

5101:2-36-07

**PCSA requirement for conducting an assessment/investigation of the alleged withholding of medically indicated treatment from a disabled infant with life-threatening conditions.**

- (A) The public children services agency (PCSA) ~~shall~~ is to conduct an assessment/investigation if a neglect report alleges the withholding of medically indicated treatment from a disabled infant with a life-threatening condition.
- (1) The withholding of medically indicated treatment is the refusal to provide appropriate nutrition, hydration, medication or other medically indicated treatment from a disabled infant with a life-threatening condition.
  - (2) Medically indicated treatment includes the medical care most likely to relieve, or correct, the life-threatening condition. Nutrition, hydration, and medication, as appropriate for the infant's needs, are medically indicated for all disabled infants; as well as, the completion of appropriate evaluations or consultations necessary to assure that sufficient information has been gathered to make informed medical decisions on behalf of the disabled infant.
  - (3) In determining whether treatment is medically indicated, reasonable medical judgments made by a prudent physician, or treatment team, knowledgeable about the case and its treatment possibilities are considered. The opinions about the infant's future "quality of life" are not to bear on whether or not a treatment is judged to be medically indicated. Medically indicated treatment does not include the failure to provide treatment to a disabled infant if the treating physician's medical judgment identifies any of the following:
    - (a) The disabled infant is chronically and irreversibly comatose.
    - (b) The provision of the treatment is futile and will prolong dying.
    - (c) The provision of the treatment would not be effective in ameliorating or correcting all of the disabled infant's life threatening conditions.
    - (d) The provision of such treatment to the disabled infant is inhumane.
- (B) The PCSA ~~shall~~ is to initiate the screened in medical neglect report ~~in accordance with the following:~~ by completing face to face or telephone contact with the health care facility's administrator or designee, within one hour from the time the referral was screened in and obtain the following information from the health care facility's administrator, or designee, regarding the current condition of the disabled infant, including but not limited to:

- (1) The physical location of the disabled infant within the hospital, e.g., emergency room, neonatal intensive care unit, labor and delivery, sixth floor, etc.
  - (2) The disabled infant's age.
  - (3) The disabled infant's diagnoses or diagnosis and the prognosis.
  - (4) The medical condition requiring treatment.
  - (5) The immediate actions necessary to keep the disabled infant alive.
  - (6) Whether or not the withholding of life-sustaining treatment has been recommended.
  - (7) Whether or not the withholding of life-sustaining treatment has been implemented.
  - (8) Whether or not the parent, guardian, or custodian has refused to consent to life-sustaining treatment.
  - (9) Whether or not the hospital chose to sustain life-supporting care for the immediate future, preceding four days from the date and time the PCSA initiated the report, while assessment/investigation is underway.
  - (10) Whether or not sustenance (food or water, whether given orally or through an intravenous or nasogastric tube) or medication is being denied.
- ~~(1) Complete face-to-face or telephone contact with the health care facility's administrator, or designee, within one hour from the time the referral was screened in as a report.~~
- (2) Obtain the following information from the health care facility's administrator, or designee, regarding the current condition of the disabled infant, including but not limited to:
- ~~(a) The physical location of the disabled infant within the hospital, e.g., emergency room, neonatal intensive care unit, labor and delivery, sixth floor, etc.~~
  - ~~(b) The disabled infant's age.~~
  - ~~(c) The disabled infant's diagnoses or diagnosis and the prognosis.~~
  - ~~(d) The medical condition requiring treatment.~~
  - ~~(e) The immediate actions necessary to keep the disabled infant alive.~~

