

## Medical Consent: Implementing the New Legislation

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## G.S. 7B-505.1 and -903.1

A child in the custody of a county department

STATE OF NORTH CAROLINA		IN THE General Court of Justice Juvenile Court Division	
County			
IN THE MATTER OF:		ORDER FOR NONSECURE CUSTODY (ABUSE/NEGLECT/DEPENDENCY)	
Child's Name (Last, First, Middle)	Age	Date	File No.
Signed by (Name of County Department Director)		Signed by (Name of Juvenile Court Clerk)	

STATE OF NORTH CAROLINA		IN THE General Court of Justice Juvenile Court Division	
County			
IN THE MATTER OF:		JUVENILE DISPOSITION ORDER (ABUSE/NEGLECT/DEPENDENCY)	
Child's Name (Last, First, Middle)	Age	Date	File No.
Signed by (Name of County Department Director)		Signed by (Name of Juvenile Court Clerk)	

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## G.S. 7B-505.1(a)

- "Director may
- arrange for,
- provide, (????)
- consent to..."

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## G.S. 7B-505.1(a)(1)

- **Routine**  
Medical & Dental  
Care or Treatment
  - G.S. 90.21.2 Treatment defined “any medical procedure or treatment,” including diagnostic procedures employed or ordered by a NC licensed physician
- What’s Missing
  - Mental Health

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## Defining Routine

- How?
- Well child visit?
- Sick child visit?
- Immunizations?
- Treatment for chronic condition?

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## G.S. 7B-505.1(a)(2)

- **Emergency**  
Medical, Surgical, Psychiatric,  
Psychological, or Mental Health
- Care or Treatment
- What’s Missing?
  - Dental

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## Defining Emergency

- Efforts to contact person to consent
  - Necessity for immediate treatment apparent, and delay in treatment would endanger life
  - Seriously worsen physical condition
  - G.S. 90-21.1

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## G.S. 7B-505.1(a)(3)

- Testing & Evaluation
- In Exigent Circumstances
- What is this?
  
- What's Missing?
  - Treatment

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## G.S. 7B-505.1(b): CME

- “When placing a juvenile... pursuant to G.S. 7B-502”
- “the court may authorize the director to consent to a Child Medical Evaluation”
- “upon written findings that”
- “demonstrate the director’s compelling interest in having the juvenile evaluated prior to the hearing required by G.S. 7B-506”

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## CME

- What does it involve
- When is there a compelling interest
  - What may be lost by waiting?

## What Does a Dr. Need/Want Before Providing Treatment?

STATE OF NORTH CAROLINA		File No.	
County		In The General Court Of Justice District Court Division	
IN THE MATTER OF:			
Name And Address Of Juvenile		ORDER FOR NONSECURE CUSTODY (ABUSE/NEGLECT/DEPENDENCY)	
Juvenile's Date Of Birth	Age	Gender	Race
Name And Address Of Parent/Guardian/Custodian/Caretaker		C.S. 7B-502 through 505.1, 508	
		Name And Address Of Parent/Guardian/Custodian/Caretaker	

The department is authorized to arrange for, provide, or consent to:

- ☐ a. routine medical and dental care or treatment; emergency medical, surgical, psychiatric, psychological, or mental health care or treatment; and testing and evaluation in exigent circumstances.
- ☐ b. treatment the medical provider recommends in order to cure, alleviate, or prevent the juvenile from suffering physical harm pursuant to 11d) set forth above as a ground for nonsecure custody.
- ☐ c. a Child Medical Evaluation. The following findings demonstrate the director's compelling interest in having the juvenile evaluated prior to the hearing on the need for continued nonsecure custody:

## Or Parent's Consent, DSS-5143 (2007)

### CONSENT/AUTHORIZATION FOR CHILD MEDICAL/CHILD/FAMILY EVALUATION CHILD MEDICAL EVALUATION PROGRAM

A. Name of Child \_\_\_\_\_ Date of Birth \_\_\_\_\_  
(First) (Middle) (Last)

B. The evaluation is a component of child protective services assessments and is used in making decisions regarding allegations of child abuse or neglect. The referral is made by authority of (check one):

