

7 FAM 350 MEDICAL ASSISTANCE

*(CT:CON-265; 10-01-2008)
(Office Of Origin: CA/OCS/PRI)*

7 FAM 351 INTRODUCTION

(CT:CON-120; 12-06-2005)

- a. **Dealing with an Ill U.S. National in a Foreign Country:** U.S. nationals who suffer medical problems overseas often come to the embassy or consulate's attention and are in need of assistance. You may be contacted by the ill or injured person directly, or you may learn about the case from family members, attending physicians, or the host government. Most of the people you encounter in these circumstances could satisfactorily resolve their problems at home, but don't know where to begin in a foreign country. Language barriers and concerns about whether U.S. medical insurance applies abroad can be complicating factors for the patient and his or her family. 7 FAM Exhibit 350 provides links to resources and reference material related to medical assistance matters.
- b. **Role of the Consular Officer:** While you have an important role in protecting and assisting U.S. nationals with medical problems, there are limitations to what you can do. Understanding your authority and the limitations on that authority is vital.
 - (1) **You Can:**
 - (a) Listen to the citizen's problem and provide information about local sources of assistance;
 - (b) Observe the citizen's behavior, language and demeanor to help you understand the level of assistance he or she may require;
 - (c) Report the case to CA/OCS in objective terms;
 - (d) Obtain a Privacy Act waiver, or determine that the health and safety exception to the Privacy Act applies in a given case, (see 7 FAM 060);
 - (e) Coordinate with host country authorities, making appropriate representations on behalf of the citizen;
 - (f) Relay information to family, friends, Congressional offices,

etc., consistent with the Privacy Act;

- (g) Assist in financial programs such as the OCS Trust and Repatriation and/or EMDA loans, (see 7 FAM 320, 7 FAM 370 and 380); and
- (h) Provide lists of medical service providers (doctors, hospitals, air ambulance services, etc.), (see 7 FAM 337).

(2) **You cannot:**

- (a) Diagnose the nature of the medical problem;
- (b) Act as a social worker, counselor or legal adviser;
- (c) Force a U.S. citizen/non-citizen national to board a flight;
- (d) Pledge the expenditure of U.S. Government funds in payment of expenses for transport or care for a patient beyond the authorization provided by Repatriation/EMDA program;
- (e) Make decisions about treatment of patients; or
- (f) Disclose information about a U.S. citizen/non-citizen national unless you comply with the Privacy Act.

c. **Role of CA/OCS:** CA/OCS/ACS works very closely with posts on all medical assistance and health information issues. You should not hesitate to contact us for guidance, and should keep CA/OCS/ACS informed of developments. CA/OCS/ACS activities related to medical cases can include:

- (1) Receiving inquiries from family, friends, employers, Congressional offices, etc. about a U.S. citizen abroad who may be experiencing a medical problem;
- (2) Relaying inquiries to posts for action;
- (3) Providing advisory opinions to posts about appropriate course of action;
- (4) Coordinating with posts, family and other interested persons in the United States;
- (5) Coordinating with foreign embassies in Washington, DC if necessary;
- (6) Coordinating with HHS/ACF/ORR (U.S. Department of Health and Human Services, Administration for Children and Families, Office of Refugee Resettlement) and its contractor, International Social Services, USA (ISS-USA), on reception and resettlement of U.S. National patients in the United States;
- (7) Coordinating with Crime Victim Assistance and Compensation Programs for U.S. nationals who are victims of crime abroad, (see 7

FAM 1900);

- (8) Facilitating the transfer of funds by families using the “OCS Trust” (Suspense Deposit Account) deposit procedures; (see 7 FAM 320);
- (9) Authorizing loans above the dollar amount posts are permitted to approve, (see 7 FAM 370 and 7 FAM 380);
- (10) Briefing CA/OCS Management and other Department offices about unusual cases requiring special authorization for expenditure of funds, denial of loans or other assistance; and
- (11) Providing Privacy Act and passport issuance guidance, (see 7 FAM 060 and 7 FAM 1380).

