POLICY TITLE: Medical Consents		PAGE 1 OF 6
	CHILD AND FAMILY SERVICES AGENCY **Approved by: Raymond Davidson** Interim Director **Date: February 20, 2015**	**REVISION HISTORY:** February 23, 2011 February 8, 2012
LATEST REVISION: February 15, 2015	**EFFECTIVE DATE:** February 23, 2011	

I. AUTHORITY	The Director of the Child and Family Services Agency (CFSA) adopts this policy to be consistent with the Agency's mission and applicable Federal and District of Columbia laws and regulations, including, but not limited to, provisions in Titles 4 and 22 of the DC Official Code; DC Official Code §§ 4-1303.03, 16-2313 or 16-2320; 45 Code of Federal Regulations, Part 46; and the Implementation and Exit Plan (I&EP) in LaShawn A. v. Gray.
II. APPLICABILITY	All Agency employees, contract agency staff and contracted personnel.
III. RATIONALE	Providing medical consent, by definition, is agreeing to and understanding the risks and benefits of the services to be provided. Consent is necessary before medical care, including a test or examination, can be provided to an individual. A person with the legal authority to agree to medical care generally must agree to the medical care before it is given. (In an emergency, medical care can be given without consent). For children and youth in foster care, best practice (and the law) dictates that consent from a parent or guardian must be obtained and documented before non-routine medical services begin. When parental consent is absent children and youth in foster care most likely can not receive non-routine medical treatment with the consent of CFSA. This policy covers the issues of consent related to medical and mental health records, and information and treatment of children and youth under the age of 18 who are in foster care.
IV. POLICY	It is the policy of the Child and Family Services Agency (CFSA) to adhere to all legal and best practice standards of medical consent as it relates to children and youth in foster care.
V. CONTENTS	**A.** The Role of CFSA as it relates to Medical Consent **B.** Consent to Obtain Medical Records **C.** Consent/Authorization for Routine and Non-Routine Evaluation and Treatment **D.** Minors' Capacity to Consent for Health Services **E.** Administration of Psychotropic Medications **F.** Consent/Authorization When Parental Rights Have Been Relinquished or Terminated

VI. PROCEDURES	**Procedure A: The Role of CFSA as it Relates to Medical Consent**

CFSA shall make every effort to obtain consent for the release of medical records and information, as well as authority for medical tests, treatment, evaluation and assessments from birth parents whenever a child or youth has been placed in foster care. There are times when parental consent is not available and CFSA must assist in obtaining consent for medical and psychiatric care to ensure children and youth receive appropriate care.

1. When CFSA has physical custody of a child or youth during the 72-hour period prior to the initial court hearing, CFSA may consent to the following without first obtaining parental/legal guardian consent:
   a. A medical evaluation (pre-placement screening, comprehensive and well-being examinations)
   b. Emergency medical, surgical or dental treatment
   c. Outpatient psychiatric evaluation
   d. Emergency outpatient psychiatric treatment

2. When CFSA has physical custody of a child or youth during the 72-hour period prior to the initial court hearing, CFSA may consent to the following when reasonable efforts to obtain the parent/legal guardian's written consent have been made but the parent/legal guardian cannot be consulted.
   a. Non-emergency outpatient medical treatment
   b. Non-emergency outpatient surgical treatment
   c. Non-emergency outpatient dental treatment
   d. Non-emergency outpatient psychiatric treatment
   e. An autopsy.

3. When the Court grants CFSA legal custody of a child or youth, CFSA may consent to routine medical care (*see Procedure C below*).

4. Whenever CFSA believes non-emergency medical, surgical, psychiatric or other non-routine medical treatment is necessary for the child's well-being and a parent or legal guardian refuses consent, is cognitively unable to provide consent, or a parent/legal guardian is unable to be located to grant consent, CFSA shall consider filing an appropriate motion with the Family Court for an order authorizing such services.

5. The reasonable efforts made to locate the parent or legal guardian and/or to obtain written consent shall be documented in FACES.net. The assigned social worker shall consult the *Diligent Search* policy for guidance on "reasonable efforts" to locate a parent or legal guardian.

