

FAMILY CODE

TITLE 5. THE PARENT-CHILD RELATIONSHIP AND THE SUIT AFFECTING THE
PARENT-CHILD RELATIONSHIP

SUBTITLE E. PROTECTION OF THE CHILD

CHAPTER 266. MEDICAL CARE AND EDUCATIONAL SERVICES FOR CHILDREN IN
CONSERVATORSHIP OF DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES

Sec. 266.001. DEFINITIONS. In this chapter:

(1) "Advanced practice nurse" has the meaning assigned by Section 157.051, Occupations Code.

(1-a) "Commission" means the Health and Human Services Commission.

(1-b) "Commissioner" means the commissioner of the Department of Family and Protective Services.

(2) "Department" means the Department of Family and Protective Services.

(2-a) "Drug research program" means any clinical trial, clinical investigation, drug study, or active medical or clinical research that has been approved by an institutional review board in accordance with the standards provided in the Code of Federal Regulations, 45 C.F.R. Sections 46.404 through 46.407, regarding:

(A) an investigational new drug; or

(B) the efficacy of an approved drug.

(3) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(4) Repealed by Acts 2015, 84th Leg., R.S., Ch. 944 , Sec. 86(40), eff. September 1, 2015.

(4-a) "Investigational new drug" has the meaning assigned by 21 C.F.R. Section 312.3(b).

(5) "Medical care" means all health care and related services provided under the medical assistance program under Chapter 32, Human Resources Code, and described by Section 32.003(4), Human Resources Code.

(6) "Physician assistant" has the meaning assigned by Section 157.051, Occupations Code.

(7) "Psychotropic medication" means a medication that

is prescribed for the treatment of symptoms of psychosis or another mental, emotional, or behavioral disorder and that is used to exercise an effect on the central nervous system to influence and modify behavior, cognition, or affective state. The term includes the following categories when used as described by this subdivision:

- (A) psychomotor stimulants;
- (B) antidepressants;
- (C) antipsychotics or neuroleptics;
- (D) agents for control of mania or depression;
- (E) antianxiety agents; and
- (F) sedatives, hypnotics, or other sleep-promoting medications.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.65(a), eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 506 (S.B. 450), Sec. 1, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 204 (H.B. 915), Sec. 7, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 944 (S.B. 206), Sec. 86(40), eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 316 (H.B. 5), Sec. 17, eff. September 1, 2017.

Sec. 266.002. CONSTRUCTION WITH OTHER LAW. This chapter does not limit the right to consent to medical, dental, psychological, and surgical treatment under Chapter 32.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.65(a), eff. September 1, 2005.

Sec. 266.003. MEDICAL SERVICES FOR CHILD ABUSE AND NEGLECT VICTIMS. (a) The department shall collaborate with the commission and health care and child welfare professionals to design a comprehensive, cost-effective medical services delivery model, either directly or by contract, to meet the needs of children served by the department. The medical services delivery model must

include:

(1) the designation of health care facilities with expertise in the forensic assessment, diagnosis, and treatment of child abuse and neglect as pediatric centers of excellence;

(2) a statewide telemedicine system to link department investigators and caseworkers with pediatric centers of excellence or other medical experts for consultation;

(3) identification of a medical home for each foster child on entering foster care at which the child will receive an initial comprehensive assessment as well as preventive treatments, acute medical services, and therapeutic and rehabilitative care to meet the child's ongoing physical and mental health needs throughout the duration of the child's stay in foster care;

(4) the development and implementation of health passports as described in Section [266.006](#);

(5) establishment and use of a management information system that allows monitoring of medical care that is provided to all children in foster care;

(6) the use of medical advisory committees and medical review teams, as appropriate, to establish treatment guidelines and criteria by which individual cases of medical care provided to children in foster care will be identified for further, in-depth review;

(7) development of the training program described by Section [266.004](#)(h);

(8) provision for the summary of medical care described by Section [266.007](#); and

(9) provision for the participation of the person authorized to consent to medical care for a child in foster care in each appointment of the child with the provider of medical care.

(b) The department shall collaborate with health and human services agencies, community partners, the health care community, and federal health and social services programs to maximize services and benefits available under this section.

(c) The commissioner shall adopt rules necessary to implement this chapter.

(d) The commission is responsible for administering

contracts with managed care providers for the provision of medical care to children in foster care. The department shall collaborate with the commission to ensure that medical care services provided by managed care providers match the needs of children in foster care.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.65(a), eff. September 1, 2005.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 316 (H.B. 5), Sec. 18, eff. September 1, 2017.