7 FAM 352 REPORTING ON MEDICAL CASES

(CT:CON-120; 12-06-2005)

You should report major incidents involving critical injuries to U.S. nationals abroad by phone, e-mail or fax to CA/OCS/ACS, followed by cable using CASC tags to ensure appropriate distribution and proper attention. Enter case data in the ACS system as appropriate. Provide progress reports on a regular basis.

7 FAM 353 PRIVACY AND MEDICAL CASES

7 FAM 353.1 General

(CT:CON-120; 12-06-2005)

- a. See 7 FAM 060 for the rules on disclosing information about individuals under the Privacy Act.
- b. See 7 FAM 066 regarding the Health and Safety Exception to the Privacy Act’s Prohibition against Nonconsensual Disclosure.
- c. The Privacy Act generally requires agencies to obtain written consent from U.S. citizens/non-citizen nationals prior to disclosing any personal information to third parties. However, in medical cases involving U.S. citizens/non-citizen nationals abroad, the Privacy Act’s “health or safety” exception may be relevant in deciding whether to disclose personal information about U.S. citizens/non-citizen nationals to family members or other third parties without their consent.
- d. If, in the opinion of the foreign attending physician, the patient is lucid and capable of making decisions and exercising judgment, and the patient does not consent to allowing contact with family members or other third parties, you should honor that wish unless you believe that the disclosure is necessary to prevent serious harm to the patient’s health

or safety. When in doubt, consult CA/OCS/ACS and CA/OCS/PRI.

7 FAM 353.2 Privacy and Quarantinable Communicable Diseases

(CT:CON-120; 12-06-2005)

Additional information provided in 7 FAM 333.

7 FAM 353.3 Sharing Information With Private Entities

(CT:CON-120; 12-06-2005)

The U.S. Department of State’s Statement of Routine Uses for Overseas Citizens Services Records, State-05, provides for disclosure of information in the Overseas Citizens Services records to certain private entities, including “foreign and domestic airlines when the information is required for the purpose of notifying next-of-kin of the death, injury or status of the individual to whom it pertains, or in connection with a medical evaluation of the individual to whom it pertains.” Questions about this topic should be addressed to your CA/OCS/ACS country officer and to CA/OCS/PRI. You can reach CA/OCS/PRI at ASKPRI@state.gov which is monitored daily.

7 FAM 353.4 Health Insurance Portability and Accountability Act (HIPAA)

(CT:CON-265; 10-01-2008)

- a. Local physicians in the United States may be reluctant to provide information about their patients hospitalized abroad, except to another *health care provider*, due to the HIPAA rules. The Health Insurance Portability and Accountability Act of 1996 (HIPAA) (Public Law 104-191) *(42 U.S.C. 1320d – 42 U.S.C. 1329d-8) directed the Department of Health and Human Services (HHS) to create national standards to protect individuals’ medical records and other personal health information. These national standards are described in 45 CFR 160 and 45 CFR 164. The HIPAA Privacy Rule permits physicians to disclose protected health information to another health care provider for treatment purposes.*
- b. Questions about HIPAA should be directed to CA/OCS/PRI, which will coordinate with HHS/ACS/ORR and its legal counsel in formulating a response. Contact CA/OCS/PRI at ASKPRI@state.gov, which is monitored daily or via cable using CASC and CFED tags.

7 FAM 354 DIAGNOSIS AND PROGNOSIS REPORTS FROM ATTENDING PHYSICIANS ABROAD

(CT:CON-120; 12-06-2005)

When CA/OCS/ACS learns of a medical emergency case, we often request that post obtain a diagnosis/prognosis report from the foreign attending physician. CA/OCS/ACS and posts work to facilitate direct communication between the attending physician abroad and next-of-kin, family physicians in the United States, and other appropriate representatives to ensure that information about previous medical history, current medications, allergies, etc. is conveyed. This communication is, of course, subject to the Privacy Act considerations explained in 7 FAM 353 and 7 FAM 060. Posts report to CA/OCS/ACS by cable and via the ACS automated system on the results of the diagnosis/prognosis discussion with local attending physician. These reports should include as much of the following information as possible.