☐ Parent

Signature of parent/guardian \_\_\_\_\_ Date \_\_\_\_\_ Nature of authority to consent (i.e., parent, guardian, custodian)



### G.S. 7B-505.1(c)

- “The **director** shall obtain consent from the juvenile’s parent, guardian, or custodian”
- “for all care or treatment **not covered by subsection (a) or (b)**”
- What’s covered by (a)?
- What’s covered by (b)?
  - CME Initial nonsecure custody order only

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### NON-EXHAUSTIVE List

- Psychotropic Rx
- Clinical Trials
- Immunization when known religious objection
- CME not covered by subsection (b)
- Surgical, medical, dental, psychiatric, psychological, or mental health care or treatment that **requires informed consent**

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### Literal reading

- Written authorization given to director by parent, guardian, or custodian
  - DSS Form 1812 (DRAFT)
  - Similar to “Authorization to Consent to Health Care for Minor”
    - Fundamental right of a parent to delegate decisions relating to the health care for the parent’s minor child when the parent is unavailable for a period of time (G.S. 32A-28; 32A-34)

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## Engages parents, Can start early

I hereby authorize \_\_\_\_\_ county child welfare agency to consent to the following treatment of the child identified above (include description):

☐ Prescriptions for psychotropic medication(s): \_\_\_\_\_

☐ Participation in a clinical trial: \_\_\_\_\_

☐ Child Medical Evaluation not otherwise authorized (DSS-5143 Consent/Authorization for Child Medical/Child Family Evaluation must also be completed): \_\_\_\_\_

☐ Comprehensive clinical assessment, or other mental health evaluation(s): \_\_\_\_\_

☐ Surgical, medical, or dental procedure or test that requires informed consent: \_\_\_\_\_

☐ Psychiatric, psychological, or mental health care or treatment that requires informed consent: \_\_\_\_\_

☐ Other non-routine or non-emergency treatment or procedure: \_\_\_\_\_

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## DSS 1812

 I have been informed of the recommendation that medication be prescribed to my child as part of their treatment plan.

☐ I have been informed of the recommendation that a surgical, medical, dental, or mental health treatment or procedure be completed on my child as part of their treatment plan.

☐ I have been notified, of my child's condition.

☐ If I have questions about my child's treatment, I will contact the health care provider named at the top of this form.

I have read and understand the contents of this form.

Who informs?

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## G.S. 7B-505.1(c)

- “except that the court may authorize the *director to provide consent* after
  - a *hearing*
  - at which the court finds by *clear and convincing evidence*
  - that the care, treatment, or evaluation requested is in the *juvenile's best interest*”

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## The Hearing

- What is your evidence?
- Do the rules of evidence apply?

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No Findings by  
Clear &  
Convincing  
Evidence



No Findings of  
Best Interests

4. The Department Of Social Services is authorized to arrange and consent to:
- ☐ a. treatment the medical provider recommends in order to cure, alleviate, or prevent the juvenile from suffering physical harm pursuant to 6(d) set forth on the reverse as a ground for nonsecure custody.
  - ☐ b. only the following types of evaluation and/or treatment, after first attempting to obtain consent from the juvenile's parent, guardian, custodian, or caretaker: \_\_\_\_\_

5. Other: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Date	Name Of Judge (type or print)	Signature Of Judge

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What happens when parent  
does not sign DSS 1812 and  
there isn't a court order?

- What does provider need?

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## Access to Records, G.S. 7B-505.1(d)

Director shall make reasonable efforts

- To promptly notify... treatment provided
- Give frequent status reports
- Upon request, make eval results available
  - Exception for CME (G.S. 7B-700)

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## Access to Records, G.S. 7B-505.1(f)

Medical Provider

- Disclose to county and parent
- Unless
  - court orders otherwise or
  - prohibited by federal law

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