6. A minor (under the age of 18) may consent to certain types of medical treatment and care, e.g., family planning, treatment of sexually transmitted diseases (STDs), testing for HIV (*see Procedure D*).

7. A youth between the age of 16 and 18 is permitted by law to consent for mental health treatment although it must be noted that the Department of Mental Health (DMH) does not have to accept such consent for treatment.

Procedure B: Consent to Obtain Medical Records

A parental consent for the release of medical information and records, while desirable, is not required by the social worker or nurse at the time of removal. CFSA efforts to obtain a child or youth's medical records shall include the following:

1. The Child Protective Services (CPS) social worker or Office of Clinical Practice (OCP) CPS nurse shall make diligent efforts to obtain records and the treatment history of any previous medical, mental health or dental treatment from known medical providers who have treated the child or youth.

2. For any preschool child, the assigned social worker shall make diligent efforts to obtain the child's birth record from the hospital where the child was born or from another hospital in possession of the record.

3. All efforts regarding obtaining medical records shall be documented in FACES.NET.

Procedure C: Consent/Authorization for Routine and Non-Routine Evaluations and Treatment

Routine medical care is critical to the health care process, particularly in addressing chronic and/or acute medical issues. Routine medical care shall include but not be limited to treatment for ordinary illnesses, routine dental treatment and care, immunizations, well child visits, preventative health services, and psychotherapy performed by a professional that is not a psychiatrist. Non-routine medical care shall include but not be limited to non-emergency surgery, non-routine dental treatment, non-routine medical tests, experimental procedures, and psychiatric treatment (including administration of psychotropic medication).

1. Consent from parents or legal guardians are not required for routine screenings, assessments, and evaluations. However, best practice dictates that social workers engage parents/legal guardians to participate in the decision-making and provide consent prior to any routine procedures including:
   a. All routine medical and/or mental health assessments (including the pre-placement screening and the comprehensive medical, dental, mental/behavioral and developmental medical evaluations)
   b. Immunization records
   c. Ongoing routine health care information.

2. Consent from legal parents and guardians are required for non-routine medical and/or mental health evaluations and treatments, based on each occurrence. All efforts regarding obtaining consent for non- routine evaluations and treatments shall be documented in FACES.NET.
   - A copy of the consent form signed by the parents or legal guardians for non-routine evaluation and treatment will be provided to the child's primary care provider, any other providers treating the child and the nurse care manager (if assigned).

	3. Foster parents and caregivers take children and youth to medical appointments and they play a key role in accessing adequate health services for children and youth placed in their care. Their role is limited with regard to matters of consent. Foster parents and caregivers shall be advised by the social worker of the following: a. Foster parents and caregivers are not authorized to give consent for non-routine medical and any psychiatric treatment. b. Foster parents and caregivers shall contact the assigned social worker for consent in non-routine situations where consent is required. The assigned social worker shall make every effort to obtain consent from the parent or legal guardian. c. Foster parents and caregivers shall be informed that in an emergency situation, the health care provider or emergency room may treat the child or youth even if physical written consent is absent. If the health care provider requests consent, the foster parent/caregiver shall contact the assigned social worker. The assigned social worker shall immediately contact the AAG.
	Procedure D: Minors' Capacity to Consent for Health Services Minors (persons under the age of 18) may give consent to obtain past health records and to receive specific health services unless there is a court order to the contrary. Capacity to consent means a minor can make choices regarding testing and treatment for the health services listed below without consulting a parent or guardian. The treating health care practitioner may determine the minor's capacity to consent. 1. Consent regarding reproductive health services and family planning are particularly significant to the population categorized as "minor." a. A minor may consent to health services that she or he requests that are for the prevention, diagnosis or treatment of: i. Pregnancy or its lawful termination ii. An STD (which may include HIV/AIDS screening and testing) iii. Birth control information, services and devices, and prenatal and postnatal care and necessary medical care for the minor or the minor's child(ren) b. Pregnant minors may consent to medical, dental, health and hospital services related to prenatal care. c. Minors may consent to their own pregnancy termination. The minor has no obligation to report the pregnancy or the termination to anyone, including the Agency, birth parent, legal guardian or foster parent. *Note: the Agency cannot provide funds for pregnancy termination.* d. A minor may also consent to health services that she or he requests that are for the prevention, diagnosis or treatment of substance abuse, including drug and alcohol abuse.

