

CONSENT FOR EMERGENCY MEDICAL CARE OF A MINOR IN A DISASTER

Prepared by: Office of General Counsel, Texas Department of State Health Services
April 14, 2006

ISSUE: May a health care professional provide emergency medical care 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.

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)*.

State law defines "emergency medical care" as services provided after the sudden onset of a medical or traumatic condition with acute symptoms of sufficient severity that the absence of immediate medical attention might reasonably be expected to place the patient's health in serious jeopardy, or result in serious impairment to bodily functions or serious dysfunction of a bodily organ or part. *Civil Practice and Remedies Code, §74.001(a)(7)*.

Therefore, in Texas a physician, and by extension, other health care professionals, confronted with an emergency, may provide life-sustaining treatment for a minor without first obtaining consent from the minor's parent, guardian, or managing conservator. *Miller v. HCA, Inc., 118 S.W. 3d 758, 767 (Tex. 2003)*. However, health care professionals should carefully evaluate a minor's condition and the likely results of deferring treatment before acting without consent. The injuries and destruction caused by a disaster such as a hurricane, no matter how severe, do not automatically authorize emergency medical care without parental consent for any minor unless the minor's life or health would be jeopardized by delay.

In addition, under the supervision and control of a local health authority, communicable disease control measures, including preventive therapy, that are necessary in the administration of a regional public health response to a disaster may be administered to minors without first obtaining consent from their parents, guardians, or managing conservators. *Health and Safety Code, §81.082*. Unless preempted by a disaster declaration by the Governor, a local health authority may impose measures to arrest, control, and eradicate an outbreak of communicable disease in a quarantine area under the health authority's jurisdiction. Consent from the parents, guardians, or managing conservators, of minors subject to the control measures is not required by law. *Health and Safety Code, §81.086*. An individual minor's life or health need not be in jeopardy to authorize measures to control the spread of disease stemming from a disaster.

WAIVER OF LAW OR RULES: None.

CONTACT: Michael G. Young, Assistant General Counsel, 458-7111, extension 3809, Room M-540.