Sec. 266.004. CONSENT FOR MEDICAL CARE. (a) Medical care may not be provided to a child in foster care unless the person authorized by this section has provided consent.

(b) Except as provided by Section 266.010, the court may authorize the following persons to consent to medical care for a foster child:

(1) an individual designated by name in an order of the court, including the child's foster parent or the child's parent, if the parent's rights have not been terminated and the court determines that it is in the best interest of the parent's child to allow the parent to make medical decisions on behalf of the child; or

(2) the department or an agent of the department.

(c) If the person authorized by the court to consent to medical care is the department or an agent of the department, the department shall, not later than the fifth business day after the date the court provides authorization, file with the court and each party the name of the individual who will exercise the duty and responsibility of providing consent on behalf of the department. The department may designate the child's foster parent or the child's parent, if the parent's rights have not been terminated, to exercise the duty and responsibility of providing consent on behalf of the department under this subsection. If the individual designated under this subsection changes, the department shall file notice of the change with the court and each party not later than the fifth business day after the date of the

change.

(d) A physician or other provider of medical care acting in good faith may rely on the representation by a person that the person has the authority to consent to the provision of medical care to a foster child as provided by Subsection (b).

(e) The department, a person authorized to consent to medical care under Subsection (b), the child's parent if the parent's rights have not been terminated, a guardian ad litem or attorney ad litem if one has been appointed, or the person providing foster care to the child may petition the court for any order related to medical care for a foster child that the department or other person believes is in the best interest of the child. Notice of the petition must be given to each person entitled to notice under Section 263.0021(b).

(f) If a physician who has examined or treated the foster child has concerns regarding the medical care provided to the foster child, the physician may file a letter with the court stating the reasons for the physician's concerns. The court shall provide a copy of the letter to each person entitled to notice under Section 263.0021(b).

(g) On its own motion or in response to a petition under Subsection (e) or Section 266.010, the court may issue any order related to the medical care of a foster child that the court determines is in the best interest of the child.

(h) Notwithstanding Subsection (b), a person may not be authorized to consent to medical care provided to a foster child unless the person has completed a department-approved training program related to informed consent and the provision of all areas of medical care as defined by Section 266.001. This subsection does not apply to a parent whose rights have not been terminated unless the court orders the parent to complete the training.

(h-1) The training required by Subsection (h) must include training related to informed consent for the administration of psychotropic medication and the appropriate use of psychosocial therapies, behavior strategies, and other non-pharmacological interventions that should be considered before or concurrently with the administration of psychotropic medications.

(h-2) Each person required to complete a training program under Subsection (h) must acknowledge in writing that the person:

(1) has received the training described by Subsection (h-1);

(2) understands the principles of informed consent for the administration of psychotropic medication; and

(3) understands that non-pharmacological interventions should be considered and discussed with the prescribing physician, physician assistant, or advanced practice nurse before consenting to the use of a psychotropic medication.

(i) The person authorized under Subsection (b) to consent to medical care of a foster child shall participate in each appointment of the child with the provider of the medical care.

(j) Nothing in this section requires the identity of a foster parent to be publicly disclosed.

(k) The department may consent to health care services ordered or prescribed by a health care provider authorized to order or prescribe health care services regardless of whether the services are provided under the medical assistance program under Chapter 32, Human Resources Code, if the department otherwise has the authority under this section to consent to health care services.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.65(a), eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 727 (H.B. 2580), Sec. 1, eff. June 15, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 204 (H.B. 915), Sec. 8, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 944 (S.B. 206), Sec. 65, eff. September 1, 2015.

Sec. 266.0041. ENROLLMENT AND PARTICIPATION IN CERTAIN RESEARCH PROGRAMS. (a) Notwithstanding Section 266.004, a person may not authorize the enrollment of a foster child or consent to the participation of a foster child in a drug research program without a court order as provided by this section, unless the person is the

foster child's parent and the person has been authorized by the court to make medical decisions for the foster child in accordance with Section 266.004.

