

# COOPERATIVE OF AMERICAN PHYSICIANS, INC. (CAP) RISK MANAGEMENT

## Caregivers Consent to Treatment for Minors

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**Question:** When my minor patient does not live with his or her parents, who can give consent for the minor's medical care?

**Answer:** A responsible adult must provide legally valid consent on behalf of a minor, except in specified situations (e.g., emergencies, reproductive rights, sexual abuse or rape, and others defined by statute). The California Census of 1990 counted more than 900,000 minors in the state who are living with adults other than their parents. Under Family Code Section 6550, a "qualified relative" may give consent for medical treatment of a minor.

A "qualified relative" is defined in the law (Family Code Sections 6550 & 6552) as a spouse, parent, step-parent, brother, sister, step-brother, step-sister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin, or any person denoted by a prefix of "great" or "grand," or the spouse of any of these, even after the marriage has been terminated by death or dissolution. "Adult" means 18 years of age, or older.

If all of the following conditions are met, one of the above relatives may give consent: (1) The minor must live with the qualified relative, and (2) That qualified relative must attempt to advise the parent(s) of the proposed medical treatment or be able to contact the parent(s). (3) The qualified relative must complete an affidavit that all of the above facts are true. The affidavit is valid for only one (1) year.

Health care providers who treat minors, relying upon the signed affidavit, are protected from liability, so long as they possess no actual knowledge of facts or circumstances contrary to those appearing in the affidavit. Also, providers are not obliged to inquire into matters going beyond the information provided in the affidavit (Family Code Section 6550).