Policy Title:	Consent to Medical, Dental, Mental Health Treatment, and Educational Services Guidelines, revised April 2024
Applies To:	All Child Welfare Operations Staff[1]
Replaces:	Revised Consent to Medical, Dental, Psychological Care and Treatment, and Educational Consent Guidelines, issued January 7, 2021

OVERVIEW:

This document provides an overview of the services for which DHS Social Work Services Managers (SWSMs) and CUA Case Managers (CMs) might be asked to provide consent and guidelines for determining whether they can do so. This policy will not only educate Child Welfare Operations (CWO) staff about specific treatments or services for which they can or cannot provide consent, but, more importantly, improve the ability of children and youth committed to DHS to receive timely treatment and services.

What is New

This revision provides additional information about decision making when parental rights have been terminated. When parental rights have been terminated the non-routine care for which DHS Permanency Workers are, in general, authorized to sign includes evaluation and admission for mental health treatment, including psychiatric care. This ability to authorize such treatment is also extended to CUA Case Managers. In addition, palliative care decision making when parental rights have been terminated requires consultation with DHS Law.

POLICY

Policy Statement

DHS Staff and CUAs should familiarize themselves with the array of services that might require consent in order for the service to be provided to children and youth in care. These services are listed below in broad categories with examples. When situations arise in which there is a need for consent to be provided in order for a child or youth to receive a particular service, this policy should be reviewed carefully, and the circumstances discussed with one's leadership. A consultation with DHS Law might be necessary as well, as described below. In certain circumstances the DHS Nurses, DHS Psychologists, and Health Management Unit also might need to be consulted. Related policies, listed on the last page, contain more detailed information about mandatory consultations, palliative care, educational services, and COVID-19 vaccinations and should be reviewed as relevant as well.

[1] Child Welfare Operations Staff includes both DHS Social Work Teams and CUA Case Management Teams.

DHS and CUA staff may never consent to the provision of any of the services listed below when a child or youth is in the custody of a parent or legal guardian. The consent must, instead, come from the parent or legal guardian, though there are certain circumstances in which the child or youth, committed to DHS or not, may provide consent on their own behalf.

Unless parental rights are terminated, parents and legal guardians must be notified of all treatment requiring their consent and an attempt must be made to obtain their consent.

Resource parents (kinship and foster) are not authorized to consent to any treatment.

Child Welfare Operations staff and resource parents may take children and youth to appointments and are authorized to take a child or youth to facilitate intervention by crisis response providers when a child or youth committed to the care of DHS is in apparent psychological distress.

For children and youth who are in the legal custody of DHS, DHS SWSMs and CUA CMs **can** consent to:

- "Routine," non-invasive medical and dental care such as:
  - Well child appointments.
  - Routine vaccinations (except where it is known that a parent or legal guardian objects).
    - For COVID-19 vaccinations, see the 2021 memorandum, *Revised Youth Consent to COVID-19 Vaccinations (ages 14 years and older) and Parental Consent for COVID-19 Vaccination (ages 5-13)*.
  - COVID-19 testing.
  - Treatment for ordinary illnesses – non-invasive.
  - Primary care – evaluation and assessment – non-invasive.
  - Dental x-rays.
  - Dental cleanings.

- Standard, non-educational psychological and psychiatric evaluations and out-patient behavioral health, such as:
  - Crisis Assessment.
  - Outpatient Assessment Access Centers.
  - Functional Behavior Assessment.
  - Children's Mobile Crisis Teams (CMCT).
  - Outpatient therapy including:
    - Talk therapy.
    - Trauma therapy.
    - Art therapy.
  - Community treatment supports, including:
    - Enhanced Case management (ECM).
    - Continuity of Care team (COC).
    - Hi-fidelity Wraparound / Joint Planning Team.
  - Community Based Treatment, including:
    - Intensive Behavioral Health Services (IBHS).
    - Early Childhood Treatment Program (ECTP).
    - School Therapeutic Services (STS).

- Afterschool Programs (ASP).
- Family Based Services (FBS).
- Functional Family Therapy (FFT).
- Multi-Systemic Therapy for Problem Sexual Behaviors (MST-PSB).