- Name of U.S. citizen/national patient
- Date and place of birth
- Passport number, date and place of issuance
- Social Security number
- Permanent address of the patient
- Local (foreign) address of the patient
- Name, address, phone number(s) of inquirer
- Relationship of inquirer to patient
- Current location of patient (name of hospital, city, province)
- How problem came to consular officer's attention (including date of notification by foreign authorities if applicable)
- Summary of patient's condition as described by attending medical authorities
- If an injury case, how the injury occurred
- Attending physician's name, address, telephone, fax and email
- English speaking ability of attending physician
- Attending physician's diagnosis and prognosis
- Any consular visits, including date, format (e.g. in person, by phone), and summary
- Whether the consular officer obtained a written Privacy Act waiver from the patient, whom the patient designated in the waiver or his or

her legal guardian, the person(s) authorized by the waiver to receive information about the patient, and whether a copy was faxed or e-mailed to CA/OCS/ACS country officer

- Recommendations about whether to invoke the Health and Safety exception to the Privacy Act? If so, on what basis; and whether post obtained the views of the attending physician regarding the patient's judgment and ability to make decisions
- Any action items for CA/OCS/ACS

7 FAM 355 CONSULAR VISITS TO PATIENTS

(CT:CON-120; 12-06-2005)

- a. Personal visits by consular officers to U.S. nationals with medical problems abroad usually are limited to critical or traumatic cases. Frequency of visits and decisions about when it is appropriate to expend post funds to travel to a distant location generally are left to post's discretion. In large-scale incidents, such as accidents or assaults involving large numbers of injured U.S. citizens, TDY officers may be sent to the scene, (see 7 FAM 1800). You should offer appropriate consular assistance to any U.S. national family or friends present or traveling to the scene. This could include, for example, facilitating communication with local medical authorities, patient's employer, police, and other officials.
- b. If the U.S. citizen/non-citizen national is diagnosed as suffering from mental illness or otherwise lacking full capacity, a consular officer or senior ACS FSN should endeavor to see the patient even if the U.S. citizen expresses a preference not to see you. Remember that a U.S. national suffering from mental illness or incapacity abroad may be particularly vulnerable. If on arrival the U.S. citizen/non-citizen national refuses to see you, note this in your report of the visit to CA/OCS/ACS, together with diagnosis/prognosis information and an account of the attending physician's opinion as to the ability of the patient to make decisions, (see 7 FAM 340).

7 FAM 356 PROBLEMS INVOLVING PRESCRIPTION MEDICATIONS, LOST OR STOLEN MEDICAL EQUIPMENT

(CT:CON-120; 12-06-2005)

- a. You may receive inquiries from travelers whose medication, eyeglasses, etc. have been lost or stolen. Obtaining replacement medication or

medical equipment is normally the sole responsibility of the traveler and his or her family, friends or employer in the United States. Various CA publications (Your Trip Abroad, Tips For Americans Residing Abroad, Tips For Older Americans) and the CA internet home page explain that prescription medications carried abroad by travelers should be in their original containers, that travelers should bring a sufficient quantity for the duration of the trip (plus some extras in case of unforeseen delays), and that it is also wise to carry a copy of the doctor's prescription. U.S. citizens don't always heed this advice, and may request your help in getting replacements for prescription medication, eyeglasses, hearing aids, etc. Local physicians and/or pharmacies abroad should be able to provide specific guidance about what they will need in order to provide the medication.

- b. **Customs Restrictions:** Many countries have restrictions on the importation of certain medications. Some over-the-counter drugs from the United States are listed abroad as prohibited substances. See, for example, the confiscation of prescription drugs and other medication section of the Consular Information Sheet for Japan.
- c. **Critical Cases:** In critical cases, some help from post may be necessary. CA/OCS has seen a variety of critical cases in which a specific medication or medical supply not available in the foreign country is essential to the care of a critically ill U.S. national. When this happens, your contacts with the host country medical authorities and customs officials come into play. CA/OCS duty officers and posts have been able to work with airlines and foreign authorities to expedite assistance on occasion. This type of extraordinary effort is not always feasible, but CA/OCS/ACS is ready to work with posts to try to find a solution in life or death, critical cases.