(b) Before issuing an order authorizing the enrollment or participation of a foster child in a drug research program, the court must:

(1) appoint an independent medical advocate;

(2) review the report filed by the independent medical advocate regarding the advocate's opinion and recommendations concerning the foster child's enrollment and participation in the drug research program;

(3) consider whether the person conducting the drug research program:

(A) informed the foster child in a developmentally appropriate manner of the expected benefits of the drug research program, any potential side effects, and any available alternative treatments and received the foster child's assent to enroll the child to participate in the drug research program as required by the Code of Federal Regulations, 45 C.F.R. Section 46.408; or

(B) received informed consent in accordance with Subsection (h); and

(4) determine whether enrollment and participation in the drug research program is in the foster child's best interest and determine that the enrollment and participation in the drug research program will not interfere with the appropriate medical care of the foster child.

(c) An independent medical advocate appointed under Subsection (b) is not a party to the suit but may:

(1) conduct an investigation regarding the foster child's participation in a drug research program to the extent that the advocate considers necessary to determine:

(A) whether the foster child assented to or provided informed consent to the child's enrollment and participation in the drug research program; and

(B) the best interest of the child for whom the advocate is appointed; and

(2) obtain and review copies of the foster child's relevant medical and psychological records and information describing the risks and benefits of the child's enrollment and participation in the drug research program.

(d) An independent medical advocate shall, within a reasonable time after the appointment, interview:

(1) the foster child in a developmentally appropriate manner, if the child is four years of age or older;

(2) the foster child's parent, if the parent is entitled to notification under Section 264.018;

(3) an advocate appointed by an institutional review board in accordance with the Code of Federal Regulations, 45 C.F.R. Section 46.409(b), if an advocate has been appointed;

(4) the medical team treating the foster child as well as the medical team conducting the drug research program; and

(5) each individual who has significant knowledge of the foster child's medical history and condition, including any foster parent of the child.

(e) After reviewing the information collected under Subsections (c) and (d), the independent medical advocate shall:

(1) submit a report to the court presenting the advocate's opinion and recommendation regarding whether:

(A) the foster child assented to or provided informed consent to the child's enrollment and participation in the drug research program; and

(B) the foster child's best interest is served by enrollment and participation in the drug research program; and

(2) at the request of the court, testify regarding the basis for the advocate's opinion and recommendation concerning the foster child's enrollment and participation in a drug research program.

(f) The court may appoint any person eligible to serve as the foster child's guardian ad litem, as defined by Section 107.001, as the independent medical advocate, including a physician or nurse or an attorney who has experience in medical and health care, except that a foster parent, employee of a substitute care provider or child placing agency providing care for the foster

child, representative of the department, medical professional affiliated with the drug research program, independent medical advocate appointed by an institutional review board, or any person the court determines has a conflict of interest may not serve as the foster child's independent medical advocate.

(g) A person otherwise authorized to consent to medical care for a foster child may petition the court for an order permitting the enrollment and participation of a foster child in a drug research program under this section.

(h) Before a foster child, who is at least 16 years of age and has been determined to have the capacity to consent to medical care in accordance with Section 266.010, may be enrolled to participate in a drug research program, the person conducting the drug research program must:

(1) inform the foster child in a developmentally appropriate manner of the expected benefits of participation in the drug research program, any potential side effects, and any available alternative treatments; and

(2) receive written informed consent to enroll the foster child for participation in the drug research program.

(i) A court may render an order approving the enrollment or participation of a foster child in a drug research program involving an investigational new drug before appointing an independent medical advocate if:

(1) a physician recommends the foster child's enrollment or participation in the drug research program to provide the foster child with treatment that will prevent the death or serious injury of the child; and

(2) the court determines that the foster child needs the treatment before an independent medical advocate could complete an investigation in accordance with this section.

(j) As soon as practicable after issuing an order under Subsection (i), the court shall appoint an independent medical advocate to complete a full investigation of the foster child's enrollment and participation in the drug research program in accordance with this section.

(k) This section does not apply to:

(1) a drug research study regarding the efficacy of an approved drug that is based only on medical records, claims data, or outcome data, including outcome data gathered through interviews with a child, caregiver of a child, or a child's treating professional;

(2) a retrospective drug research study based only on medical records, claims data, or outcome data; or

(3) the treatment of a foster child with an investigational new drug that does not require the child's enrollment or participation in a drug research program.

(1) The department shall annually submit to the governor, lieutenant governor, speaker of the house of representatives, and the relevant committees in both houses of the legislature, a report regarding:

(1) the number of foster children who enrolled or participated in a drug research program during the previous year;

(2) the purpose of each drug research program in which a foster child was enrolled or participated; and

(3) the number of foster children for whom an order was issued under Subsection (i).

