



Policy: Consents by Parent/Legal Guardian/Child Related to Release of Information/Records and Medical Examination, Care and/or Treatment

ChildNet Number: CN 003.012

Original Approved Date: October 23, 2008

Policy Revised Date(s): May 23, 2010, June 16, 2010, May 14, 2014

Policy Sunset Date:

COA Standard(s): CR 1.03, 2.04, 2.05; FKC 10.01

Statement of Policy:

ChildNet ensures that informed consent is sought from parents/legal custodians and the appropriate authorization obtained, as required by law, as relates to information/records and to identify appropriate services and / or treatment needs as well as ensuring the safety and well-being of the children and families we serve.

Board Chair's Signature:

Date:

5/22/14



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Definitions:

Authorized designee – For purposes of this policy and procedure means a person or agency assigned to perform duties or exercise powers as defined in Chapters 39 and 415, as well as 743.064 and 743.0645, Florida Statutes, to include licensed shelter and foster parents.

Blood testing – This includes Early Periodic Screening, Diagnosis, and Treatment (EPSDT) testing and other blood testing deemed necessary by documented history or symptomatology, but excludes Human Immunodeficiency Virus (HIV) testing and controlled substance testing or any other testing for which a separate court order or informed consent is required, as provided by law.

Comprehensive Child Welfare Information System (CCWIS): The statewide system of record for clients involved in child welfare investigations and services, Used as a system for tracking data for clients served by Department of Children and Families and/or Community Based Care Lead Agencies or subcontracted providers.

Consent for Release of Information/Record Form – The ChildNet consent form which requires that the following information, at a minimum, is completed for informed consent to be obtained: name of person whose information is to be released, signature of the person whose information is to be released or the parent/legal guardian of a person who is unable to provide authorization, the specific information to be released, the purpose for which the information is to be used, the date the release takes effect, the date, event or condition upon which the release expires (not to exceed one year -see A. iii. Duration), the name of the person or organization that will receive the disclosed information, and the name of the person or organization that is disclosing the confidential information. A person may withdraw his/her consent at any time except to the extent that action has already been taken.

Emergency medical care or treatment – This is the 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 743.064, Florida Statutes, are authorized to provide such treatment to a minor without parental consent if the minor is unable to name his/her parents or the parents cannot be immediately located by telephone.

Licensed health care professional – For purposes of this policy and procedure means 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.

Medical Screening – This includes 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. The screening shall not include procedures which require puncture of the skin (other than a blood sample), a pelvic examination, and internal rectal examination, or any such procedure which requires other than external observation concerning an orifice of the body.

Medical examination, care, and/or medical 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 is required, as provided by law.

Parent – For purposes of this policy and procedure, a parent is the legal parent, legal guardian, or other person who has the power to consent as otherwise provided by Florida law. In the case where the parents have had their parental rights terminated, ChildNet is to act as the guardian of the permanently committed child. In acting as legal guardian, ChildNet is required to follow all the procedures outlined in ChildNet policies and procedures and act in accordance with the law.

Statement of Procedure:

To facilitate the delivery of services for families and to ensure the safety and well-being of children under our supervision, ChildNet needs to obtain medical, treatment and/or service information/records for each parent and/or child, as well as to be able to provide for the needs of children under our supervision. After determination that a valid reason exists to release confidential information, consent from an individual or in the case of a child, the parent, should be sought consistent with the procedures set forth below. In the instance when permitted or required by law or court order, confidential information may be released without such authorization. However, the individual and parent, as appropriate, are to be informed that the information is to be released.