7 FAM 357 NOTIFYING FAMILIES ABOUT ILLNESS OR INJURY OF A U.S. CITIZEN ABROAD

(CT:CON-120; 12-06-2005)

- a. **Summary:** Although not always as traumatic as death notification, informing a family that a U.S. national abroad is seriously ill or injured can be very difficult. Unless the next-of-kin is present in the host country, most notifications are done by telephone by the consular officer at the scene who has access to the most up-to-date information. If the subject was a victim of crime, (see 7 FAM 1900 Crime Victim Assistance, before making the family notification call).
- b. **Notification Basics:**

- Comply with the Privacy Act, which usually requires the written consent of the patient or legal guardian prior to communicating with family members
- Organize your notes and be prepared with as much information as possible before you make the call
- Never notify a minor child, even if he/she is the next of kin (NOK)
- Never use a child as an interpreter
- Try to confirm that no children are on telephone extensions
- Avoid leaving detailed messages on answering machines
- Allow the family to "digest" your information and collect themselves. The family may ask you to repeat who you are and ask if you are sure you are talking about their relative
- Obtain the family's e-mail address. Sometimes they are able to digest information better if they have it in writing and can re-read it. It may give them more time to formulate questions, too. Be mindful that email communication is an official record and subject to FOIA and Privacy Act requirements (see 5 FAM 443)
- A sympathetic and empathetic demeanor is very important
- Repeat your name and contact information as well as the name of your country/case officer in CA/OCS/ACS and that person's telephone number
- Assure the family that you will continue to monitor the situation very closely and keep them informed;
- Remember to keep any promises you make to the family regarding regular updates
- Try to develop a "caseworker" single point of contact relationship in which the family identifies one family member to whom you should direct information, and post has one officer who talks to the family. CA/OCS/ACS takes a similar approach. In some families, this is not possible, and you may find yourself repeating information to different members of the family, e.g., if the parents of the patient are divorced. Enlist CA/OCS/ACS's help if you have trouble determining who the next of kin is among the relatives with whom you are in contact
- Explain that decisions about timing for medical evacuation are based on the conclusions of the attending physicians, sometimes in consultation with family doctors in the United States, regarding the patient's condition. Generally speaking, a patient must be stabilized before he or she can be safely moved, (see 7 FAM 360)

- Living wills and other advance directives common in the United States may not be recognized abroad. (See 7 FAM 358.) Consult CA/OCS/ACS and CA/OCS/PRI if you need guidance on this subject
- Do not suggest to the family that any action by the U.S. national could in any way have contributed to the illness or injury when making a notification call. For example, it would be inappropriate when trying to respond to a distraught family member to stress that the individual should not have been at a particular place or time referencing the CIS, Public Announcement, or Travel Warning. If asked why there wasn't a warning, you can simply respond factually regarding the language of the current CIS, Public Announcement or Travel Warning
- If the family wishes to travel to the scene and needs any assistance, for example with passports, CA/OCS can coordinate with CA/PPT to facilitate expedited assistance. The CA/OCS and CA/PPT duty officers are also available to assist after hours in coordinating these issues. Duty officers may be contacted through the U.S. Department of State Operations Center at 202-647-1512

7 FAM 358 LIVING WILLS AND OTHER INSTRUMENTS

(CT:CON-120; 12-06-2005)

- a. Most U.S. citizens are familiar with the concepts of living wills, durable powers of attorney, advance directives, and other legal instruments that enable a person to indicate their wishes regarding medical treatment in the event of a catastrophic condition. Many foreign countries do not have laws regarding acceptance of these common U.S. legal documents. Some countries have laws regarding euthanasia and assisted suicide that differ from U.S. laws.
- b. You may find yourself in a situation in which a U.S. national abroad in dire medical condition has one wish regarding medical care, family members in the United States have another wish, and host country authorities may not honor either due to local law or medical ethics. It can be very disturbing to a U.S. national patient, family and friends in country and relatives in the United States to learn that their efforts to make legal arrangements for such eventualities are not respected abroad.
- c. You can help families understand that local law governs in such cases, as would be the case with a foreign national in a similar situation in the United States. At the same time, you can assist the patient and family members in conveying to host country authorities' information about their wishes as reflected in these legal instruments, but you cannot compel the

host country to honor the request. You can also identify the foreign official to whom the family needs to appeal and provide this information to the family and their representatives. If possible, you may accompany the family to meetings with foreign officials considering the request to honor a living will or other instrument. You cannot act as a legal representative, but you can convey to the host government the concern of the United States on behalf of the U.S. national patient and family and request every possible consideration.

