

**EMERGENCY MEDICAL AND SURGICAL TREATMENT INCLUDING
TRANSFUSION OF BLOOD AND BLOOD PRODUCTS FOR MINOR PATIENTS
WITHOUT PARENTAL CONSENT**

POLICY: It is the policy of Children's to provide medically necessary emergency medical and surgical treatment to minor patients admitted into our facility, absent a court order directing Children's to the contrary.

It is also our policy that physicians practice one standard of care at Children's whenever emergency treatment is required.

We engage patients/parents as partners in their own or their child's health care. They are informed of these policies and practices as soon as is reasonable. Patient/parents may then choose to make decisions, including obtaining a court order or requesting a transfer to another facility, before the patient's condition deteriorates and emergency treatment is required. (The term "parents" throughout this document includes substitute decisionmakers or other legally authorized persons).

PROCEDURE:

1. Statutory Implied Consent Authorizes The Provision Of Care In Emergency Situations Without The Need For A Court Order
 - A. **MEDICAL RECORDS DOCUMENTATION BY ATTENDING PHYSICIAN**
 - 1) An attending level physician must confirm the existence of an emergency before commencing emergency procedures and must document a progress note entry as soon as possible.
 - 2) A second attending level physician should document the existence of an emergency by a second entry in the progress notes if time permits.
 - 3) The entries should confirm that the emergency treatment is necessary because of an immediate threat to life or health. It is recommended that when informed consent cannot be immediately obtained from the parent or legal guardian that these circumstances be fully explained in the medical records.
 - B. **DEFINITION OF EMERGENCY**

"Emergency" is defined at Children's as those situations where, in a physician's individual professional judgment based upon information available at that time, immediate treatment is necessary to preserve life, prevent serious permanent injury, or to prevent serious deterioration or aggravation of the patient's condition.
 - C. **STATUTORY IMPLIED CONSENT FOR EMERGENCIES**

Washington State provides for implied consent at RCW 7.70.050:
Failure to secure informed consent--Necessary elements of proof--Emergency situations.

(4) If a recognized health care emergency exists and the patient is not legally competent to give an informed consent and/or a person legally authorized to

consent on behalf of the patient is not readily available, his consent to the required treatment will be implied.

D. STANDARDS FOR PERSON LEGALLY AUTHORIZED TO CONSENT

RCW 7.70.065 sets forth standards that persons authorized to provide informed consent for patients who are not competent (including minor children) must meet before exercising that authority:

- 1) The substitute decisionmaker must determine in good faith that the patient, if competent, would consent to the proposed health care; or
- 2) If such a determination cannot be made (usually the case with minor children), the decision to consent to the proposed health care may be made only after determining that the proposed health care is in the patient's best interests.

It is Children's position that a substitute decisionmaker who refuses to consent to care for a minor child during emergency situations is not acting in the patient's best interests and is thus, "not readily available" to provide consent.

E. STATUTORY IMMUNITY

Washington State provides statutory immunity to physician and hospitals providing emergency care at RCW 18.71.220:

“Rendering emergency care--Immunity of physician or hospital from civil liability. No physician or hospital licensed in this state shall be subject to civil liability, based solely upon failure to obtain consent in rendering emergency medical, surgical, hospital, or health services to any individual regardless of age where its patient is unable to give his consent for any reason and there is no other person reasonably available who is legally authorized to consent to the providing of such care: PROVIDED, That such physician or hospital has acted in good faith and without knowledge of facts negating consent.”

F. CONSENT POLICIES AND PROCEDURES

Children's consent policies and procedures address implied consent in emergency situations (briefly summarized above in section C).

2. Communications Should Be Made With Minor Patients/Parents Regarding Emergency Treatment Policies If Indicated

A. PRIOR TO EMERGENCY SITUATION

Health care providers make every effort to communicate these policies and procedures to appropriate minor patients and their parents if indicated. Patients and parents may seek and share as much information with physicians as needed to make informed decisions. They may obtain the advice of their own legal counsel at their personal expense. See “Legally Authorized Person for Informed Consent Decisionmaking When a Patient is a Minor” policy and procedure.

B. IF IMPLIED EMERGENCY CONSENT IS EXERCISED

Health care providers will provide full explanation to patients and parents after the emergency has been resolved. This information is in addition to that provided in an attempt to obtain consent prior to their refusal of emergency treatment.

