Division of Children and Family Services Protection and Safety Procedure # 31-2017

Regarding: Life Sustaining Measures and Organ Donation
Rescinds: #13-2015 Life Sustaining Measures
Date Effective: 09/13/2017
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Issue by: Matthew T. Wallen, Director, Division of Children and Family Services

Philosophy:

It is important that CFS Specialists, Supervisors and Administrators have the support and expertise needed to assist with making decisions regarding complex medical issues concerning the life of a child involved with our system.

The Division of Children and Families (DCFS) regulations (390 NAC 11-002.041- Withholding or Withdrawal of Life Support) will be modified to reflect language contained in case law. The procedure described below will modify the DCFS process to address the decision to request a Do Not Resuscitate Order (DNR) or Do Not Intubate Order (DNI) and/or the Withholding or Withdrawal of Life Support of a child who is a state ward to comply with case law.

Procedure:

I. Physician Request.

1. When a physician requests authorization for the Withdrawal of Life Support or recommends an authorization for DNR/DNI in reference to a child who is a ward of the state, the CFS Specialist will instruct the medical provider(s) to continue life sustaining measures until notified otherwise by the Nebraska Department of Health and Human Services (DHHS) under the direction of the Court having jurisdiction over the ward.

2. The CFS Specialist will inform the medical provider that the request to withdraw life support or other life sustaining measures must be made in writing. The CFS Specialist will request the medical provider to complete and submit the Request for DNR/DNI/Withholding/Withdrawal of Treatment (See attached).
1-3. The CFS Specialist will immediately notify and consult with his or her supervisor and complete a Critical Incident Report.

2. CFS Specialist and CFS Supervisor will gather relevant information regarding the child’s diagnosed condition, current physical condition and prognosis, obtain information from the physician about the risks and benefits of treatment or cessation of treatment, and the reason for recommending the DNR/DNI or Authorization for Withdrawal or Withholding of Life Support and then present this information to DHHS Administration and Central Office Team (to include DHHS physicians, legal counsel, CPS Program Specialist); the parent(s); and hospital personnel.

4-5. The Division of Children and Family Services (DCFS) will make a decision to either:
   a. Request that the court terminate DHHS custody so that the parent(s) can make all future medical decisions; or
   b. Request that the Court enter an Order directing DHHS to consent to Withdrawal or Withholding of Life Support or other life sustaining measures, including a Do Not Resuscitate order or Do Not Intubate order.

II. Withdrawal of Life Support and Do Not Resuscitate

When a physician recommends and requests authorization for the Withdrawal or Withholding of Life Support or a DNR/DNI for a state ward who has been determined by a physician to have a non-recoverable brain injury, but who continues to have cardiovascular activity, and the Court enters an Order directing DHHS to consent, the following protocol will be implemented:

1. The CFS Specialist will inform the parent(s); guardian or custodian, such as an Indian Custodian; and others as appropriate, including Tribal Representatives if the child is affiliated with a Tribe; the Guardian ad Litem and County Attorney and parent(s)’ attorney(s) that DCFS has received a request from the child’s physician to cease Life Sustaining Measures.
   a. The CFS Specialist will work to engage the parent(s) in conversations with the child’s physician and other medical personnel regarding the child’s medical condition and the recommendation for DNR/DNI and/or Withdrawal of Life Support, including the risks and benefits of the decision.
   b. The CFS Specialist will be sensitive to the family’s religious and cultural beliefs in discussions with the parent(s), and will seek to understand their thoughts, feelings and wants related to the Withdrawal of Life Support or other life sustaining measures.
   c. If the CFS Specialist is unable to engage the parent(s) in the discussion, the CFS Specialist will provide the parent(s) with the child’s medical records and the physician’s recommendation for DNR/DNI and/or Withdrawal of Life Support, including the risks and benefits of the decision to withhold life support or not withhold life support.

2. The CFS Supervisor will notify the CFS Administrator, the Service Area Administrator, the Deputy Director and DHHS Legal.

3. The Service Area Administrator or designee will schedule a time for the physician and the DHHS Chief Medical Officer of Public Health or Medical Director of Medicaid and Long-Term Care or designee to discuss the recommendation.