- d. Similarly, the family, the U.S. citizen patient and you may find that U.S. financial institutions will not honor foreign guardianship orders and release funds for medical care of the U.S. citizen abroad. This may require citizens residing abroad to pursue legal actions in the United States to protect a family member. In the meantime, you may receive inquiries from local hospitals regarding payment of bills because assets in the United States cannot be accessed. There is currently no treaty in force for the United States governing this issue.
- e. If a U.S. citizen is on life support in a foreign country, and next-of-kin or designated legal representatives cannot be located, the U.S. embassy or consulate and the U.S. Department of State are not in a position to authorize the medical authorities in the foreign country to withdraw life support. If, in the opinion of the attending physicians, the individual might survive the trip, the case might be considered for medical evacuation, (see 7 FAM 360). However, arrangements would have to be made with HHS/ACF/ORR and ISS/USA to find a hospital or nursing facility in the United States to receive the patient.
- f. Please report questions about these issues to CA/OCS/ACS and CA/OCS/PRI (ASKPRI@state.gov).

7 FAM 359 CONSULAR NOTIFICATION AND ACCESS IN CASES OF QUARANTINABLE COMMUNICABLE DISEASES

(CT:CON-120; 12-06-2005)

- a. **Consular Notification:** The Vienna Convention on Consular Relations (VCCR) obligates parties to the Convention to advise U.S. nationals held in either quarantine or isolation for health reasons of their right to have a U.S. consular officer notified of their detention if they so request. Specifically, subparagraph (b), paragraph one, Article 36 requires host countries to apprise a U.S. national of his/her right to have a consular officer notified "without delay" if the person is "arrested or committed to prison or to custody pending trial or is detained in any other manner." Individuals who are quarantined or isolated and thus deprived of their

freedom of movement are, in the Department's view, "detained" within the meaning of Article 36 of the VCCR, (see 7 FAM 310 and 7 FAM 363.2).

- b. **Consular Access:** While health concerns may prevent you from being in the same room with a quarantined or isolated U.S. national, the Vienna Convention on Consular Relations (Article 36, paragraph (c) gives consular officers the right to "visit," which in this case could conceivably be achieved by a meeting separated by a glass partition or a telephone call if you believe this is adequate. In any event, the host country is required to forward all communications (e.g., letters, faxes, e-mails, etc.) from the U.S. national to the consular officer "without delay."
- c. For countries not party to the VCCR or a bilateral consular convention, consular access and notification is governed by customary international law. Posts experiencing difficulties should contact CA/OCS/ACS for assistance and guidance, in coordination with CA/P and L/CA.

Note: You should consult with post Health Unit (HU) and CA/OCS/ACS before deciding to visit a patient with a serious disease that could be communicable. For example, a host-country doctor recently decided that a man who had been quarantined for 2 weeks with TB wasn't contagious. The CDC and the WHO disagreed. Fortunately, post consulted their HU and OCS before sending an officer to see the patient in person.

7 FAM EXHIBIT 350

RESOURCES AND REFERENCE MATERIAL

(CT:CON-120; 12-06-2005)

U.S. Department of State

- Medical Information for Americans Abroad
- Post Lists of Doctors and Hospitals Abroad (linked to CA Internet Home Page)
- Websites U.S. Embassies and Consulates Abroad (Department of State Internet Home Page)

National Institutes of Health (NIH) Medline Plus

- Medical Dictionary
- Medical Encyclopedia
- Drug Information
- Directories

Health Topics

National Health Information Center (HHS)

Healthfinder

Centers for Disease Control and Prevention

- CDC Home Page
- Travelers' Health
- Vaccinations for Travelers
- Vaccines and Immunizations