3. Children's Does Not Seek Court Orders For The Provision Of Emergency Care, And The Burden Is On The Patient/Parent To Obtain Court Orders If They Choose To Prohibit The Provision Of Emergency Care

A. PATIENTS/PARENTS

Children's will respect the wishes of parents for the care of their children whenever clinically appropriate in the opinion of the attending physician. Parents and other authorized decisionmakers may not, however, refuse the emergency provision of surgery or medical treatment including blood or blood components for the minor patient at Children's unless a valid court order directing Children's to the contrary can be immediately produced. Children's will comply with court orders parents obtain to prevent emergency treatment, although it reserves the right to transfer patients to another health care facility or seek a modification of the order in certain circumstances.

B. KING COUNTY JUVENILE COURT

Effective September 1, 1995, the King County Juvenile Court has announced that it is no longer available for judicial review of juvenile emergency medical intervention requests on a twenty-four hour a day basis. It is the position of this court that hospitals have the statutory ability to act in emergencies without involving the Juvenile Court after normal working hours.

C. CHILDREN'S

The burden is on the patient/parents, not on Children's or its staff physicians, to petition the court for an order prohibiting the provision of emergency treatment. Children's, however, reserves the right to file emergency medical dependency petitions to authorize care in limited circumstances.

4. Children's Respects Jehovah's Witnesses Patients/Parents' Requests For Alternate Therapy Before Emergency Treatment Is Indicated As Determined By The Attending Physician

Examples of choices, as provided by Jehovah's Witness representatives, are listed below for informational purposes only.

A. NON-BLOOD THERAPY

Patients/parents may collaborate with physicians to review any reasonably available non-blood medical alternatives so those patients may be treated without using homologous blood. Consultants may include other physicians available at Children's who may be experienced in non-blood alternative management.

B. HOSPITAL LIAISON COMMITTEE

The Hospital Liaison Committee of Jehovah's Witnesses offers itself as a resource to parents in locating experienced and cooperative physicians at other facilities to consult on or provide alternative care. Contact is Claude Falk at (206)-362-5857.

C. TRANSFER TO ANOTHER FACILITY

Parents and other authorized decisionmakers may request transfer of a patient to other physicians or facilities before the patient's condition deteriorates. As an example only, Legacy Health System, which includes Emanuel Hospital and Health Center and Good Samaritan Hospital and Medical Center, both in Portland, Oregon, offer a Bloodless Surgery and Medicine Program and may be contacted at 1-800-733-9952 or (503)-413-8396 or Pager (503)-237-5617 (24-hours).

5. Physicians Should Consider Reporting Pursuant To Mandatory Child Abuse Or Neglect Statutes When Parents Refuse Emergency Treatment

A. PARENTAL REFUSAL

The mandatory reporting requirements of RCW 26.44 remain in effect when parents or authorized decisionmakers of minor patients refuse consent in emergency situations. The fact that Children's proceeds with treatment does not

remove the statutory requirement to report suspected child abuse or neglect. Children's Protection Team is available for consultation at 987-2194.

B. CHILD ABUSE OR NEGLECT

"Abuse or neglect" includes "negligent treatment or maltreatment" defined at RCW 26.44.020(15) as "an act or omission that evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to the child's health, welfare, and safety".

C. DEPENDENT CHILD

"Dependent child" under RCW 13.34.030(4)(b)(Juvenile Court Act) includes one who "is abused or neglected as defined in chapter 26.44 RCW by a person legally responsible for the care of the child."

Previous "Emergency Medical Procedure Court Order" approved in 9/89 and last revised in 4/93 is replaced.

Submitted by: Medical Executive Committee
Reviewed by: Medical Executive Committee
Revised by: Ethics Committee (David Woodrum MD, Chair); Blood Usage Committee, Dana Matthews MD, Chair); Jeremy Geiduschek MD, Anesthesia Department QI; David Stallings, Risk Management

APPROVED BY:

<u>Rich Molteni MD</u>	<u>11/30/2004</u>
Chair, MEC	Date
<u>Susan Heath RN MN</u>	
Nurse Executive	
<u>Pat Hagan</u>	
Chief Operating Officer	

ORIGINATED: 6/27/96
REVIEWED: 2/25/99
REVISED: 11/30/04

Additional Key Words: Patient Rights; Consent; Informed Consent; Refusal; Minor; Court; Legally Authorized Person; Surrogate Decisionmaker; Blood; Transfusion; Blood Transfusion; Emergency