

Supporting Resources: Complex and Essential Pediatric Medical Process Guideline

	Page
1. Alberta Health Services (AHS) Family Centered Principles	2
2. Children’s Services (CS) Core Principles	2
3. About Children’s Services - Child Intervention Internal Processes	3
4. Delegated First Nations Authority (DFNA) and First Nations Designate	6
5. Orders and Agreements under the Child, Youth and Family Enhancement Act	7
6. AHS & CS Collaborative Information Sharing	10
7. Summary of Legislation Supporting Collaborative Information Sharing	11
8. Legal Authority & Decision Making Chart	12
9. Children’s Services (CS) Consent Process for Health and Surgical Care	14

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Children’s Services associated document is called *Joint Protocol for Complex Medical Decision Making*.

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Alberta Health Services (AHS) – Family Centered Care Core Principles:

Respect and Dignity: Health care providers listen to and honor patient and family perspectives and choices. Patient and family knowledge, values, beliefs and cultural backgrounds are incorporated into the planning and delivery of care.

Information sharing: Health care providers communicate and share complete and unbiased information with patients and families in ways that are affirming and useful. Patients and families receive timely, complete and accurate information in order to effectively participate in care and decision making.

Participation: Patients and families are encouraged and supported in participating in care and decision making at the level they choose.

Collaboration: Patients and families are also included on an institution-wide basis. Health-care leaders collaborate with patients and families in policy and program development, implementation and evaluation, in health care facility design; and in professional education as well as the delivery of care.

Children’s Services (CS) Core Principles:

Indigenous Experience: Indigenous peoples have always had their own ways of ensuring that vulnerable members, including children, are safe, protected, and nurtured. We honor this by recognizing their expertise in matters concerning their children, youth, and families.

Connection: Children and youth are supported to maintain relationships that are important to them, be connected to their own culture, practice their religious or spiritual beliefs and, for those with involvement, have a plan for their care where they are included in the decision-making process.

Collaboration: CS is child-focused and family-centered. We therefore collaborate with families, community agencies, and other stakeholders in building positive, respectful partnerships across integrated multidisciplinary teams and providing individualized, flexible, and timely services to support these efforts.

Continuous Improvement: CS casework is transparent and information is shared appropriately. The approach taken is outcome-oriented and evidence-based; therefore, we support innovative practice, evaluate performance, and strive for continuous improvement.

Strengths-Based: The approach taken is reflective, culturally responsive and strengths-based. Because all families have strengths and resources, we recognize and support the right and responsibility of parents to share in the decision-making process for them and their children.

Preserve Family: CS believes children and youth should be safe, healthy, and live with their families; therefore, we focus on preserving and reuniting families and building on the capacity of extended family and communities to support children, youth, and families.

1. Introduction

Children's Services focuses on early intervention, child development and delivering supports and services to children, youth and families. It works to ensure that children in Alberta have the tools they need to thrive in healthy families and communities. The ministry engages with Indigenous leaders and communities, the Government of Canada, other Government of Alberta ministries, community agencies and other stakeholders.

Child Intervention services are provided when there are concerns that a child or youth is being neglected or abused by their parent or guardian.

Under the Child, Youth and Family Enhancement Act (CYFEA), Children's Services staff conduct the day-to-day business of child intervention, foster care and adoption services.

The following four (4) Acts spell out the laws in Alberta that help keep children and youth safe from abuse and neglect:

- Child, Youth and Family Enhancement Act (CYFEA);
- Protection of Sexually Exploited Children Act (PSECA).
- Drug Endangered Children Act (DECA); and
- Protection Against Family Violence Act (PAFVA).

In Alberta, caseworkers or staff working in Child Intervention with the Ministry of Children's Services in a regional office or with a Delegated First Nations Authority (DFNA) work with children, youth and families under the four Acts highlighted above.

2. Information about the Child, Youth and Family Enhancement Act (CYFEA)

This Act outlines what abuse and neglect means and what must be done when a child or youth are at risk of being, or has been, abused or neglected. The Act defines the work Children's Services does with families to try to keep them together and healthy, and what needs to be done if children or youth cannot return to their family. There are many children, youth and families that get help the Child Intervention Division within Children's Services. Sometimes help is given in the family home and sometimes the help that is given when the child or youth cannot live at home. Adoption and private guardianship laws are also explained when children or youth cannot return to their family home. The Act delegates duties and powers and authority levels.

2.1 Delegation of Duties and Powers

- a) Duties and Powers of the Director: Under CYFEA, the Statutory Director may be appointed as a child's guardian.
- b) CYFEA provides for the transfer of some or all guardianship responsibilities to the director under certain legal authorities.
 - (i) Custody Agreement – the guardian temporarily transfers some guardianship responsibilities to the director.

- (ii) Temporary Guardianship – the court temporarily gives the director the power to exercise all guardianship authority to the exclusion of any other guardian.
 - (iii) Permanent Guardianship – the guardian or court permanently gives the Director sole guardianship.
- c) S.121(3) allows a director to delegate authority.
 - d) A director delegate’s duties and powers to a person employed in, or engaged for the purpose of, administering the CYFEA. These duties and powers may include:
 - (i) Ministerial duties and powers delegated to the director by the Deputy Minister.
 - e) Delegated powers and duties may be sub-delegated further down the reporting line, but only if the authority to sub-delegate is expressly provided for in the delegator’s own delegation document.

2.2 Delegation and Authority Levels

- a) Both the explicit responsibilities and the implicit ones that arise from a director’s guardianship role need to be clearly assigned.
- b) The Delegation Schedule assigns the staff level to which each authority is delegated.
- c) The Statutory Director may delegate duties and powers of a director.
- d) Some authority may also be assigned to caregivers.

