



**State of Tennessee**  
**Department of Children's Services**

**Administrative Policies and Procedures: 20.57**

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| <b>Subject:</b>     | <b>End of Life Decisions for Children in Custody/Guardianship</b>   |
| <b>Authority:</b>   | TCA §§ 32-11-102, 32-11-103, 32-11-104, 37-1-101, 37-1-103, 37-1-105 (3), 37-1-128, 37-1-140, 37-1-149, 37-2-415(a)(17), 37-2-416, 37-5-106 |
| <b>Standards:</b>   | None  |
| <b>Application:</b> | To All Department of Children's Services Employees  |

**Policy Statement:**

The Department of Children's Services (DCS) has no authority to consent to or make decisions regarding the end of life of a child in its care. DCS staff shall adhere to the laws governing this process, follow the procedures outlined in this policy, and support the family when these decisions must be made.

**Purpose:**

To outline the procedures that are followed when end of life decisions are needed for a child in the custody or guardianship of DCS. When a child has a terminal medical condition, these decisions may include 'Do Not Resuscitate' orders, discontinuation of feedings or intravenous hydration, or removal of life support.

**Procedures:**

**A. Do Not Resuscitate Order (DNR Order)**

1. When a child has a terminal medical condition, physician(s) may advise that a DNR order is appropriate due to anticipated futility and/or concern of causing additional unnecessary suffering. A DNR order refers to the provision of cardiopulmonary resuscitation (CPR) in the event of a cardiopulmonary arrest. Other treatments are still available and may be used, including intensive care, antibiotic therapy, hydration, nutritional support, comfort, care, and pain management.
2. Medical personnel may write DNR orders for a child who is a patient in a hospital or is being cared for in a home. However, an order issued while a child is in a hospital will not apply at home. For home use, medical personnel complete the DNR order on a specific form called the Tennessee Physician's Order for Scope of Treatment (POST). The POST form must be kept readily accessible in the home and shown to emergency medical personnel to prevent unwarranted resuscitation.
3. A DNR order should be reassessed as part of the ongoing evaluation of the child's medical condition. A DNR order should only be affirmed, modified, or revoked after a discussion between the appropriate physician(s) and the

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|   | <p>parent, if their parental rights are still intact. If a DNR order has been implemented following an order of the court, the DNR order cannot be modified or revoked without court approval.</p> <p>4. A DNR order is considered extraordinary medical care for a child in DCS custody. Please refer to DCS Policy <a href="#">20.24, Informed Consent</a> for more information about the inability of DCS to consent to extraordinary medical care.</p>  |
| <b>B. Withdrawal of Medical Care</b>                  | <p>1. In addition to DNR orders, medical staff may advise that it is in a child's best interest to withdraw medical care that is prolonging the child's life without improving the chance of survival or decreasing suffering. Examples of this type of medical care include intravenous hydration, tube feedings, antibiotics to treat infections, and tracheal intubation with ventilator support.</p> <p>2. Withdrawal of medical care is considered extraordinary medical care for a child in DCS custody. See DCS Policy <a href="#">20.24, Informed Consent</a> for more information about the inability of DCS to consent to extraordinary medical care.</p>   |
| <b>C. DCS Process for End of Life Decision Making</b> | <p>1. When appropriate medical personnel determine that a child in the legal custody or guardianship of DCS has a terminal condition, and that a DNR order is in the child's medical interest, the following actions shall take place:</p> <ol style="list-style-type: none"> <li>The Family Service Worker (FSW)/Juvenile Service Worker (JSW) notifies the DCS Regional Nurse assigned to the child's home region. The DCS Regional Nurse notifies the Deputy Commissioner of Child Health/Designee.</li> <li>The FSW/JSW notifies the DCS regional attorney assigned to the child's home region. The DCS regional attorney notifies the DCS General Counsel/Central Office Legal.</li> <li>The DCS General Counsel/Central Office Legal designee consults with regional legal staff regarding any legal action that may need to be pursued and will provide ongoing support and consultation to regional legal staff, as needed.</li> </ol> <p>2. The FSW/JSW notifies the physician and hospital social worker that DCS has no authority to consent to a DNR order or removal of life support.</p> <p><b>Note:</b> The Juvenile Court in the county where the child was committed has jurisdiction to determine if a DNR order should be imposed or whether the hospital can remove life support.</p> <p>3. The FSW/JSW engages the parent(s) of the child, if their parental rights are still intact, to discuss with medical personnel if the parent desires to consent to a DNR order or other decisions regarding end of life care. If the parents are unable to be located or are not willing to consent to a DNR order or end of life care, the FSW/JSW notifies regional legal counsel to determine if legal action needs to be pursued.</p> |
| <b>D. Child/Youth in Custody</b>                      | <p>If a motion for determination of extraordinary care related to end of life decisions is to be filed regarding a child in DCS custody, the following actions shall take place:</p> <p>1. DCS legal counsel shall notify parent/guardian or next of kin, if they can be</p>  |

