honor the affidavit for authorization of medical and dental services including medical therapy services. However, presentation of this affidavit by a caregiver relative who is not the parent or legal guardian is not sufficient for making a CCS application.

Please inform staff of this mandate.



Maridee A. Gregory, M.D., Chief
Children's Medical Services Branch

Enclosures