(m) A foster parent or any other person may not receive a financial incentive or any other benefit for recommending or consenting to the enrollment and participation of a foster child in a drug research program.

Added by Acts 2007, 80th Leg., R.S., Ch. 506 (S.B. 450), Sec. 2, eff. September 1, 2007.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 722 (H.B. 1309), Sec. 3, eff. June 17, 2015.

Acts 2015, 84th Leg., R.S., Ch. 944 (S.B. 206), Sec. 66, eff. September 1, 2015.

Sec. 266.0042. CONSENT FOR PSYCHOTROPIC MEDICATION. Consent to the administration of a psychotropic medication is valid only if:

(1) the consent is given voluntarily and without undue influence; and

(2) the person authorized by law to consent for the foster child receives verbally or in writing information that describes:

(A) the specific condition to be treated;

(B) the beneficial effects on that condition expected from the medication;

(C) the probable health and mental health consequences of not consenting to the medication;

(D) the probable clinically significant side effects and risks associated with the medication; and

(E) the generally accepted alternative medications and non-pharmacological interventions to the medication, if any, and the reasons for the proposed course of treatment.

Added by Acts 2013, 83rd Leg., R.S., Ch. 204 (H.B. 915), Sec. 9, eff. September 1, 2013.

Sec. 266.005. FINDING ON HEALTH CARE CONSULTATION. If a court finds that a health care professional has been consulted regarding a health care service, procedure, or treatment for a child in the conservatorship of the department and the court declines to follow the recommendation of the health care professional, the court shall make findings in the record supporting the court's order.

Added by Acts 2017, 85th Leg., R.S., Ch. 317 (H.B. 7), Sec. 38, eff. September 1, 2017.

Sec. 266.006. HEALTH PASSPORT. (a) The commission, in conjunction with the department, and with the assistance of physicians and other health care providers experienced in the care of foster children and children with disabilities and with the use of electronic health records, shall develop and provide a health passport for each foster child. The passport must be maintained in an electronic format and use the department's existing computer resources to the greatest extent possible.

(b) The executive commissioner, in collaboration with the commissioner, shall adopt rules specifying the information

required to be included in the passport. The required information may include:

(1) the name and address of each of the child's physicians and health care providers;

(2) a record of each visit to a physician or other health care provider, including routine checkups conducted in accordance with the Texas Health Steps program;

(3) an immunization record that may be exchanged with ImmTrac;

(4) a list of the child's known health problems and allergies;

(5) information on all medications prescribed to the child in adequate detail to permit refill of prescriptions, including the disease or condition that the medication treats; and

(6) any other available health history that physicians and other health care providers who provide care for the child determine is important.

(c) The system used to access the health passport must be secure and maintain the confidentiality of the child's health records.

(d) Health passport information shall be part of the department's record for the child as long as the child remains in foster care.

(e) The commission, in collaboration with the department, shall provide training or instructional materials to foster parents, physicians, and other health care providers regarding use of the health passport.

(f) The department shall make health passport information available in printed and electronic formats to the following individuals when a child is discharged from foster care:

(1) the child's legal guardian, managing conservator, or parent; or

(2) the child, if the child is at least 18 years of age or has had the disabilities of minority removed.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.65(a), eff. September 1, 2005.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 316 (H.B. 5), Sec. 19, eff. September 1, 2017.

Sec. 266.007. JUDICIAL REVIEW OF MEDICAL CARE. (a) At each hearing under Chapter 263, or more frequently if ordered by the court, the court shall review a summary of the medical care provided to the foster child since the last hearing. The summary must include information regarding:

(1) the nature of any emergency medical care provided to the child and the circumstances necessitating emergency medical care, including any injury or acute illness suffered by the child;

(2) all medical and mental health treatment that the child is receiving and the child's progress with the treatment;

(3) any medication prescribed for the child, the condition, diagnosis, and symptoms for which the medication was prescribed, and the child's progress with the medication;

(4) for a child receiving a psychotropic medication:

(A) any psychosocial therapies, behavior strategies, or other non-pharmacological interventions that have been provided to the child; and

(B) the dates since the previous hearing of any office visits the child had with the prescribing physician, physician assistant, or advanced practice nurse as required by Section 266.011;

(5) the degree to which the child or foster care provider has complied or failed to comply with any plan of medical treatment for the child;

(6) any adverse reaction to or side effects of any medical treatment provided to the child;

(7) any specific medical condition of the child that has been diagnosed or for which tests are being conducted to make a diagnosis;

(8) any activity that the child should avoid or should engage in that might affect the effectiveness of the treatment, including physical activities, other medications, and diet; and

(9) other information required by department rule or by the court.