- (f) ~~Whether or not the withholding of life-sustaining treatment has been recommended.~~
- (g) ~~Whether or not the withholding of life-sustaining treatment has been implemented.~~
- (h) ~~Whether or not the parent, guardian, or custodian has refused to consent to life-sustaining treatment.~~
- (i) ~~Whether or not the hospital chose to sustain life-supporting care for the immediate future, preceding ninety-six hours from the date and time the PCSA initiated the report, while the assessment/investigation is underway.~~
- (j) ~~Whether or not sustenance (food or water, whether given orally or through an intravenous or nasogastric tube) or medication is being denied.~~
- (C) The PCSA ~~shall~~ is to document in the case record the date, time, and with whom the assessment/investigation was initiated.
- (D) The PCSA ~~shall~~ is to involve a qualified medical consultant within twenty-four hours from the time the referral was screened in ~~as a report~~ to assist in the evaluation of the disabled infant's medical information, including medical records, obtained during the preliminary medical assessment.
- (E) ~~If the PCSA determines the child to be in immediate danger of serious harm, the PCSA shall follow procedures outlined in rule 5101:2-37-02 of the Administrative Code.~~
- (F) ~~The PCSA shall pursue any legal remedies, including the initiation of legal proceedings in a court of competent jurisdiction, to provide medical care or treatment for a child if such care or treatment is necessary to prevent or remedy serious harm to the child or to prevent the withholding of medically indicated treatment from a disabled infant with a life-threatening condition.~~
- (G)(E) The PCSA ~~shall~~ is to attempt a face-to-face contact in order to conduct an interview with the alleged disabled infant's parent, guardian, or custodian no later than twenty-four hours from the time the referral was screened in ~~as a report~~. The purpose of the interview is to:
- (1) Inform the parent, guardian, or custodian that a neglect report alleging the withholding of medically indicated treatment to a disabled infant has been accepted by the PCSA.
  - (2) Inform the parent guardian, or custodian of the purpose of the assessment/investigation.

- (3) Seek parental consent for medically indicated treatment, if applicable.
  - (4) Confirm parent, guardian, or custodian's name and identifying information.
  - (5) Determine if parent, guardian, or custodian agrees on the course of action to be followed.
  - (6) Determine if the parent, guardian, or custodian was presented with all treatment options by the medical treatment team.
  - (7) Determine if the prognosis of the disabled infant was presented to the parent, guardian, or custodian.
  - (8) Assess if the parent, guardian, or custodian understands the information provided by the medical treatment team.
  - (9) Determine the nature and degree of parental involvement in the decision to deny treatment or sustenance to the alleged child victim, if applicable.
  - (10) Assess if appropriate counseling services have been made available to the parent, guardian, or custodian.
  - (11) Refer the parent, guardian, or custodian to appropriate counseling services, if applicable.
  - (12) Determine if the parent, guardian, or custodian was provided information to facilitate access to available services for disabled persons and family members.
  - (13) Assist the parent, guardian, or custodian in accessing needed services, if applicable.
  - (14) Determine if the parent, guardian, or custodian participated in the hospital review process.
  - (15) Determine if the parent, guardian, or custodian was provided with or has access to the results of the hospital review process.
- ~~(H)(E)~~ If the attempted face-to-face contact with the disabled infant's parent, guardian, or custodian as specified in paragraph ~~(G)(E)~~ of this rule is unsuccessful, the PCSA shall is to at minimum, continue making face-to-face attempts of face-to-face contact at least every five working days until any of the following occur: face-to-face contact occurs or until the PCSA is required to make a report disposition pursuant to paragraph (O) of this rule.