	2. Minors who are parents should be adequately informed of their responsibilities to their children, particularly as it relates to providing consent for health services necessary for healthy child development. The social worker shall inform the minor parent of the following: a. When the child is not in CFSA custody, the minor parent may grant consent to health care for his or her child. b. When the child is in CFSA custody the guidelines outlined in this policy apply and CFSA shall treat the minor parent as it does any parent. 3. A minor who voluntarily seeks outpatient mental health services and mental health supports (other than medication) may receive such services without the consent of the parent or guardian if the provider determines that: a. The minor is knowingly and voluntarily seeking the services b. Provision of the services is clinically indicated for the minor's well-being. 4. The mental health services and mental health supports must be limited to 90 days. At the end of the 90 days the provider must make a new determination to: a. Provide services to the minor without parental or guardian consent when services are voluntarily sought by the minor and continue to be clinically indicated, b. Terminate the services, or c. With the minor's consent, notify the parent or guardian to obtain consent to provide further outpatient services. 5. Teens 17 years and older may donate blood. The social worker shall further inform a teen interested in blood donation that any person age seventeen (17) or older may do so voluntarily to a non-profit program.
	Procedure E: Administration of Psychotropic Medications Consent of a parent or legal guardian is required for any minor to be admitted for inpatient mental health services. Further, consent of a parent or guardian, or authorization of the court, is required before a hospital providing inpatient mental health services may administer a psychotropic drug to a minor. 1. Consent from the parent or legal guardian is required for the administration of psychotropic medications (wherever the child or youth resides), unless there has been a termination of parental rights (TPR) or a relinquishment severing the rights of all parents. If a TPR has been granted, CFSA is the legal guardian of the child and may consent until the child is adopted. CFSA's medical director or designee is designated to provide this consent *(see Procedure F below).* a. When the parent or legal guardian refuses to consent <u>and</u> it is believed that the medication is in the best interest of the child or youth, the social worker and OCP shall confer with the assigned AAG. The AAG will determine whether to file a motion with the Court to override the parent/legal guardian's refusal to provide consent.

b. When the parent or legal guardian is not available to provide consent (and reasonable efforts have been made to locate the parent or legal guardian and/or to obtain written consent), the social worker and OCP shall confer with the assigned AAG to determine the appropriate relief to seek from the Court. The AAG will file the appropriate motion with the Court.

c. For a minor who is sixteen (16) years of age or older and receiving inpatient treatment, psychotropic medication may be administered without the consent of the parent or legal guardian but with the minor's consent only under the following circumstances (it should be noted that there may be some health care providers who will not accept only the consent from the child):

i. When the minor's parent or legal guardian is not reasonably available to make a decision regarding the administration of psychotropic medication and the treating physician determines that the minor has capacity to consent and that such medications are clinically appropriate;

ii. When requiring consent of the minor's parent or legal guardian would have a detrimental effect on the minor, and a determination is made by both the treating physician and a non-treating psychiatrist (who is not an employee of the provider) that the minor has capacity to consent and that psychotropic medications are clinically indicated; or

iii. When the minor's parent or legal guardian refuses to give such consent and a determination is made by both the treating physician and a non-treating psychiatrist who is not an employee of the provider that the minor has capacity to consent and that such medications are clinically indicated.

2. Consent from the parent or legal guardian is required for the psychiatric treatment and the administration of psychotropic medications for a child or youth on an outpatient basis.

- When the parent or legal guardian will not provide consent or are unable to provide consent, the assigned social worker shall follow the procedures outlined above.

Procedure F: Consent/Authorization When Parental Rights Have Been Relinquished or Terminated

If all parental rights have been relinquished or terminated (TPR), the following shall apply:

1. CFSA is the legal guardian of the child and may consent until the child is adopted.
2. CFSA's medical director or designee within OCP is designated to provide consent for routine and non-routine evaluation and treatment, health services, and the administration of psychotropic medications.
3. Social workers may not be considered as the designee in the above cases, unless specifically authorized by the medical director in writing.