




Policy and Procedures

DEPARTMENT NAME: Quality Management		
SUBJECT: Consent for medical screening, examination, and treatment of children in physical or legal custody of the Department of Children & Families / Children's Network of SW Florida	POLICY NUMBER: QM-004	
APPROVAL: 	EFFECTIVE DATE: 2-16-2021	REPLACES: CFOP-170-18, 9/17/2020 QM-004, 1/20/05

- I. **PURPOSE:** This operating procedure establishes consent requirements for medical screening, examination, and treatment of children in the physical custody of the Department of Children and Families / Children's Network of Southwest Florida.

- II. **REVIEW HISTORY:** Supersedes Department of Children and Families Policy CFOP-170-18 which had been adopted by the Children's Network of Southwest Florida. Revision to QM policy QM-004, Consent for Medical Screening, Examination, and Treatment of Children in the physical or legal custody of the Department of Children and Families/ the Children's Network of Southwest Florida, dated January 20, 2005.

- III. **CONTACT:** Quality Management Department.

- IV. **PERSONS AFFECTED:** Children's Network of Southwest Florida staff and contracted Case Management Organization providers.

- V. **POLICY:** Consent for medical screening, examination, and treatment of children in the physical or legal custody of the Department of Children and Families / Children's Network of Southwest Florida.

- VI. **RATIONALE:** In order to assure children receive appropriate medical care, the Children's Network of Southwest Florida is clarifying who can authorize medical services.

- VII. **CROSS REFERENCES:**
CFOP-175-40 (renumbered to CFOP 170-18, CFOP 155-10 (Duplicate of CFOP 175-40), Chapters 39, 458, 459, 464, 466 Florida Statutes, Sections 743.064, 743.0645, 384.30, 397.601, 409.175, 39.407, Chapters, 65C-13, 65C-14, 65C-15, and 65C-27. 65C-28 of Florida Administrative Code. CS/CS/SB 698.

VIII. **DEFINITIONS:** For the purposes of this operating procedure the following definitions apply:

- A. Authorized agent of the Department of Children and Families / Children's Network of Southwest Florida: a person assigned to perform duties or exercise powers as defined in Chapters 39 and 415, and sections 743.064 and 743.0645, Florida Statutes. Pursuant to CFOP 170-18 (September 17, 2020), licensed shelter and foster parents shall be considered authorized agents of the Department of Children and Families / Children's Network of Southwest Florida.
- B. Blood testing: includes child health checkup, (EPSDT) testing, and other blood testing deemed necessary by documented history or symptomatology, but excludes HIV testing and controlled substance testing or any other testing for which separate court order or informed consent is required as provided by law.
- C. Department: Department of Children and Families.
- D. Emergency medical care or treatment: care or treatment for injury or acute illness, disease or condition, delay of which, within a reasonable degree of medical certainty, would endanger the health or physical well-being of the patient. Licensed physicians, osteopathic physicians, emergency medical technicians and paramedics specified in section 743.064, Florida Statutes, are authorized to provide such treatment to a minor without parental consent if the minor is unable to name his parents or the parents cannot be immediately located by telephone.
- E. Licensed health care professional: a physician licensed under Chapter 458 or 459, Florida Statutes, a nurse licensed under Chapter 464, Florida Statutes, a physician's assistant certified under Chapter 458, Florida Statutes, or a dentist licensed under Chapter 466, Florida Statutes.
- F. Medical care and treatment: includes routine, ordinary and necessary medical and dental examination and treatment, including blood testing, preventative care including ordinary immunizations, tuberculin testing, and well-child care, but does not include surgery, general anesthesia, provision of psychotropic medications, or other extraordinary procedures for which a separate court order or informed consent as provided by law is required.
- G. Medical screening: those non-invasive procedures, including Early Periodic Screening, Diagnosis, and Treatment, performed by an appropriately licensed health care professional and considered necessary to determine if the child is in need of medical treatment for illness, injury or a communicable disease, including need for immunization. Medical screening shall not include procedures which require puncture of the skin (other than blood sample), a pelvic examination, an internal rectal examination, or any such procedure which requires other than external observations concerning an orifice of the body.

- H. Person who has the power to consent as otherwise provided by law: includes a natural or adoptive parent, legal custodian, or legal guardian.
- I. Consent for Medical Treatment or Informed Consent for Medical Treatment: consent voluntarily given after a conscientious and sufficient explanation and disclosure of the purpose of the proposed treatment and the alternative treatments available.
- J. Florida Safe Families Network (FSFN): an automated system to capture information and generate reports regarding each child that comes into the care of the Department of Children and Families (DCF) and contracted providers as a result of abuse, neglect, or abandonment. Florida's method of receiving reports/intakes, documenting investigations, and recording all casework services provided to protect children.

