



State of South Carolina

Department of Social Services

Child Welfare Services Policies and Procedures: Chapter 5: Foster Care

Subject:	510.7.101 Medical Consent for Children in Foster Care Major Medical Care (Non- Emergency)
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 Statement:	To explain the policy and procedures for providing Informed Consent to Major Medical Care when a child's need for Major Medical Care is not an emergency, enabling DSS to provide timely and appropriate services to meet the individualized physical and behavioral health care needs of children who are in foster care.
Policy Statement:	Unless otherwise stated in a Court Order, the parent or guardian retains the right and duty to authorize Major Medical Care and Surgery for a child who is in the Legal Custody of the Department. The Case Manager must make concerted efforts to engage the child's parents to make a decision whether to authorize Major Medical Care and Surgery. Note: If a parent or guardian places a child in foster care by signing a Voluntary Placement Agreement, the parent or guardian retains the authority to consent to any and all medical care. Unless, otherwise stated in a Court Order, DSS does not have authority to consent to any medical care for a child 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 DSS 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.) Major Medical Care: Extraordinary, non-routine care, including surgical procedures, invasive diagnostic procedures, anesthesia, any treatment the child or youth's physician considers dangerous, any treatment that may be threatening to the child or youth's life or long term health, the voluntary admission of a child or youth to a facility for inpatient mental health or substance treatment, chronic opioid analgesia, end of life decisions or medical procedures such as withholding or withdrawal of life sustaining procedures ("Do Not Resuscitate" code status) and associated hospice or palliative care, organ donation, abortion, electroconvulsive therapy, aversion therapy, or any experimental treatment or clinical trial.

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

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

Informed Consent: The process by which a person with authority to consent, agrees to treatment after a medical provider fully informs the consenter about the proposed medical care 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.

Psychotropic Medication: A medication that is prescribed for the treatment of mental, emotional, or behavioral health problems and is aimed at changing mood, behavior and cognition by working on neurotransmitters in the brain. This may include antidepressants, anti-anxiety medications, antipsychotics or neuroleptics, sedatives, hypnotics or other sleep promoting medications, agents for treatment of mania or mood disorders, and psychomotor stimulants.

Guardian: An adult, other than a parent, from whose placement and care the child or youth was removed and with whom DSS 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. Protected health information can be used to identify an individual and may include information such as diagnoses or treatments.



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Procedures:	
1. Major Medical Consent (Non- Emergency) - Parental Consent	1. Upon learning of a medical provider's request for consent to Major Medical Treatment or surgery the Case Manager contacts the parents to inform the parents of the medical provider's request. 2. The Case Manager provides information to the child's parents about the treatment or surgery based upon the medical provider's explanation. 3. The Case Manager assists in arranging direct communication between the child's parents and the child's medical provider to promote the exchange of information in a manner that allows the parents to make an informed decision. 4. The Case Manager assists the child's parents as needed to follow the medical provider's procedures for obtaining Informed Consent to Major Medical Care or surgery (e.g., completion of forms before the medical procedure, completion of forms on the date of the procedure, or other procedures as specified by the medical provider). Work Aid: Medical Consent (Non-Emergency)
B. Major Medical Care (Non- Emergency) - Parents Inaccessible	1. After making concerted efforts, if the Case Manager is unable to engage the parents in a decision regarding Major Medical Care or surgery that is not an emergency or when it is not in the child's best interest for the parent to make the decision, the Case Manager must confer with the County Attorney to obtain a court order authorizing DSS to determine Major Medical Care or surgery. 2. The Case Manager also notifies the County Director or Regional Adoptions Administrator of the need to obtain a court order authorizing DSS to determine Major Medical Care or surgery. 3. Upon receipt of a court order authorizing DSS to determine Major Medical Care, the Case Manager informs the County Director or Regional Adoption Administrator. 4. As the State Director's designee, a County Director or Regional Adoptions Administrator determines whether to provide Informed Consent for Major Medical Treatment or Surgery. The County Director or Regional Adoptions Administrator provides written notice to the State Director before giving Informed Consent to Major Medical Treatment or surgery.



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	5. DSS does not, under any circumstances, authorize the withdrawal or withholding of life sustaining procedures, or change a child's code status to, "Do Not Resuscitate," when parental rights have not been terminated. Work Aid: Medical Consent (Non-Emergency)
A. Abortion	1. An abortion is Major Medical Care. 2. DSS does not consent to a child or youth obtaining an abortion. Only the parent or guardian of the pregnant child or youth or the child or youth may consent to obtain an abortion as outlined in state law. 3. The Case Manager refers the child or youth to the Regional Adoption Office within one business day of learning that a child or youth is pregnant and wants to obtain an abortion. 4. 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. 5. Work Aid: Abortion Consent

Forms:	DSS Form 1512: Voluntary Placement Agreement DSS Form 2476: Consent for Teenage Abortion
Resources:	N/A
Related Management Reports:	N/A