Psychiatric medication management is **not** considered standard or routine treatment and requires consent of the parent or legal guardian or a Court Order.

Youth 14 and older also can consent to their own mental health treatment.
If the youth is 18 or older, has graduated from high school, been married, been pregnant, or emancipated by court order, the youth can sign for medical, dental, and health services for themselves.

DHS SWSMs and CUA CMs are **not** authorized to consent to:

- "Non-routine," invasive medical and dental care, such as:
  - Any invasive treatment or examination that requires incision, suture, sedation or anesthesia, or injection (other than routine vaccinations unless it is known that the parent objects).
    - For COVID-19 vaccinations, see the 2021 memorandum, *Revised Youth Consent to COVID-19 Vaccinations (ages 14 years and older) and Parental Consent for COVID-19 Vaccination (ages 5-13)*.
  - Prescription medication (including psychotropic medications), with the exception of antibiotics used to treat ordinary illnesses where there are no known allergies.
  - Braces or other orthodontic work.

- Emergency treatment.

  Under the Minor's Consent to Treatment Act[2] , "Medical, dental and health services may be rendered to minors of any age without the consent of a parent or legal guardian when, in the physician's judgment, an attempt to secure consent could result in delay of treatment which would increase the risk to the minor's life or health." Consent to emergency invasive evaluation or treatment should be obtained from the parent or legal guardian whenever possible.

- Initiating or continuing gender transition-related care for children and youth.

  Efforts must be made to contact the parent or legal guardian to request their consent. The assigned solicitor should be contacted if the parent is unwilling or unable to consent.

- Nonstandard outpatient behavioral health services.

- In-patient mental health treatment, unless parental rights have been terminated, such as:
  - Short and Long Term Residential.
  - Community Residential Rehabilitation-Host Home.
  - Residential Treatment Facility.
  - Acute Partial Hospitalization.
  - Acute Inpatient Hospitalization.

[2] 35 Pa.C.S. § 10104

DHS SWSMs and CUA CMs must obtain the consent of the parent or legal guardian for in-patient mental health treatment. Youth 14 and older may also consent to their own mental health treatment, in-patient or otherwise.

If the whereabouts of the parents or legal guardians, whose parental rights have not been terminated, are unknown to DHS, or if they are unwilling to sign a consent, medically necessary involuntary in-patient admission must be obtained by following the requirements of the Mental Health Procedures Act. NOTE: Hospitals have the responsibility to file the necessary petition for involuntary commitment; DHS cannot file such petitions and, unless parental rights have been terminated (see below), cannot sign any documents for admission to inpatient psychiatric treatment facilities.

Palliative care, such as:
- Hospice care.
- Limiting or forgoing life sustaining medical treatment.
- Implementing a Do Not Resuscitate ("DNR") order.

See "Planning for Children and Youth in DHS Custody with Extraordinary Medical Conditions" for additional information regarding who can consent and when a DHS Law consult is necessary.

- Special education services, such as:
  - Early intervention services.
  - Individualized Education Programs (IEP).

  If the parent's educational rights have been limited by the Court or if a parent or legal guardian is not attempting to act, kinship and resource parents are considered the "parent" for purposes of consenting to special education services.

  In the absence of a parent, legal guardian, kinship or resource parent (for instance, if the child or youth is in a congregate care setting), an educational surrogate must be appointed to address the educational needs of the child or youth.

Evaluation and Treatment for Communicable Diseases

A minor of any age can consent to testing and treatment for any reportable sexually transmitted disease, such as AIDS/ HIV, chlamydia, gonorrhea, and syphilis.

Reproductive Health and Treatment

Minors with the capacity to consent can obtain contraception (birth control), including the "morning-after pill" (e.g., Plan B), without parental consent or involvement, regardless of age.

Termination of Pregnancy

Pennsylvania law requires that a youth under the age of 18 have parental consent to terminate a pregnancy. If a youth is unwilling or unable to get parental consent, a Court Order known as a "Judicial Bypass" must be obtained for the youth to consent to the procedure without parental notification. To obtain a Judicial Bypass, the DHS or CUA Worker must contact the Health Management Unit (HMU), which will provide an appropriate resource for the youth to contact.