1. Consent for Release of Information/Records

a. Intake Process

- i. As part of the initial intake process, the Intake and Placement Advocate (IPA) reviews the case file and speaks with relevant persons to identify the information/records needed to assist in the identification of appropriate services for the parent(s) and/or child(ren) and permanency goal(s).
- ii. Once identified, the IPA requests the parent(s) to execute the Consent for Release of Information/Records Form which must be completed in full. A separate consent is to be executed for every parent and child. Prior to execution, the IPA informs the parent(s) about circumstances when ChildNet may be legally or ethically appropriate or required to release such information without the consent of the parent(s). After execution of the consent, a copy is to be provided to the parent(s) and a copy is placed in the case record.
- iii. If the parent(s) is unwilling or unable to consent, the IPA documents the efforts to obtain the consent and the reason(s) for the parent(s) not consenting within 24 hours in SACWIS. In addition, the IPA submits a legal request for a court order to obtain the necessary information/records to facilitate the best interest of the child(ren), unless already court ordered, and documents this request or receipt of court order in SACWIS in this same 24 hour period.
- iv. . When a release form is used to authorize the exchange of information between multiple parties, the form must be completed in full, with all relevant parties authorized to disclose and receive the information specified and for the purpose indicated in the consent.
- v. If information is legally released without the consent of the party, an attempt should be made to obtain a signed consent form. The person whose information has been shared is to be noticed that his or her information has been provided, to whom it has been provided and for what purpose.

b. Case Management

- i. Upon receipt of the case file, the Child Advocate/Dependency Case Manager reviews this consent form(s) to make a determination as to whether there are additional records/information needed and, if so, follows the process, as outlined above, for the Intake Process. The CA/DCM follows this process whenever s/he identifies new information/records which are needed.
- ii. For all services that a parent receives while under ChildNet's supervision, the CA/DCM is to seek informed consent from the parent(s) through the execution of the Consent for Release of Information/Records Form. Prior to execution, the IPA informs the parent(s) about circumstances when ChildNet may be legally or ethically appropriate or required to release such information without the parent(s) consent. After execution of the consent, a copy is to be provided to the parent(s) and a copy is placed in the case record.



- iii. If the parent is unwilling or unable to consent, the CA/DCM follows the process as outlined above for the Intake Process to obtain a court order.
- iv. As part of the Supervisor Quarterly Review, the Child Advocate Supervisor/Dependency Case Manager Supervisor must review the case file and determine if the appropriate consent form(s) and/or court order(s) are in effect.
- v. If information is legally released without the consent of the party, an attempt should be made to obtain a signed consent form. The person whose information has been shared is to be noticed that his or her information has been provided, to whom it has been provided and for what purpose.

c. Duration

- i. A parent can withdraw their authorization at any time.
- ii. For a one time release of information/records, the Consent for Release of Information/Records Form may not exceed 90 days from the release date stated on the executed form.
- iii. For an on-going release of information/records, the Consent for Release of Information/Records Form may not exceed one year from the release date stated on the executed form.
- iv. Once termination of supervision by ChildNet occurs, there is no longer authorization to access any information/records for which the parent(s) consented. If, at a future date, information/records are needed, the process of obtaining consent must be reinitiated.

2. Medical Treatment

a. Medical Screening and Screening Medical Care and Treatment Recommendations

- i. Within 72 hours of a child being removed, a medical screening must be performed by a licensed health care professional to examine the child for injury, illness, and communicable disease, including the need for immunization. Under Florida law, there is authority for ChildNet to have a child entering shelter or foster care medically screened without parental/legal guardian consent and without a court order within 72 hours of removal.
- ii. If, as a result of the medical screening, the licensed health care professional determines that the child is in need of medical treatment that is not an emergency, the assigned CA/DCM is to immediately contact the parents/legal guardian to obtain consent for the treatment, if such consent was not previously obtained, through the execution of the Consent for Medical Examination, Care and Treatment Form. This Form which authorizes the medical examination, care and/o treatment is not to exceed one year from the date of authorization for continual ability to provide ordinary and necessary treatment except for



