

CONSENT TO IMMUNIZATION OF A MINOR IN A DISASTER

Prepared by: Office of General Counsel, Texas Department of State Health Services
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ISSUE: May a health care professional administer immunization(s) to a minor during a natural or man-made disaster without first obtaining the consent of the minor's parent, guardian, or managing conservator?

ANSWER: Yes, in certain circumstances specified by law.

DISCUSSION: A "minor" is a person under 18 years of age who is not and has not been married or who has not been declared an adult by a court for general purposes. *Family Code, §101.003(a)*. If the minor's parent, guardian, managing conservator, or a person authorized to consent under the law of another state or a court order is not available and has not expressly refused to consent, been told not to consent, or has not withdrawn a prior written authorization, only the following persons may consent to immunization for a minor: (1) a grandparent of the minor; (2) an adult brother or sister; (3) an adult aunt or uncle; (4) a stepparent; (5) a representative of the minor's school, if it has written authorization from the minor's parent, guardian, managing conservator, or a person so authorized to consent under the law of another state or a court order; (6) another adult who has actual care, control, and possession of the minor, and has written authorization from the minor's parent, guardian, managing conservator, or a person so authorized to consent under the law of another state or a court order; (7) a court in which a suit is filed affecting the parent-child relationship of which the minor is the subject; (8) an adult having actual care, control, and possession of the minor under a juvenile court order or if the minor has been committed to the care of a state or county agency; or (9) an adult having actual care, control, and possession of the minor as his or her primary caregiver. *Family Code, §32.101*. Consent for immunization must be (1) in writing; (2) signed by the person giving consent; (3) given to the health care professional or medical facility; and must include (1) the minor's name; (2) the name of one or both parents, if known, and the name of any managing conservator or guardian; (3) the name of the person giving consent and that person's relationship to the minor; (4) a statement of the immunization(s) to be administered; and (5) the date. *Family Code, §32.002*. Unless the minor is unmarried, has actual custody of his or her own child, and has consented, as the child's parent, to medical, dental, psychological, or surgical treatment for the child, a minor may not otherwise consent to immunization(s). *Family Code §32.003(a)(6)*.

Under the supervision of a local health authority, communicable disease control measures, including immunizations, that are necessary in the administration of a regional public health response in a disaster may be administered to minors without first obtaining consent from their parents, guardians, or managing conservators. *Health and Safety Code, §81.082(f)(1)*.

WAIVER OF LAW OR RULES: None.

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