Parental Rights Terminated

While the DHS Permanency Worker, in general, may authorize non-routine treatment when the rights of both parents have been terminated, all non-routine treatment should be discussed with DHS Law prior to authorizing the treatment. It is DHS policy to get a Court Order in cases involving experimental, unusual, or extraordinary measures (e.g., brain surgery).

When parental rights have been terminated, DHS Permanency Workers and CUA CMs are permitted to sign consents for children and youth to be *evaluated and admitted* for potential psychiatric treatment at a Crisis Response Centers (CRC). If a youth aged 14 years or older refuses to be admitted, the facility would need to invoke the Mental Health Procedures Act if treatment is medically necessary. Note that evaluation and admission is different from treatment. CWO staff may not sign for the treatment itself.

When parental rights have been terminated, DHS/CUA **cannot** consent to special education services. The resource parent can consent, or consent can be obtained by court order when a child is in a congregate placement.

DHS SWSMs and CUA CMs **cannot** consent to a change of care to palliative care for a child or youth even if parental rights have been terminated. If a treating physician makes such a recommendation for a child or youth whose parents' parental rights have been terminated, DHS Law must be consulted.

The Role of DHS Law, the DHS Court Unit, and Family Court

DHS Law must be consulted when:

- There are questions about who can provide consent.
- There are questions about specific treatments, evaluations, or services to which DHS SWSMs and CUA CMs can or cannot consent.
- Either parent or legal guardian refuses to consent or disagrees with proposed treatment for which their consent is necessary.
- There are questions about a parent or legal guardian's capacity to consent or that of the youth when applicable.

When a parent or legal guardian is unavailable to provide necessary consent for proposed treatment, DHS SWSMs and CUA CMs must contact the DHS Court Unit Supervisor so that a Motion for Treatment can be generated. A Motion for Treatment is a legal mechanism where the Court is asked to give DHS permission to sign for a specific non-routine medical treatment or intervention.

When Court has ordered that DHS or its designee may sign for non-routine care, for CUAs the consent is to be signed by the CUA's assigned Practice Coach or Senior Learning Specialist. For DHS-managed cases the Court-ordered consent can be signed by the SWSM or SWS. Signing for palliative care is different. If the Court issues an order authorizing DHS or its designee to sign for palliative care, for both CUA- and DHS-managed cases, the consent may only be signed by a CWO Operations Director or the CWO Deputy Commissioner or the Deputy Commissioner's designee in the event the Deputy Commissioner is unavailable.

DOCUMENTATION REQUIREMENTS

- All discussions with parents or legal guardians and youth must be documented in a Structured Progress Note in the electronic case record.
- All discussions with one's leadership, DHS Law, DHS Nurses and Psychologists, the DHS Health Management Unit, and any collaterals must be documented as a Contact Log entry in the electronic case record.
- All documents, including signed consents, motions filed, and court orders issued with respect to care and treatment of a child or youth committed to DHS must be uploaded to the electronic case record.

RELATED DOCUMENTS AND RESOURCES:

Attachments:	
Forms:	Medical and Surgical Consent Form (85-23)
Related Policies or Procedures:	Guide for DHS Workers and CUA Case Managers on Mandatory Consultation, issued February 2017. Mandatory DHS Nursing Consultations, issued December 28, 2023. Planning for Children and Youth in DHS Custody with Extraordinary Medical Conditions, issued December 14, 2021. Revised Educational Stability and Continuity of Care for Children and Youth in Care, issued October 21, 2021 Revised Youth Consent to COVID-19 Vaccinations (ages 14 years and older) and Parental Consent for COVID-19 Vaccination (ages 5-13), issued December 16, 2021.
Other Resources:	Philadelphia DHS Support Services for DHS Workers and CUA Case Managers, issued March 27, 2017.

POLICY AND PROCEDURE REVIEW AND APPROVAL

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For questions about this policy or its related documents, please contact Policy & Planning at (215) 683-4108 or DHSPolicy@phila.gov.