IX. PROCEDURES:

A. GENERAL REQUIREMENTS:

1. Statutory authority exists for the Department and/or Children's Network of Southwest Florida to have children medically screened without parental or guardian consent and without court authorization. Florida Statute requires that staff must seek medical screening for children entering shelter or foster care within 72 hours of removal.
2. Such medical screening shall be performed by a licensed health care professional in order to examine the child for injury, illness and communicable disease, including need for immunization.
3. The Department/Children's Network of Southwest Florida also has statutory authority to consent to treatment for a child who, as a result of medical screening, is determined by a licensed health care professional to be in need of medical treatment. This authority shall only be used if the parent or guardian is unavailable and his or her whereabouts cannot be reasonably ascertained, and it is after normal working hours so that a court order cannot reasonably be obtained. In such an instance, a court order shall be obtained and placed in the child's record as soon as reasonably practicable.
4. If the parent or guardian refuses to consent to treatment for the child, a court order shall be obtained unless the condition is deemed an emergency.
5. All actions concerning attempted parental or guardian contact, the medical history or attempt to gather a medical history, current medical conditions, and screening or treatment of the child, shall be documented in the child's record.
6. For the three (3) types of medical treatment and consent requirements, see section 65C-28.003, Florida Administrative Code.

7. Minors can consent to their own examination and treatment for a sexually transmitted disease pursuant to section 384.30, Florida Statutes; and to voluntary substance abuse services under certain conditions pursuant to section 397.601, Florida Statutes.

B. SCREENING PROCEDURE:

1. The authorized agent of the Department/ Children's Network of Southwest Florida shall have available at all times the list of predetermined providers, by county, where the child may receive medical screening.
2. Efforts must be made to obtain the child's medical history or current medical condition from the parent or guardian. If no parent or guardian is available, the case manager should check State approved FSFN to see if any providers are listed.
3. If at any time medication or a medical device needed by the child is secured from the home, the authorized agent of the Department/ Children's Network of Southwest Florida will ensure that the shelter or foster parent receives appropriate instruction or training regarding the use of the device or medication from the prescribing physician or agency with whom the child is enrolled for care. The shelter or foster parent shall be given the necessary information prior to usage of such medication or device.

C. TREATMENT PROCEDURE:

1. An authorized agent of the Department/ Children's Network of Southwest Florida has the authority to consent to ordinary and extraordinary medical care, except as restricted in paragraph IX.C.5. below, for a child whose parents' rights have been terminated.
2. Although parental consent should always be sought first, an authorized agent of the Department/ Children's Network of Southwest Florida has the authority to consent to ordinary and necessary medical care for a child ordered into the temporary legal custody of the Department/ Children's Network of Southwest Florida for placement in foster care. See definition VIII.F. above. Additionally, administrators of facilities licensed under section 409.175, F.S., are authorized to provide consent for ordinary necessary medical treatment for children placed in their care.
3. CS/CS/SB 698 requires a health care practitioner, a medical student, or any other student who is receiving training as a health care practitioner to obtain the written consent of a patient or a patient's representative before performing a pelvic exam. Written consent for the pelvic exam is not required if a court orders the exam to collect evidence or if the exam is necessary to avert a serious risk of irreversible impairment of a major bodily function of the patient.

4. In situations involving a child in the physical custody of the Department/ Children's Network of Southwest Florida for placement in shelter care when ordinary and necessary medical treatment, including immunizations, is necessary and the situation is not considered an emergency, the authorized agent shall:
 - a. Make and document a reasonable attempt to obtain consent from the parent or guardian;
 - b. If the parent or guardian cannot be located, obtain a court order if the services of the court are available;
 - c. If the court is not available and the treatment procedure is essential for the child's well-being, give consent for necessary medical treatment and obtain court authorization, or parental or guardian consent, as soon as reasonably practicable and place it in the child's case file.
 - d. If the parent or guardian refuses to give consent, a court order shall be obtained unless the condition is deemed an emergency. The court should be notified of the treatment and the position of the parents regarding same, at the first available opportunity.
 - e. If a court order is required to obtain authorization for any extraordinary medical procedure, the following information, at a minimum, shall be included in the request for a court order:
 - (1) a. Present diagnosis and known past medical interventions for the treatment of this condition;
 - (2) b. A statement that the prescribing health care professional has reviewed all medical information concerning the child that has been provided;
 - (3) c. The name and requested administration range for any medication requested;
 - (4) d. A statement recommending the proposed procedure signed by the attending physician.
 - (5) e. An analysis of the risks and benefits of the prescribed treatment for the particular child;
 - (6) f. Alternatives to the treatment being recommended and the rationale for selecting the particular treatment recommended; and
 - (7) g. Interventions other than the extraordinary medical care and treatment that are or shall be ongoing in conjunction with the care and treatment.
5. Nothing in section 39.407, Florida Statutes, releases the parent or guardian from their obligation to pay for medical treatment even though they have not consented to the treatment. The parents can be court ordered to reimburse the Department/

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Children's Network of Southwest Florida as well as other service providers for the cost of the services. The necessary information shall be obtained so that every effort can be made to secure reimbursement.

6. In no case shall the Department/ Children's Network of Southwest Florida give consent to sterilization, abortion, or termination of life support.
7. Consents for psychotropic medications will be handled in accordance with F.A.C 65C-35, Psychotropic Medication for Children in Out of Home Care.