

	<b>INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE MANUAL</b>	
	<b>Chapter 5:</b> General Case Management	<b>Effective Date:</b> May 1, 2009
	<b>Section 14:</b> End of Life Care	<b>Version:</b> 1

<b>POLICY [NEW]</b>
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The Indiana Department of Child Services (DCS) will involve the court when a physician or hospital contacts any DCS staff member regarding the removal of life support or the issuance of a Do Not Resuscitate (DNR) Order for a child under the care and placement of DCS.

DCS staff, resource parents, and Guardian ad Litem (GAL)/Court Appointed Special Advocates (CASA) **do not** have the legal authority to make a final decision about whether a hospital should remove life support or issue a DNR Order for a child under the care and placement of DCS. The decision must be made by the juvenile court.

Situations involving the removal of life support, issuance of DNR Orders, or organ donation of children under the care and placement of DCS require thoughtful, sensitive, and thorough communication among all persons involved including the child’s parents, parent(s)’ attorney(s) (if applicable), DCS staff, medical personnel, hospital ethics committee and the court. DCS staff members are not permitted to share personal opinions or give recommendations to families, medical personnel and/or attorneys in situations regarding the removal of life support or the issuance of a DNR Order.

The child’s legal parents are to be involved in the decision-making process regarding the removal of life support, the issuance of a DNR Order, or organ donation regardless of the status of the case. If there is any question concerning the appropriateness of involving the child’s legal parents in the decision making process, the chief legal counsel for DCS must be consulted.

The decision to donate the organs of a deceased child in the care and placement of DCS should be made by the child’s parents. If Termination of Parental Rights (TPR) has occurred, the individuals authorized to make the decision are identified in [IC 29-2-16.1-8](#). See Related Information for a listing of these individuals.

Code References

1. [IC 29-2-16.1-8 Priority of persons authorized to make an anatomical gift of a decedent’s body or part](#)
2. [IC 29-2-16.1-1\(12\) Definition of Guardian](#)
3. [IC 1-1-4-3 Uniform Determination of a Death Act](#)

<b>PROCEDURE</b>
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When a recommendation is made for the removal of life support or issuance of a DNR Order for a child under the care and placement of DCS by a child’s attending physician **the Family Case Manager (FCM) will:**

1. Immediately notify Supervisor and DCS Local Office Director of the physician's request to remove life support or issue a DNR Order;
2. Obtain a written statement from the child's attending physician recommending the removal of life support or the issuance of a DNR Order and the supporting documentation for this recommendation. The statement must include:
  - a. A brief medical history for the child,
  - b. The child's current condition and diagnosis,
  - c. The supporting documentation for the recommendation, and
  - d. Compliance with the hospital's ethics protocol, if applicable.
3. Notify the child's parent(s), DCS Local Office Attorney, resource parent(s) and child's CASA/GAL (if appointed) of the physician's recommendation to remove life support or issue a DNR Order;

**Note:** The child's parent(s) **must be notified** regarding the medical recommendation unless they cannot be located.

4. If the parent(s) of the child cannot be located, document efforts made to locate the parent in ICWIS. See separate policy, [5.6 Locating Absent Parents](#) for guidance. If possible and appropriate, notify a grandparent, other relative, or other adult who exhibited special care and concern for the child;
5. Discuss the physician's recommendation with DCS Local Office Attorney and work with the attorney to prepare and submit a written report to the court outlining the child's medical situation within one (1) business day of receiving the physician's written statement. This report must include the recommendation from the child's attending physician;

**Note:** If TPR has not occurred, the FCM should include the parent(s) opinions and recommendations when preparing the report to submit to the court.

6. Make available to the court any information about the child including but not limited to: child's medical history, family and resource parent information, recommendation of the attending physician, parent(s)' recommendation (if known), and any additional information requested by the court. Specifically note whether or not the child expressed an opinion about his or her desire to enter into a DNR Order or the removal of life support and when, where, and how the child made their wishes known;
7. Consult with DCS Local Office Attorney to request that the juvenile court hold a hearing to make a determination regarding the appropriate medical treatment for the child;
8. Confirm whether the child has a CASA/GAL. If not, collaborate with DCS Local Office Attorney to request that the court appoint a CASA/GAL for the child immediately; and
9. Notify and inform all interested persons, including the child's CASA/GAL, regarding the recommendation from the physician, and discuss any provisions needed for assistance and support to the child's family (both biological and resource).

When a recommendation is made for the removal of life support or issuance of a DNR Order for a child under the care and placement of DCS by a child's attending physician **the Supervisor will:**

1. Immediately notify Regional Manager and DCS Director or his or her designee of the physician's recommendation;
2. Ensure that timely notification of all required persons occurs; and
3. Attend all relevant court hearing and meetings with FCM.