- those instances of a one-time treatment authorization, which is not to exceed 90 days from the date of the authorization. The parents may withdraw their consent at any point. Prior to execution, the IPA informs the parent(s) about circumstances when ChildNet may be legally or ethically appropriate or required to release such information without the consent of the parent(s). After execution of the consent, a copy is to be provided to the parent(s) and a copy is placed in the case record.
- iii. If the parent(s) are unwilling or unable to provide consent, this information and the efforts made to communicate with the parents is to be documented in CCWIS within that 24 hour period.
 - iv. If the parents are **unavailable** to provide consent when medical needs are identified as a result of this screening and a court order cannot reasonably be obtained within the time frame deemed necessary by the licensed health care professional for the treatment to be given, ChildNet has the authority, under Florida Law, to consent to this treatment of the child. In this instance, a court order must be obtained as soon as reasonably possible following the treatment, along with the documentation regarding the time frame deemed necessary by the licensed health care professional. A copy of this documentation is to be filed with the court and placed in the child's case file.
 - v. If the parents are **unwilling** to provide consent when the medical needs are identified as a result of this screening, a court order must be obtained unless the condition is deemed an emergency by the licensed health care professional. The parent's position is to be conveyed to the court at the time of the request for an order. In the case of an emergency, the court is to be noticed within the next business day and documentation from the licensed health care professional regarding the determination of an emergency situation is to be filed with the court and placed in the child's case file as soon as reasonably possible following the treatment.
- b. Ordinary and Necessary Medical Examination, Care and/or Treatment other than that conducted at time of removal
- i. A Child Advocate/Dependency Case Manager is responsible for ensuring that any executed Consent for Medical Examination, Care, and/or Treatment Form is not expired. If it is expired or this consent is not part of the case file, the Child Advocate/Dependency Case Manager is to seek informed consent from the parent(s) through the execution of this form. This form authorizes the medical examination, care and/or treatment which is not to exceed one year from the date of authorization for continual ability to provide ordinary and necessary treatment except for those instances of a onetime treatment authorization, which is not to exceed 90 days from the date of the authorization. The parents may withdraw their consent at any point. Prior to execution, the IPA informs the parent(s) about circumstances when ChildNet may be legally or ethically appropriate or required to release such information without the parent(s)



consent. After execution of the consent, a copy is to be provided to the parent(s) and a copy is placed in the case record.

- ii. If a parent is unable or unwilling to provide this consent, this information and the efforts made to communicate with the parents is to be documented in CCWIS within that 24 hour period.
- iii. While parental consent should always be sought first, there are provisions which may allow for the ordinary and necessary medical treatment of children in ChildNet's care.

1. Shelter Care

In situations involving a child in the physical custody of ChildNet for placement in shelter care, when ordinary and necessary medical treatment, including immunizations, is necessary and the situation is not considered an emergency, ChildNet and/or the authorized designee of ChildNet must:

- a. Make and document a reasonable attempt to obtain consent from the parent using the Medical Examination, Care, and/or Treatment Form. If parent is unable or unwilling, information and the efforts made to communicate with the parents is to be documented in CCWIS within that 24 hour period.
- b. If the parent **cannot be located**, obtain a court order if the services of the court are available. If the court is not available and the treatment procedure is essential for the child's well-being give consent for the ordinary and necessary medical treatment and obtain court authorization or parental consent as soon as reasonably practicable and place it in the child's case file.
- c. If the parent is **unwilling** to consent, a court order must be obtained unless the condition is deemed an emergency by the licensed health care professional. In the instance of an emergency, the court must be notified of the treatment and the position of the parents within the next business day and documentation from the licensed health care professional regarding the determination of an emergency situation is to be filed with the court and placed in the child's case file as soon as reasonably possible following the treatment.

2. Foster Care

In situations where a child has been ordered into the temporary legal custody of ChildNet for placement in foster care, when ordinary and necessary medical treatment, including immunizations, is necessary and the situation is not considered an emergency, the authorized designee of ChildNet has the authority to consent to ordinary and necessary medical care under Florida law. Further, administrators of facilities licensed under



409.175, Florida Statutes are authorized to provide consent for ordinary and necessary medical treatment for children placed in their care.