- (1) Contacts are made.
  - (2) The parent, guardian, or custodian refuses contact and the PCSA files a complaint in juvenile court, or
  - (3) The PCSA needs to make a report a disposition pursuant to paragraph (O)(2) of this rule.
- ~~(G)~~(G) The PCSA ~~is to shall~~ complete the ~~JFS 01401 "Comprehensive Assessment Planning Model - I.S., "Safety Assessment" (rev. 2/2006)~~ pursuant to rule 5101:2-37-01 of the Administrative Code within four working days from the date the report was screened in.
- (H) If the PCSA determines the child to be in immediate danger of serious harm, the PCSA is to follow procedures outlined in rule 5101: 2-37-02 of the Administrative Code.
- (I) The PCSA is to pursue any legal remedies, including the initiation of legal proceedings in a court of competent jurisdiction, to provide medical care or treatment for a child if such care or treatment is necessary to prevent or remedy serious harm to the child or to prevent the withholding of medically indicated treatment from a disabled infant with a life-threatening condition.
- ~~(J) The PCSA shall document in the case record the date and time of the contact, or attempted contacts.~~
- ~~(K)~~(J) The PCSA ~~shall~~ is to, in cooperation with the medical consultant, conduct and document interviews with the attending physician and health care facility staff. The purpose of the interviews is to:
- (1) Determine the measures that the health care facility staff attending to the disabled infant ~~has~~have taken to provide medically indicated treatment to the disabled infant.
  - (2) Determine whether or not the disabled infant's attending physician, with the consent of the disabled infant's parent, guardian or custodian will sustain needed life-supporting care for twenty-four hours while the PCSA continues the assessment/investigation.
  - (3) Determine if any of the following conditions of and risk to the disabled infant were concluded by the attending physician's and/or staff's assessment:
    - (a) The disabled infant is chronically and irreversibly comatose.

- (b) The provision of medical treatment will merely prolong dying, not be effective in ameliorating or correcting all of the disabled infant's life-threatening conditions, or otherwise be futile in terms of the survival of the disabled infant.
  - (c) The provision of medical treatment will be virtually futile in terms of the survival of the disabled infant and the treatment itself under such circumstances will be inhumane.
- (4) Verify if plans have been made to convene a meeting of the health care facility review committee or to adopt the recommendations of the appropriate health care facility review committee, and the meeting has been held.
  - (5) Confirm the disabled infant's age.
  - (6) Confirm the disabled infant's diagnoses or diagnosis.
  - (7) Determine if the disabled infant's life is endangered.
  - (8) Determine if the withholding of life-sustaining treatment is recommended.
  - (9) Determine if the withholding of life-sustaining treatment is implemented.
    - (a) Identify the treatment necessary for the disabled infant's life or health being denied.
    - (b) Determine if sustenance (food or water, whether given orally or through an intravenous or nasogastric tube) or medication is being denied.
  - (10) Determine if the parent, guardian, or custodian refused to consent to life-sustaining treatment.
  - (11) Determine if the hospital will sustain life-supporting care for the immediate future while the PCSA's assessment/investigation is conducted, if applicable.
  - (12) Identify the treatment or sustenance being provided to the disabled infant, if applicable.
  - (13) Determine if there is consensus regarding the medical diagnoses among the treatment team.
  - (14) Document and identify if there were/have been any differing opinions among the treatment team.

- (15) Document the names of all medical consultants involved including their qualifications/credentials.
  - (16) Determine which members of the treatment team discussed the case with the parent, guardian, or custodian.
  - (17) Determine if a hospital review process occurred.
    - (a) If applicable, document the review process.
    - (b) If applicable, document the recommendations.
- ~~(L)~~(K) The PCSA ~~shall~~ is to conduct and document all face-to-face interviews with the alleged perpetrator, unless law enforcement or the county prosecutor or medical consultant will interview the alleged perpetrator pursuant to the procedures delineated in the county child abuse and neglect memorandum of understanding, in order to assess their ~~his or her~~ knowledge of the allegation.
- ~~(M)~~(L) The PCSA ~~shall~~ is to advise the alleged perpetrator of the allegations made against ~~him or her~~ them at the time of the initial contact. The initial contact between the PCSA and the alleged perpetrator of the report includes the first face-to-face or telephone contact, whichever occurs first, if information is gathered as part of the assessment/investigation process.
- ~~(N)~~(M) The PCSA ~~shall~~ is to conduct and document face-to-face or telephone interviews with any person identified as a possible source of information during the assessment/investigation to obtain relevant information regarding the safety of and risk to the child. The PCSA ~~shall~~ is to exercise discretion in the selection of collateral sources to protect the privacy of the principals of the report.
- (N) The PCSA is to have an interpreter present for all interviews if the PCSA has determined that a principal of the report has any factor that causes a barrier in communication.
- (O) No later than sixty calendar days from the date the PCSA screened in the referral, the PCSA is to:
- (1) At minimum, complete face-to-face contact and interview the family of the alleged disabled infant residing in the home. Family includes all individuals pursuant to rule 5101:2-37-03 of the Administrative Code.
  - (2) Complete the report disposition.
  - (3) Arrive at a final case decision by completing either:

(a) The "Family Assessment" pursuant to rule 5101:2-37-03 of the Administrative Code or,

(b) The "Ongoing Case Assessment/Investigation" if the neglect report involves a principal of the report who is currently receiving ongoing protective services from the PCSA.

~~(O) The PCSA shall complete the report disposition and arrive at a final case decision by completing the JFS 01400 "Comprehensive Assessment Planning Model - I.S.; Family Assessment" (rev. 7/2006) no later than forty five days from the date the PCSA screened in the referral as a child abuse and/or neglect report. The PCSA may extend the time frame by a maximum of fifteen days if information needed to determine the report disposition and final case decision cannot be obtained within forty five days and the reasons are documented in the case record pursuant to rule 5101:2-36-11 of the Administrative Code.~~

(P) The PCSA ~~shall not~~may not waive the completion of the report disposition.

~~(Q) The PCSA shall have an interpreter present for all interviews if the PCSA has determined that a principal of the report has a language or any other impairment that causes a barrier in communication, including but not limited to a principal of the report who is deaf or hearing impaired, limited English proficiency or is developmentally delayed.~~

~~(R)~~(Q) Within two ~~No later than five business working days of completion of the assessment/investigation report disposition, the PCSA shall~~ is to do all of the following: notify the alleged perpetrator in writing of the report disposition and the right to appeal the disposition pursuant to rule 5101:2-33-20 of the Administrative Code.

(1) Notify the alleged perpetrator in writing of the report disposition; the right to appeal the disposition; and the PCSA's appeal process including time frames and the method by which the alleged perpetrator may appeal the disposition as outlined in rule 5101:2-33-20 of the Administrative Code.

(2) Notify the disabled infant's parent(s), guardian(s), or custodian(s) of the report disposition and final case decision.

~~(S) Within two working days from the date of the completion of the report disposition, the PCSA shall notify the disabled infant's parent(s) in writing of the report disposition and case decision.~~

~~(T)~~(R) No later than three working days from the date of the completion of the report disposition, the PCSA shall is to provide written notification of the report disposition



to the following entities, as applicable, in accordance with rules 5101:2-33-21 and 5101:2-36-12 of the Administrative Code.

- (1) Administrator, director, or other chief administrator of the health care facility.
- (2) The owner or governing board of the health care facility.
- (3) The appropriate licensing and supervising authorities of the health care facility.

~~(U)~~(S) The PCSA ~~shall~~ is to notify law enforcement if it is determined that the attending physician failed to provide medically indicated treatment or failed to inform the disabled infant's parent, guardian, or custodian of the available treatment options.

~~(V)~~(T) ~~The PCSA shall maintain all~~ The assessment/investigation documentation and any materials obtained as a result of the assessment/investigation are to be maintained in the case record. If any information gathering activity cannot be completed, justification and the approval of the director or the designee are to be documented in Ohio's CCWIS in accordance with rule 5101:2-36-11 of the Administrative Code.

Effective: 9/1/2024

Five Year Review (FYR) Dates: 5/31/2024 and 09/01/2029

CERTIFIED ELECTRONICALLY

---

Certification

08/07/2024

---

Date

Promulgated Under: 119.03  
Statutory Authority: 2151.421  
Rule Amplifies: 2151.421  
Prior Effective Dates: 04/01/1986 (Emer.), 06/19/1986 (Emer.), 08/01/1986,  
01/01/1989, 10/01/1995, 01/01/2000, 04/01/2001,  
03/01/2006, 10/01/2009, 03/01/2014, 06/17/2018