(b) At or before each hearing under Chapter 263, the department shall provide the summary of medical care described by Subsection (a) to:

- (1) the court;
- (2) the person authorized to consent to medical treatment for the child;
- (3) the guardian ad litem or attorney ad litem, if one has been appointed by the court;
- (4) the child's parent, if the parent's rights have not been terminated; and
- (5) any other person determined by the department or the court to be necessary or appropriate for review of the provision of medical care to foster children.

(c) At each hearing under Chapter 263, the foster child shall be provided the opportunity to express to the court the child's views on the medical care being provided to the child.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.65(a), eff. September 1, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 204 (H.B. 915), Sec. 12, eff. September 1, 2013.

Sec. 266.008. EDUCATION PASSPORT. (a) The department shall develop an education passport for each foster child. The department shall determine the format of the passport. The passport may be maintained in an electronic format. The passport must contain educational records of the child, including the names and addresses of educational providers, the child's grade-level performance, and any other educational information the department determines is important.

(b) The department shall maintain the passport as part of the department's records for the child as long as the child remains in foster care.

- (c) The department shall make the passport available to:
- (1) any person authorized by law to make educational decisions for the foster child;
 - (2) the person authorized to consent to medical care

for the foster child; and

(3) a provider of medical care to the foster child if access to the foster child's educational information is necessary to the provision of medical care and is not prohibited by law.

(d) The department shall collaborate with the Texas Education Agency to develop policies and procedures to ensure that the needs of foster children are met in every school district.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.65(a), eff. September 1, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 688 (H.B. 2619), Sec. 8, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 316 (H.B. 5), Sec. 20, eff. September 1, 2017.

Sec. 266.009. PROVISION OF MEDICAL CARE IN EMERGENCY. (a) Consent or court authorization for the medical care of a foster child otherwise required by this chapter is not required in an emergency during which it is immediately necessary to provide medical care to the foster child to prevent the imminent probability of death or substantial bodily harm to the child or others, including circumstances in which:

(1) the child is overtly or continually threatening or attempting to commit suicide or cause serious bodily harm to the child or others; or

(2) the child is exhibiting the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in placing the child's health in serious jeopardy, serious impairment of bodily functions, or serious dysfunction of any bodily organ or part.

(b) The physician providing the medical care or designee shall notify the person authorized to consent to medical care for a foster child about the decision to provide medical care without consent or court authorization in an emergency not later than the second business day after the date of the provision of medical care

under this section. This notification must be documented in the foster child's health passport.

(c) This section does not apply to the administration of medication under Subchapter G, Chapter 574, Health and Safety Code, to a foster child who is at least 16 years of age and who is placed in an inpatient mental health facility.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.65(a), eff. September 1, 2005.

Sec. 266.010. CONSENT TO MEDICAL CARE BY FOSTER CHILD AT LEAST 16 YEARS OF AGE. (a) A foster child who is at least 16 years of age may consent to the provision of medical care, except as provided by Chapter 33, if the court with continuing jurisdiction determines that the child has the capacity to consent to medical care. If the child provides consent by signing a consent form, the form must be written in language the child can understand.

(b) A court with continuing jurisdiction may make the determination regarding the foster child's capacity to consent to medical care during a hearing under Chapter 263 or may hold a hearing to make the determination on its own motion. The court may issue an order authorizing the child to consent to all or some of the medical care as defined by Section 266.001. In addition, a foster child who is at least 16 years of age, or the foster child's attorney ad litem, may file a petition with the court for a hearing. If the court determines that the foster child lacks the capacity to consent to medical care, the court may consider whether the foster child has acquired the capacity to consent to medical care at subsequent hearings under Section 263.5031.

(c) If the court determines that a foster child lacks the capacity to consent to medical care, the person authorized by the court under Section 266.004 shall continue to provide consent for the medical care of the foster child.

(d) If a foster child who is at least 16 years of age and who has been determined to have the capacity to consent to medical care refuses to consent to medical care and the department or private agency providing substitute care or case management services to the child believes that the medical care is appropriate, the department

or the private agency may file a motion with the court requesting an order authorizing the provision of the medical care.