4. The Service Area Administrator will coordinate a conference call with the Children and Family Services Director and/or the Deputy Director, DHHS Legal, and DHHS Chief Medical Officer or
Medical Director of Medicaid and Long-Term Care or designee in order to determine whether DHHS should:

a. Request the Court to terminate DHHS custody so that the parent can make all future medical decisions; or
b. Request the Court to determine that DHHS can authorize the Withdrawal of Life Support or a DNR/DNI Order.

5. DHHS Legal will initiate the proper court proceeding based on the determination made by the Service Area Administrative Team.

6. CFS Specialist will work with local DHHS Legal to notify the parent(s) and all legal parties as soon as possible of the Court’s decision.

7. The Deputy Director and DHHS Legal are responsible to communicate the decision by the Court to the DCFS Director or designee immediately following the Court action.

8. The CFS Specialist and Service Area Administrator or designee will document all decisions and next steps in the Program Person narrative; Subject: Medical; Item: Medical Care During Placement. All documents will be entered into N-FOCUS Document Imaging in the Medical Folder.

9. The CFS Specialist and Service Area Administrator or designee will provide regular updates regarding the child’s medical condition to the Deputy Director, DHHS Legal and DHHS medical staff.

10. An approved DNR/DNI Order will be reviewed every 30 days.

11. A child is determined to have died when the treating physician has declared the child is dead. This includes when the physician determines that a child is brain dead. When the treating physician determines the child is dead, the child is no longer in the custody of DHHS and DHHS has no legal authority to make decisions regarding the child. DHHS does not have authority over the child upon the death of the child unless so ordered by the Court.

III. Organ Donation

1. When the death of a state ward is imminent and the medical professionals ask about organ donation, the CFS Specialist will involve the parent(s) in the discussion and decision when parental rights are intact.

2. DCFS will agree and sign consent for organ donation if the child’s family is in agreement and by order of the court.

3. DCFS will not consent to Organ Donation when:
   a. The child’s family does not want to donate the child’s organs; or
   b. Parental rights are not intact either due to relinquishment or termination of parental rights.

References:

Not Applicable

Attachment:
Request for DNR/DNI/Withholding/Withdrawal of Treatment
REQUEST FOR DO NOT RESUSCITATE (DNR)/DO NOT INTUBATE (DNI) AND/OR WITHHOLDING OR WITHDRAWAL OF TREATMENT OF A CHILD IN THE CARE AND CUSTODY OF THE NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES

This form is designed to obtain the information necessary to obtain a Do Not Resuscitate-Do Not Intubate (DNR-DNI) for the purpose of making medical and end-of-life decisions or to Withhold or Withdraw Treatment for a child who is in the legal care and custody of the Nebraska Department of Health and Human Services.

CURRENT DATE:

NAME OF CHILD/PATIENT:

CHILD/PATIENT DATE OF BIRTH:

NAME OF TREATING PHYSICIAN:

HEALTH CONDITIONS/DIAGNOSES (include evidence of the child’s neurological status and/or proximal death or both) to support this recommendation (attach necessary documentation):

1. SHOULD THE CHILD/PATIENT BE PLACED ON DNR/DNI STATUS WHICH INCLUDES THE WITHHOLDING OF ALL EFFORTS TO RESUSCITATE IN THE EVENT OF CARDIAC OR RESPIRATORY ARREST? (CHECK ALL THAT APPLY):
   a. FULL CARDIOPULMONARY ARREST (WHEN BOTH BREATHING AND HEARTBEAT STOP):
      _____ Do Not Attempt Cardiopulmonary Resuscitation (CPR)
      (Measures to promote patient comfort and dignity will be provided)
   b. PRE-ARREST EMERGENCY (WHEN BREATHING IS LABORED OR STOPPED, AND HEART IS STILL BEATING):
      SELECT ONE
      _____ Do Attempt Cardiopulmonary Resuscitation (CPR) – OR
      _____ Do Not Attempt Cardiopulmonary Resuscitation (CPR)
      (Measures to promote patient comfort and dignity will be provided)

   OTHER INSTRUCTIONS:

2. SHOULD LIFE SUPPORT BE WITHHELD OR WITHDRAWN FROM THE CHILD/PATIENT
   □ NO
   □ YES

3. ARE THERE OTHER TREATMENT OPTIONS FOR THE PATIENT AT THIS TIME?
   □ NO – (all other treatments are medically futile)
   □ YES – (describe):

__________________________________________
Signature of Attending Physician