When a recommendation for the removal of life support or issuance of a DNR Order for a child under the care and placement of DCS whose parental rights have been terminated, is made, DCS must request that the juvenile court hold a hearing to make a determination regarding the appropriate medical treatment for the child, and follow the above listed procedures. **DCS may not authorize the removal of life support or issuance of a DNR Order.**

### **Organ Donation**

If a family member or a representative of an Independent Organ Procurement Agency (IOPA) contacts DCS regarding potential organ donation, the FCM will:

1. If TPR has not occurred, notify and be available to the child's parent(s) during the decision making process; or
2. If TPR has occurred for both parents, notify other individuals authorized to make a decision about organ donation as identified by [IC 29-2-16.1-8](#). See Related Information; or
3. If TPR has occurred for both parents and no other authorized individual is able to make a decision, collaborate with FCM Supervisor, DCS Local Office Director, Regional Manager, Central Office attorney(s) and DCS Local Office Attorney to determine if organ donation is appropriate. This team must consider the following factors prior to making a decision:
  - a. Statement on the child's driver's license (if any),
  - b. Possible need for an autopsy of the child,
  - c. Concerns of any involved extended family,
  - d. Previous statements by the child regarding organ donation (if any), and
  - e. Cultural and/or religious preferences of the family regarding organ donation.

## **PRACTICE GUIDANCE**

### **Children Not in the Care or Supervision of DCS**

If a child has not been detained or is not currently in the custody of DCS and the removal of life support or the issuance of a DNR Order is recommended by the child's physician, DCS may be available as an extended support system for the family. DCS staff members will not provide guidance or advice to family in this situation. The ultimate decision in this situation lies with the parent, guardian, or custodian of the child.

### **Child's Wishes Regarding Removal of Life Support, DNR, and/or Organ Donation**

Previous statements or opinions of a child regarding the removal of life support, issuance of a DNR Order, or organ donation should be considered in all situations. Although this opinion may not necessarily be followed it is important for all members of the team (including the court) to be aware of previous statements made by the child regarding any of end of life care issues.

### **Brain Death Situations**

According to [IC 1-1-4-3](#), an individual who has sustained "irreversible cessation of all functions of the entire brain, including the brain stem is dead." If an individual meets this definition for brain death, he or she may be declared dead by a physician per the hospital's brain death protocol. This declaration of death by a physician is a medical determination which does not need to be perfected by a court order. When an individual is declared dead per this protocol, the medical team will determine the appropriateness of disconnecting any and all medical equipment connected to the individual. However, if the parent(s), guardian(s), or CASA/GAL

object, if the hospital seeks DCS consent or input, or if the physician or hospital is unwilling or unable to make a declaration of death, then a court order **must** be obtained.

## FORMS AND TOOLS

N/A

## RELATED INFORMATION

### **Do Not Resuscitate (DNR) Order**

A medical order to provide no resuscitation to individuals for whom resuscitation is judged to be of no medical benefit. This specifically refers to Cardiopulmonary Resuscitation (CPR). There are circumstances when CPR might seem to lack benefit for a child whose quality of life is so poor that no meaningful survival is expected even if CPR were successful in restoring circulatory stability. A DNR Order may also be used to withhold life-sustaining treatment (to refrain from using life support to artificially prolong a child's life).

### **Removal of Life Support**

The removal of all medical procedures or interventions that serve only to prolong the process of dying or maintain the individual in a condition of persistent unconsciousness. This does not include the administration of medication or performance of medical treatments deemed necessary to alleviate pain or provide for the normal consumption of food and water.

### **Organ Donation**

The decision to make an anatomical gift of a deceased individual's body or parts of the body. This gift may be made for the purpose of transplantation, therapy, research, or education.

DCS staff shall never sign consent forms for organ donation on behalf of a child's family member who has made a decision to donate the child's organs. DCS may only make a decision regarding organ donation for a child under the care and placement of DCS if TPR has occurred, the priority order of persons authorized to donate the child's organs has been followed, and a court order has named DCS as the child's guardian as defined in [IC 29-2-16.1-1\(12\)](#).

### **Persons Authorized to Donate a Deceased Individual's Organs**

According to [IC 29-2-16.1-8](#) the priority of persons authorized to make an anatomical gift of a decedent's body or parts are as follows:

1. An agent of the decedent at the time of death who could have made an anatomical gift under section 3(2) of this chapter immediately before the decedent's death;
2. The spouse of the decedent;
3. Adult children of the decedent;
4. Parents of the decedent;
5. Adult siblings of the decedent;
6. Adult grandchildren of the decedent;
7. Grandparents of the decedent;
8. An adult who exhibited special care and concern for the decedent;
9. A person acting as the guardian of the decedent at the time of death; and
10. Any other person having the authority to dispose of the decedent's body.