(e) The motion under Subsection (d) must include:

(1) the child's stated reasons for refusing the medical care; and

(2) a statement prepared and signed by the treating physician that the medical care is the proper course of treatment for the foster child.

(f) If a motion is filed under Subsection (d), the court shall appoint an attorney ad litem for the foster child if one has not already been appointed. The foster child's attorney ad litem shall:

(1) discuss the situation with the child;

(2) discuss the suitability of the medical care with the treating physician;

(3) review the child's medical and mental health records; and

(4) advocate to the court on behalf of the child's expressed preferences regarding the medical care.

(g) The court shall issue an order authorizing the provision of the medical care in accordance with a motion under Subsection (d) to the foster child only if the court finds, by clear and convincing evidence, after the hearing that the medical care is in the best interest of the foster child and:

(1) the foster child lacks the capacity to make a decision regarding the medical care;

(2) the failure to provide the medical care will result in an observable and material impairment to the growth, development, or functioning of the foster child; or

(3) the foster child is at risk of suffering substantial bodily harm or of inflicting substantial bodily harm to others.

(h) In making a decision under this section regarding whether a foster child has the capacity to consent to medical care, the court shall consider:

(1) the maturity of the child;

(2) whether the child is sufficiently well informed to

make a decision regarding the medical care; and

(3) the child's intellectual functioning.

(i) In determining whether the medical care is in the best interest of the foster child, the court shall consider:

(1) the foster child's expressed preference regarding the medical care, including perceived risks and benefits of the medical care;

(2) likely consequences to the foster child if the child does not receive the medical care;

(3) the foster child's prognosis, if the child does receive the medical care; and

(4) whether there are alternative, less intrusive treatments that are likely to reach the same result as provision of the medical care.

(j) This section does not apply to emergency medical care. An emergency relating to a foster child who is at least 16 years of age, other than a child in an inpatient mental health facility, is governed by Section 266.009.

(k) This section does not apply to the administration of medication under Subchapter G, Chapter 574, Health and Safety Code, to a foster child who is at least 16 years of age and who is placed in an inpatient mental health facility.

(l) Before a foster child reaches the age of 16, the department or the private agency providing substitute care or case management services to the foster child shall advise the foster child of the right to a hearing under this section to determine whether the foster child may consent to medical care. The department or the private agency providing substitute care or case management services shall provide the foster child with training on informed consent and the provision of medical care as part of the Preparation for Adult Living Program.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.65(a), eff. September 1, 2005.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 944 (S.B. 206), Sec. 67, eff. September 1, 2015.

Sec. 266.011. MONITORING USE OF PSYCHOTROPIC DRUG. The person authorized to consent to medical treatment for a foster child prescribed a psychotropic medication shall ensure that the child has been seen by the prescribing physician, physician assistant, or advanced practice nurse at least once every 90 days to allow the physician, physician assistant, or advanced practice nurse to:

(1) appropriately monitor the side effects of the medication; and

(2) determine whether:

(A) the medication is helping the child achieve the treatment goals; and

(B) continued use of the medication is appropriate.

Added by Acts 2013, 83rd Leg., R.S., Ch. 204 (H.B. 915), Sec. 13, eff. September 1, 2013.

Sec. 266.012. COMPREHENSIVE ASSESSMENTS. (a) Not later than the 45th day after the date a child enters the conservatorship of the department, the child shall receive a developmentally appropriate comprehensive assessment. The assessment must include:

(1) a screening for trauma; and

(2) interviews with individuals who have knowledge of the child's needs.

(b) The department shall develop guidelines regarding the contents of an assessment report.

(c) A single source continuum contractor under Subchapter B-1, Chapter 264, providing therapeutic foster care services to a child shall ensure that the child receives a comprehensive assessment under this section at least once every 90 days.

Added by Acts 2015, 84th Leg., R.S., Ch. 11 (S.B. 125), Sec. 1, eff. September 1, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 319 (S.B. 11), Sec. 22, eff. September 1, 2017.

Sec. 266.013. CONTINUITY OF SERVICES PROVIDED BY COMMISSION. (a) In addition to the requirements of Section 266.003(d), the commission shall continue to provide any services to children in the conservatorship of the department that the commission provided to those children before September 1, 2017.

(b) Subsection (a) does not apply to any services provided by the commission in relation to a child's education passport created under Section 266.008.

Added by Acts 2017, 85th Leg., R.S., Ch. 316 (H.B. 5), Sec. 21, eff. September 1, 2017.