3. Permanently Committed Children

ChildNet or its authorized designee is authorized to consent for a child whose parental rights have been terminated.

c. Extraordinary Procedure/Treatment

All medical treatment and procedures which do not fall within the parameters of ordinary and necessary medical care and treatment are deemed extraordinary procedures. See 743.0645(b), Florida Statutes. Unless determined by a licensed health care professional to be an emergency, the following procedure must be followed in obtaining an extraordinary medical treatment/procedure:

- i. The Affidavit for Extraordinary Medical Treatment/Procedure must be completed by the licensed health care professional making the recommendation for the treatment/procedure.
- ii. This affidavit and the Consent for Extraordinary Medical Treatment/Procedure Form is to be provided to the parents for review, along with the ability to discuss this matter with the recommending licensed health care professional. The efforts made to communicate with the parents are to be documented in CCWIS within that 24 hour period.
- iii. A Consent for Extraordinary Medical Treatment/Procedure Form which authorizes the extraordinary medical treatment/procedure is not to exceed one year from the date of authorization for continual ability to provide this specified extraordinary treatment/procedure except for those instances of a one-time extraordinary treatment/procedure authorization, which is not to exceed 90 days from the date of the authorization. The parents may withdraw their consent at any point. Prior to execution, the IPA informs the parent(s) about circumstances when ChildNet may be legally or ethically appropriate or required to release such information without the parent(s) consent. After execution of the consent, a copy is to be provided to the parent(s) and a copy is placed in the case record.
- iv. If the parents are unable or unwilling to consent, a court order is to be obtained prior to extraordinary treatment/procedure occurring. Any information and the efforts made to communicate with the parents are to be documented in CCWIS within that 24 hour period. The position of the parents is to be conveyed to the Court at the time of the request for order.
- v. For children whose parental rights are terminated and are permanently committed, a court order is to be obtained prior to the extraordinary treatment/procedure occurring.



- vi. In the case of an emergency, the court is to be noticed within the next business day and documentation from the licensed health care professional regarding the determination of an emergency situation is to be filed with the court and placed in the child's case file as soon as reasonably possible following the treatment

d. Minor's Ability to Consent

- i. Under parameters specified by law, a minor may be able to consent to their own examination and treatment. Issues that may fall within these narrow parameters include examination and treatment related to sexually transmitted disease under 384.30, Florida Statutes, to family planning services under specified conditions under 381.0051(5), Florida Statutes, and voluntary substance abuse treatment services under 397.601, Florida Statutes.

- ii. Issues regarding birth control devices/pills other than prophylactics, as well as abortions, are not considered routine care.

1. Birth control devices/pills

- a. The limited provisions wherein a child may consent to her own medications/treatments for this purpose are those situations where a minor is also a mother who has previously given birth.
- b. If a child who has not previous given birth requests birth control, other than prophylactics, the CA/DCM shall seek parental consent with the permission of the child to engage in such a conversation. This permission from the child and the communications with the parents are to be documented in CCWIS within a 24 hour period.
- c. The Consent for Extraordinary Treatment/Procedure Form is to be used for this purpose. This consent which would authorize this extraordinary medical treatment/procedure is not to exceed one year from the date of authorization for continual ability to provide this specified extraordinary treatment/procedure except for those instances of a one-time extraordinary treatment/procedure authorization, which is not to exceed 90 days from the date of the authorization. The parents may withdraw their consent at any point.
- d. If the parent is **unwilling** or the child has not agreed to the child advocate requesting parental consent, the Child Advocate is to immediately file a legal request with DCF Children's Legal Services or its contracted provider to request of the Court that an Attorney ad litem be appointed for assisting the child.

2. Abortions

- a. The process of making the determination regarding whether to maintain a pregnancy to term is a serious one. To ensure that the pregnant child's



voice is heard and comport with Rules 8.8 – 8.835 of the Florida Juvenile Rules, the CA/DCM, upon any statement from the child that indicates that she may wish to examine her options regarding her pregnancy, shall facilitate the transportation of the child to the Juvenile Clerk's Office for the purpose of appointment of counsel. Pursuant to the procedure established under law, an attorney will be appointed to assist, advise, and represent the child in regards to this matter.

- b. If the child is already represented by an Attorney ad litem, that attorney may also advise the child as to her legal rights in obtaining counsel for her decision.
- 3. A child's reproduction decisions are not always conveyed to the CA/DCM. Therefore, when a child is known to be sexual active, it may be appropriate to request that an Attorney ad litem be appointed so that issues regarding reproduction may be discussed by the child and their Attorney ad litem.
- e. Prohibited Actions for Consent

Under no circumstances shall ChildNet or any authorized designee give consent to sterilization, abortion, or termination of life support.

President's Signature: _____

Date: _____