**Section 327.5 Medical Consents**

a) Principles of Consultation and Consent

1) Consent of the custodian or guardian is not required by statute for all persons aged 18 or older, for females who are pregnant, or for the dissemination to children over age 12 of information about and treatment for venereal disease, drug or alcohol abuse, and for birth control information.

2) In all cases the minor shall be consulted by casework staff regarding the nature of the proposed medical procedures to the extent that the child's age and understanding of the situation will allow. Parents shall be consulted regarding medical procedures affecting their children as provided by this rule. Where the Department retains the right of final determination, it may consent to any medical treatment regardless of objections raised by the minor or by his or her parent(s). Should such objection be made, the minor and his/her parent(s) shall be advised of their right to seek remedy under the Juvenile Court System. If the proposed medical treatment is elective in nature, reasonable time shall be afforded to obtain such remedy.

3) When medical consents are to be given for minors in the custody of or under the guardianship of the Department, such consents shall be given only the Guardianship Administrator, or designee, or under special circumstances noted below, by the parent of the minor. Under no circumstances shall any other employee of the Department give such consents.

4) Upon request from a licensed physician or medical facility for consent to perform any medical procedure, the Guardianship Administrator or designee shall obtain all relevant facts and the reasons for the request. In every instance involving a major or elective procedure, except in an emergency, consultation with physicians either employed by the Department or utilized by it shall be undertaken before any consent is given. Such consent shall be documented. Additional requirements for exceptional cases are stated in paragraph 5 below and in (c) (1) below.

5) In every instance, before consent is given for proposed elective surgical or medical procedure involving the sexual and/or reproductive organs of a minor, the completion of which may or will affect his/her ability to sire, conceive, or bear children, advice shall be obtained from at least two physicians who have specialized training, knowledge or experience in this field and who are not professionally associated with the recommending physician. Records of the consultants shall be signed by the consultants and kept on file by the Department.

b) Specific Circumstances

1) Consent to medical treatment for any child under the age of 18 who is under the guardianship of the Department, or for whom the Department holds temporary custody (pursuant to a court order) with authority to consent to major medical procedures, or who has been surrendered to the Department for adoption by one or both parents shall be given under the following conditions:

A) Consent to ordinary, elective or emergency treatment shall be given by the Guardianship Administrator or designee in all cases involving major or elective procedures and the parent(s) or responsible relative (as the case may be) shall be consulted and advised by the casework staff of the Department or of an agency providing care and service to the child, as to the nature and extent of any medical procedure recommended except when the parental rights have been terminated by court order or surrender, or when immediate action is warranted or required.

B) If upon reasonable, diligent effort no parent or relative can be located, any needed medical treatment shall not be delayed.

C) When emergency attention is required and delay will endanger the health or well-being of the child, treatment shall be given and the notification of parent(s) or relative shall be made as soon thereafter as possible.

2) Consent to medical treatment for any child under the age of 18 for whom the Department holds temporary custody (pursuant to an order of a court) but has not been given the authority to consent to major medical procedures; or consent to medical treatment for a child placed in the care of the Department through abandonment, police intervention or emergency protective custody under the Abused and Neglected Child Reporting Act, (Ill. Rev. Stat., ch. 23, §2055).

A) Consent for ordinary medical treatment shall be given only by the Guardianship Administrator or designee.

B) Consent for major medical treatment or surgical procedures shall be given by the minor's parent or legal guardian.

C) If the treatment is of an emergency nature and the parent or guardian is unavailable or is unwilling to provide the consent, the physician or hospital should be asked to proceed under Chapter 111, Section 4503, Illinois Revised Statutes, which allows treatment to be given to minors without consent.

D) If the treatment is of an elective nature and the parent or guardian is unavailable or is unwilling to provide the consent, immediate relief should be sought in the form of a request that the court appoint a custodian with the authority to consent to major medical treatment.

E) When emergency treatment has been given without the consent of a parent or guardian, the parent or guardian shall be advised as soon thereafter as possible, by casework staff of the Department or of an agency providing care and service to the child, as to the nature and extent of any medical service provided.

3) Consent to medical treatment for any child under the age of 18 who is in the custody of the Department pursuant to a voluntary placement agreement:

A) Any request for consent to any type of medical treatment shall be referred to the parent(s) or guardian of the minor.

B) If the parent(s) or guardian is not available, the request shall be forwarded to the Guardianship Administrator or designee.

C) When treatment has been given without consent of the parent(s) or guardian, the parent(s) or guardian shall be advised as soon thereafter as possible by casework staff of the Department or of an agency providing care and service to the child, as to the nature and extent of any medical service provided.

D) If parents are consistently unavailable to provide consents for medical treatment of their children, staff may consider filing a petition with the Court for the appointment of a custodian with the authority to consent to major medical treatment.

c) Use of Drugs

1) No experimental use of a drug may be made, and no drug of an experimental nature may be given or administered in any form or manner to any minor under the care of the Department as provided for in part 432, Research Involving Children and Families, except when the Department has power to consent to major medical treatment and procedures and when, in the opinion of the treating physician and of at least two medical experts not professionally associated with the recommending physician, the administration of an experimental drug would represent the best possible chance of saving the minor's life or of achieving the remission of a progressive, crippling, disfiguring, or potentially fatal disease. This provision is at all times subject to court review should objection be made to the administration of any drug as described herein (see (a) (2) above).

2) Records of the consultation should be signed by the consultants and kept on file by the Department.