



State of South Carolina

Department of Social Services

Child Welfare Policies and Procedures: Chapter 5: Foster Care

Subject:	510.7.102 Consent to Major Medical Treatment (Emergency) for Children in Foster Care
Authority:	S.C. Code Sections 63-5-340, 63-5-350, 63-7-2310, and 63-7-20(15). 42 USC Sections 622(b) (15) and 671(a)(22).
Standards:	GPS: Guiding Principles and Standards Health Care Oversight and Coordination Plan Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351) Child and Family Services Improvement and Innovations Act of 2011 (P.L. 112-34)
Application:	Child Welfare Services Staff
Purpose:	To explain the policy and procedures for providing Informed Consent to Major Medical Treatment when a child or youth's need for Major Medical Treatment is an emergency, enabling SCDSS to provide timely and appropriate services to meet the individualized physical and behavioral health care needs of children or youth who are in foster care.
Policy Statement:	Unless otherwise stated in a Court Order, in an emergency, SCDSS may authorize Major Medical Treatment and surgery for a child or youth who is in the Legal Custody of the SCDSS. However, if the child or youth's parents are readily accessible, unless it is contrary to the child or youth's best interests, the Case Manager must engage the parents to make the decision whether to authorize Major Medical Treatment and surgery. Note: If a parent or guardian places a child or youth in foster care by signing a Voluntary Placement Agreement, the parent or guardian retains the authority to consent to any and all medical treatment. Unless, otherwise stated in a Court Order, SCDSS does not have authority to consent to any medical treatment for a child or youth who is in foster care pursuant to a Voluntary Placement Agreement.
Definitions:	Caregiver: The person a child, youth, or young adult in the care, custody, or guardianship of SCDSS is placed with for temporary or long-term care. This person is responsible for the child, youth, or young adult's daily care in the placement setting (i.e. kinship caregiver, fictive-kin caregiver, foster parent, group care provider, etc.). Medical Consenter: A person authorized to consent to the medical treatment of a child or youth who is in foster care. Legal Custody: The right to physical custody, care, and control of a child or youth; the right to determine where the child or youth lives; the right and duty to provide protection, food, clothing, shelter, ordinary or routine medical treatment, education, supervision, and

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discipline for a child or youth and in an emergency to authorize surgery or other extraordinary care. Unless otherwise provided by Court Order, the parents retain the right to make decisions of substantial legal significance affecting the child or youth, including consent to major medical care and surgery when there is no emergency.

Physical Custody: The lawful, actual possession and control of a child or youth, but does not include Legal Custody unless stated in a Court Order.

Voluntary Placement Agreement: A written agreement between a child or youth's parents or guardians and SCDSS for the foster care placement of a child or youth, after the child or youth's parents or guardians request the SCDSS' assistance. The written agreement addresses, at a minimum, the legal status of the child or youth and the rights and obligations of the parents or guardians and the SCDSS while the child or youth is in the SCDSS' physical custody.

Informed Consent: The process by which a parent or Medical Consenter agrees to treatment after a medical provider fully informs the consenter about the proposed medical treatment and alternative treatment options, risks and benefits associated with the treatment, as well as what may happen without treatment. Informed consent is based on the moral and legal premise of patient autonomy where the patient or their guardian has the right to make decisions about health and medical conditions.

Guardian: An adult, other than a parent, from whose placement and care the child or youth was removed and with whom SCDSS is working toward reunification.

Protected Health Information: Health care data created, received, stored, or transmitted by entities that relate to the provision of health care, health care operations, or payment for health care services. This information can be used to identify an individual and may include information such as diagnoses or treatments.

Procedures:

A. Major Medical Treatment - Emergency (Parent, Guardian, County Director, Regional Adoptions Administrator)	1. In an emergency, the parent or guardian decides whether to provide Informed Consent to Major Medical Treatment, unless the parent is unavailable, or it is not in a child or youth's best interests for the parent or guardian to consent. 2. If the parent or guardian is unavailable or it is otherwise in the child or youth's best interests, a County Director or Regional Adoptions Administrator has the authority to provide Informed Consent. Consent, if given, must be voluntary and without undue influence.
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	3. The Case Manager informs the County Director or Regional Adoptions Administrator when a child or youth needs emergency Major Medical Treatment. 4. Whenever possible, the County Director or Regional Adoptions Administrator provides written notice to the State Director before giving Informed Consent to emergency Major Medical Treatment, but in any event, must provide written notice to the State Director within 24 hours of giving Informed Consent to Major Medical Treatment in an emergency. 5. The Case Manager, Supervisor, or Regional Clinical Specialist must not give blanket or open-ended consent to group homes, residential treatment facilities, or child placing agencies. 6. The Case Manager seeks guidance from supervisory staff or the local managing SCDSS attorney when concerns or issues arise regarding consent to treatment. Refer to the Work Aid: Consent to Major Medical Treatment (Emergency) for Children Who are in Foster Care.
B. Abortion Consent	1. An abortion is Major Medical Treatment. 2. SCDSS does not consent to a child or youth obtaining an abortion. 3. Only the parent or guardian or the child or youth may consent to obtain an abortion as outlined in state law. 4. The Case Manager refers the child or youth to the Regional Adoptions Office within one business day of learning that a child or youth is pregnant and wants to obtain an abortion. 5. Unless the child or youth consents to informing their parent or legal guardian, the Case Manager must not disclose to the parent or legal guardian that the child or youth is pregnant and wants to obtain an abortion.

	Refer to Birth Parent Services – Needs Assessment
Forms:	DSS Form 1512: Voluntary Placement Agreement DSS Form 2476: Consent for Teenage Abortion
Resources:	
Related Management Reports:	

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