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The Authority of a Community Caregiver to Consent to a COVID-19 Immunization for a Foster Child Between the Ages of Five (5) and Eleven (11) Years

This FYI provides an update on the DCFS position concerning a community caregiver's authority to consent to a COVID-19 immunization for a foster child, under their care, when that child is between the ages of five (5) and eleven (11) years of age. Except in exceptional situations, such as when there are court orders limiting the caregiver's authority to give consent or where the foster child has a medical condition that makes immunization appear imprudent, DCFS believes the caregivers have the authority to give consent for the COVID-19 Immunization of five (5) to eleven (11) year-old foster children entrusted to their care.

Background

I. The Novel Coronavirus Pandemic and Related Vaccines

Since early 2020, the County of Los Angeles has found itself in the midst of a global COVID-19 pandemic. While some people may be at heightened risk, it is well established that the novel corona virus is a significant threat to everyone, including the young.

With much effort and the passage of time, our tools to combat the pandemic have grown. Initially, we had little more than masks, hygiene and physical distance to protect our foster children, but the development of immunizations has added an important additional layer of protection. The immunization of adults, such as DCFS Children's Social Workers, provided additional protection to the children we serve as well as protecting our social worker colleagues, adult family members and others.

In May 2021, the Federal Food and Drug Administration (FDA) approved the Pfizer-BioNTech COVID-19 vaccine for emergency use in children twelve (12) years of age and older. That same month, both the Federal Centers for Disease Control (CDC) and the American Academy of Pediatrics (AAP) recommended the Pfizer-BioNTech COVID-19 vaccine for children twelve (12) years-old and up.

II. In General, Caregivers May Consent to the COVID-19 Vaccination of Foster Children Age 12 and Older

Existing State of California law makes it clear that community caregivers may give consent for a foster child, in their care, to be immunized. Health and Safety Code (HSC) Section 1530.6 states that persons licensed or approved, pursuant to the California Community Care Facilities Act (CCCFA), to provide residential foster care to a child either placed with them pursuant to order of the juvenile court



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or voluntarily placed with them by the person or persons having legal custody of the child, may give consent "for ordinary medical and dental treatment for the child, including, but not limited to, immunizations". Similarly, Welfare and Institutions Code (WIC) Section 16519.57 states that, "a resource family who has had a child either placed with them pursuant to order of the juvenile court or voluntarily placed with them by the person or persons having legal custody of the child" may consent to "ordinary medical and dental treatment" for a foster child, and that includes consent for immunizations.

To dispel uncertainty specific to COVID-19 vaccines for children, on May 14, 2021, the California Department of Social Services (CDSS) issued All County Information Notice (ACIN) I-42-21 and Provider Information Notice (PIN) 21-18-CRP which clarified that a COVID-19 vaccination is an immunization within the meaning of ordinary medical care; consequently, the community care provider is generally allowed to give consent for the COVID-19 vaccination of a foster child, placed in their care, if the child is twelve (12) years-old or older.

COVID-19 Vaccinations for Five (5) to Eleven (11) Year-olds

After further development and study, on November 2, 2021, the CDC recommended that children between the ages of five (5) and eleven (11) years-old receive the Pfizer-BioNTech pediatric COVID-19 vaccine. The ability to vaccinate these younger children, ranging in age from five (5) to eleven (11), is a significant new development.

Although the CDSS has not issued an ACIN or PIN specifically addressing the vaccination of five (5) to eleven (11) year-olds, the reasoning in the prior State guidance on twelve (12) year-olds would apply with equal force to five (5) through eleven (11) year-olds.

Consequently, DCFS concludes that the caregivers generally have the authority to give consent for the COVID-19 vaccination of five (5) to eleven (11) year-old foster children entrusted to their care.

Limitations on Caregiver Consent

In some instances, there may be case-specific court orders limiting a caregiver's authority to give consent to a COVID-19 vaccination. In other instances, a foster child may have health issues that make COVID-19 immunization imprudent, in the caregiver's opinion. In these and any other instances where the caregiver lacks the authority to give consent or is reluctant to give consent, the DCFS CSW should quickly escalate the issue so that it can be given speedy, thoughtful and thorough consideration. The CSW should seek legal advice from the Office of the County Counsel and medical input from the DCFS Bureau of Clinical Resources and Services, Office of the Medical Director, whenever appropriate.



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