

# Guideline

Document Number # QH-GDL-944:2015

## Consent in Child Protection and management of Complex Care Cases and End of Life Decision Making

### 1. Purpose

This Guideline provides consistency and best practice for the implementation of consent in child protection and management of complex care cases and end of life decision making for hospital and health services, and identifies individual positions accountabilities and responsibilities in relation to consent in child protection.

### 2. Scope

This Guideline provides information for all employees, contractors and consultants within Queensland Health and Hospital and Health Services (HHS).

### 3. Related documents

#### Procedures, guidelines and protocols:

- Guideline for Conducting Child Sexual Assault Examinations
- Guideline for Care and Treatment Order for a Child
- Guideline for Health Professionals Child Safety Capability Requirements
- Guideline for Information Sharing in Child Protection
- Guideline for Reporting a Reasonable/Reportable Suspicion of Child Abuse and Neglect
- Guideline for Responding to an Unborn Child High Risk Alert

### 4. Guideline for Consent in Child Protection and Management of Complex Care Cases and End of Life Decision Making

#### 4.1 Seeking consent for medical examination or treatment of a child

4.1.1 All medical practitioners should:

- seek informed consent from a child and/or their parent prior to administering any medical examination or treatment on a child (refer to Queensland Health Guide to Informed Decision-making in Healthcare)

- ensure the person giving consent to examine and/or treat the child is the parent or legal guardian of that child.

## 4.2 Carrying out medical examinations or treatment of a child without parental consent (*Child Protection Act 1999, s.97, s.12*)

- 4.2.1 All medical practitioners shall comply with s97 of the *Child Protection Act 1999*. This section allows for a medical practitioner to carry out a medical examination or treatment on a child without parental consent under the following circumstances:
- when a child is taken into custody of the Chief Executive, Department of Child Safety, Youth and Women (Child Safety Services) and a Child Safety Services authorised officer or a Queensland police officer seeks medical examination or treatment for the child, or
  - when the Chief Executive, Child Safety Services has been granted custody and seeks medical examination or treatment, or
  - if a court order authorises the child's treatment.
- 4.2.2 In all circumstances where a medical practitioner intends to conduct a medical examination or treatment on a child, they shall discuss or inform the child of the purpose and nature of the examination or treatment in a manner that is appropriate to the child's developmental stage.
- 4.2.3 All medical practitioners shall only carry out medical examination or treatment that is reasonable in the circumstances.
- 4.2.4 In all circumstances where a medical practitioner conducts a medical examination or treatment of a child under s97 of the *Child Protection Act 1999* the medical practitioner shall provide the Chief Executive Child Safety Services or the Queensland police commissioner with a report about the medical examination or treatment.
- 4.2.5 In the treatment of a child, s97 of the *Child Protection Act 1999* is limited to cases involving a child's daily care needs and vaccination. For example, this may include prescribing antibiotics for tonsillitis, a routine dental filling or receiving age-appropriate and on time recommended vaccination and in emergency situations where a child may require a tetanus or anti-viral vaccination.

## 4.3 Managing of complex care cases and end of life decision making

- 4.3.1 Section 97 of the *Child Protection Act 1999* does not apply, and should not be contemplated in complex care or end of life decision-making cases.
- 4.3.2 All clinical staff, when caring for a child with complex care or end of life needs should:
- establish whether the child is subject to a custody or guardianship child protection order, as the type of order will dictate what type of examination and treatment can be consented to in the circumstances, and by whom
  - seek advice from the HHS legal unit regarding the case and the appropriate decision maker
  - convene multi-agency meetings to inform the parent/s of the child or young person, Child Safety Services and if appropriate the child or young person, with an

accurate medical assessment of prognosis and treatment options, including the clinical course with and without treatment.

- provide a supportive environment to ensure health care decisions for a young person including those concerning life sustaining medical treatment are being made cooperatively by the young person, medical practitioner, and parents.

## 5. Review

**This Guideline is due for review on:** 01 June 2020

**Date of Last Review:** 01 June 2018

**Supersedes:** Nil

## 6. Business Area Contact

Strategy, Children and Families Unit, Strategic Policy and Legislation Branch, Strategy Policy and Planning Division, Department of Health

## 7. Definitions of terms used in the guideline and supporting documents

Term	Definition / Explanation / Details	Source
Child	For the purposes of this document, a child is 'an individual under 18 years of age'.	<i>s8 Child Protection Act 1999</i>
Clinical assessment	This procedure refers to a physical, psychiatric, psychological or dental examination that results' in a judgment being made about the patient. It can include forensic examination and an examination or assessment carried out by a nursing or other appropriately qualified health practitioner. This term also refers to a bio-psychosocial assessment undertaken by a multidisciplinary mental health team.	
Custody	A person who has, or is granted, custody of a child has the right to uphold a child's daily care and the right and responsibility to make decisions about the child's daily care.	<i>s12 Child Protection Act 1999</i>
Informed consent	For consent to be informed, the patient or decision maker needs to be fully aware and have an understanding of the condition, the nature and purpose of the available and proposed healthcare, and potential consequences of each option. Furthermore the patient should be aware of what is likely to occur should they choose not to receive the healthcare. This results from a process of shared decision making and the provision of information in a manner appropriate to the needs of an individual patient or decision-maker.	Queensland Health Guide to Informed Decision-Making in Healthcare (2012)

Government medical officer	A medical officer employed as a government medical officer has the ability to perform procedures under the <i>Coroners Act 2003</i>	Queensland Health Human Resources Policy C3
Guardianship	In accordance with the <i>Child Protection Act 1999</i> , a person who has, or is granted, guardianship of a child has the powers, rights and responsibilities to attend to: <ul style="list-style-type: none"> <li>• a child's daily care</li> <li>• make decisions that relate to day-to-day matters concerning the child's daily care</li> <li>• make decisions about the long-term care, welfare and development of the child in the same way a person has parental responsibility under the <i>Family Law Act 1975</i>.</li> </ul>	<i>Child Protection Act 1999</i>
Medical examination	A medical examination is a physical, psychiatric, psychological or dental examination, assessment or procedure and includes forensic examination and an examination or assessment carried out by a health practitioner.	<i>Schedule 3 Child Protection Act 1999</i>
Parent	A parent means a person with parental responsibility for a child or young person, such as a natural parent, adoptive parent, guardian or someone who is subject of a parenting order for the child under the <i>Family Law Act 1975 (Cwlth)</i> .	<i>Family Law Act 1975</i>
Treatment	The care and management of a patient to combat, ameliorate, or prevent a disease, disorder, or injury.	<a href="http://medical-dictionary.thefreedictionary.com/treatment">http://medical-dictionary.thefreedictionary.com/treatment</a>

## 8. Approval and implementation

### Guideline Custodian:

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## Version control

Version	Date	Prepared by	Comments
V1.0	01/04/2014	Kyle Fogarty	
V1.0	07/04/2014	Joanna Gurd	
V2.0	01/11/2014	Sharon McDonald	Queensland Child Protection Reform
V3.0	11/12/2014	Sharon McDonald	Consultation feedback incorporated
V4.0	28/04/2016	Kyle Fogarty	Periodic review
V4.1	28/05/2018	Joanna Gurd	Final and periodic review