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|   | <p>located through diligent efforts, that the Juvenile Court has jurisdiction to make decisions related to DNR orders and withdrawal of support orders.</p> <ol style="list-style-type: none"><li>2. DCS legal counsel files a petition for a “determination of extraordinary medical care” in the Juvenile Court and schedules an expedited hearing.</li><li>3. DCS legal counsel serves the parent/guardian with a copy of the petition, if they can be located, through diligent efforts.</li><li>4. DCS legal counsel determines whether the child’s parent has an attorney. If not, DCS legal counsel requests that the Court to appoint an attorney for them.</li><li>5. DCS legal counsel confirms the child has a Guardian ad Litem. If not, DCS legal counsel immediately requests that the Court appoint a Guardian ad litem to represent the child’s best interest regarding the determination of end of life care.</li><li>6. DCS legal counsel will provide the Court with any necessary information about the child, his/her condition, history, family resources, and foster parent information. DCS legal counsel also provides the Court with any information regarding whether the child expressed an opinion about his/her desire regarding end of life care and when, where, and how the child made those wishes known.</li><li>7. DCS legal counsel identifies and contacts the attending physician and any other medical expert desired by the Court to provide information about the child’s medical condition and prognosis.</li><li>8. DCS legal counsel ensures that the child’s foster parent(s) receive notice of any court hearings concerning end of life decisions. Although foster parents cannot make the ultimate decision, they will have valuable information to assist the Court in reaching its decision.</li><li>9. DCS legal counsel consults with the DCS regional nurse as necessary throughout the proceedings to stay apprised of the child’s current medical status and prognosis.</li><li>10. DCS legal counsel ensures that a court reporter or tape recorder is present at any hearing regarding a determination of extraordinary medical care and end of life decisions. DCS legal counsel ensures that the written order from the hearing is sufficiently detailed to identify all information provided to the court, including but not limited to any and all witnesses and the testimony they provided. DCS legal counsel also ensures that the written order clearly details what extraordinary medical care has been authorized by the court, to provide medical personnel sufficient information for the DNR order, withdrawal of care, or other medical intervention.</li></ol> |
| <b>E. Child/Youth in Full Guardianship of the Department of Children’s Services</b> | <p>When parental rights have been terminated and a child is in full DCS guardianship, DCS legal counsel must petition the Juvenile Court for an expedited hearing regarding a “determination of extraordinary medical care” and must take the actions in Section D, numbers 5-10.</p>   |

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| <b>F. Documentation</b>                    | The FSW/JSW documents the outcome of the court hearing by entering a case recording in TFACTS and uploads a copy of the Court's order into the child's case in TFACTS. The FSW/JSW also ensures that a copy of the order is provided to appropriate medical personnel.  |
| <b>Forms:</b>                              | <i>None</i>   |
| <b>Collateral Documents:</b>               | <a href="#"><u>20.24, Informed Consent</u></a><br><a href="#"><u>Protocol for Death of Child-Youth in DCS Custody-Guardianship</u></a>  |
| <b>Glossary:</b>                           |   |
| <b>Term</b>                                | <b>Definition</b>   |
| <b>Cardiopulmonary Resuscitation (CPR)</b> | Cardiopulmonary resuscitation (CPR) is an emergency medical procedure consisting of chest compressions, often combined with artificial ventilation, designed to maintain blood flow when the heart has stopped or is not beating effectively.   |
| <b>"Do Not Resuscitate" (DNR)</b>          | "Do not resuscitate" (DNR) is a medical order instructing no CPR be performed if a person stops breathing or if their heart stops beating.  |
| <b>Terminal Condition:</b>                 | A terminal condition may be caused by injury, disease, or illness; cannot be cured or adequately treated; and, with a reasonable degree of certainty, will lead to death.   |
| <b>Extraordinary Medical Care</b>          | Extraordinary medical care is medical treatment outside of routine medical services, and that does not fall within the scope of Tenn. Code Ann. §37-1-140, which provides that it is the duty of the legal custodian to determine the nature of the care and treatment of the child, including ordinary medical care, subject to the conditions and limitations of the order and to the remaining rights and duties of the child's parents or guardian. Examples of extraordinary medical care include, but are not limited to, surgeries, chemotherapy, DNR orders, and termination of life support. |
| <b>Life Support</b>                        | Life support is a set of medical therapies that preserve a patient's life when essential body systems are not functioning sufficiently to sustain life unaided. Examples of life support measures include feeding tubes, intravenous fluids or medications, total parental nutrition, mechanical ventilation, heart/lung bypass, defibrillation, and dialysis.  |
| <b>Termination of Life Support</b>         | Termination of life support or withdrawal of medical care means removal or cessation of any medical procedure or intervention, which is only serving to postpone the moment of death or maintain the child/youth in their current state. The decision to terminate life support must be based on a full appreciation of the underlying medical condition, the prognosis, and expectation for meaningful recovery.   |