3. Child Intervention Division: Intake and Assessment Process

3.1 Intake

- a) When a report is made to Child Intervention, the report is examined to see if it meets the criteria to constitute a concern for the security, survival or development of a child as described in CYFEA.
- b) Collateral contacts, individuals and professionals who may have knowledge about a family’s current circumstances, may be asked for information. These collateral contacts can include but are not limited to the parent/guardian, school staff, family doctor, extended family, and family friends.
- c) A caseworker with Children’s Services is NOT able to disclose who called to report concerns for regarding a family. It is against the law for a caseworker to give out that information.
- d) The information that is collected will help the intake caseworker determine what the next steps might be. If the information does not fit the definition of abuse or neglect in CYFEA, then the report is closed.

- e) The caseworker may give the child/family information about community resources that might be helpful. If the information reported appears to show that there is a chance that the child is abused or neglected, then the report is sent for assessment.

3.2 Assessment

- a) When a caseworker begins an assessment, the most important activity to start with is to interview members of the family, including the child.
- b) They may interview the child before contacting the parents/guardians, or they may interview the parents/guardians before interviewing the child. The decision to interview a child before their parent/guardian is made when there is concern that:
 - (i) critical evidence might be missed (e.g. photos of injuries, access to the child for interviewing).
 - (ii) the parent/guardian might influence the disclosure from the child before the interview with the child can occur.
- c) A caseworker must interview school-aged children separate and alone whenever possible.
- d) They may also interview other important people in the lives of the child and family.
- e) During the assessment, the caseworker is attempting to understand the strengths and challenges for the family. By doing this, the caseworker is able to determine what supports are needed to ensure the child is safe and healthy.
- f) Depending on the information that the caseworker collects, the possible results of the assessment are:
 - (i) the assessment closes and there is no further involvement;
 - (ii) the assessment closes, referral made to community resources for the family;
 - (iii) the assessment ends and an agreement is signed where the child remains in the family home and the family works with CS with in home supports and/or community supports;
 - (iv) the assessment ends and an agreement to work with the family while the child is placed out of the home is signed.
 - (v) the assessment ends and the caseworker applies to court for an order (supervision order, apprehension order, interim custody order, temporary guardianship order, permanent guardianship order).

Delegated First Nations Authority and First Nations Designate

Most First Nation Bands in Alberta have their own Delegated First Nation Authority (DFNA). Chief and Council will nominate and appoint a representative titled the First Nations Band Designate to represent the Band's interest in planning for their children who have involvement with CS. The First Nations Designate is responsible for advocating for the best interests of the child according to their respective First Nation values and beliefs.

CYFEA requires the director to involve a First Nations Band Designate (Designate) in certain circumstances in planning for services to be provided to a child (as per section 107) when the child is believed to be an Indian (as defined by the federal Indian Act) and a member of a band.

A First Nations Designate will be involved by Children's Services if the child is:

- in need of intervention and lives on reserve, always involve the Designate;
- in need of intervention but not a resident of a reserve, involve the designate only if the guardian consents; or
- the subject of a temporary guardianship order, permanent guardianship agreement order, or an application for a permanent guardianship order.

Always consult with the First Nations Designate regardless of whether the child is a resident of a reserve and/or guardian consent.

The First Nations Designate is also involved in supporting decision making including but not limited to the following:

- organ and tissue donation for children and youth who were receiving services under CYFEA at the time of their death; and
- whether to perform on an autopsy on a deceased child or youth who was under a Permanent Guardianship Order or Permanent Guardianship Agreement at the time of their death.

For more information of DFNA and map of First Nations administrative and political organizations in Alberta refer to:

<http://www.humanservices.alberta.ca/family-community/14875.html>

<https://www.aadnc-aandc.gc.ca/eng/1100100020670/1100100020675>

Orders and Agreements under the CYFEA

Supervision Order

- The Director is not the guardian of the child.
- The Director does not have custody of the child.
- The Director has no decision making authority regarding medical treatment.
- The court may order specific medical treatment as a term within a Supervision Order if grounds are met for this to occur.

Apprehension Order / Interim Custody Order / Custody Order

- The Director is not the guardian of the child.
- The Director has custody and day-to-day control of the child and is responsible for the child's care, maintenance and well-being.
- If essential medical, surgical, dental or other remedial treatment is required, the Director would consult with the guardian.
- If the guardian is not prepared to consent to the essential medical, surgical, dental or other remedial treatment that is recommended by a physician or dentist, the Director would need to seek a treatment order from the court to authorize the treatment under CYFEA.

Temporary Guardianship Order (TGO)

- When a child is under a TGO, the Director becomes a joint guardian with any other guardian of the child.
- The Director consults with the child's other guardians, where possible, regarding the care of the child.
- The Director may exercise all the authority of a guardian to the exclusion of any other guardian unless the court specifies otherwise under the TGO.
- If essential medical, surgical, dental or other remedial treatment is required and recommended by a physician or dentist, the Director would consult with the other guardian.
- If the other guardian is not prepared to consent to the medical treatment, the Director would need to seek a treatment order from the court to authorize the treatment under CYFEA.

Permanent Guardianship Order (PGO)

- When a child is under a PGO, the Director becomes the sole guardian of the child and can exercise all the guardianship powers and authorities to the exclusion of all others, including previous guardians and parents.
- Under a PGO, the Director has decision-making authority regarding medical treatment. However, this does not mean the Director would exercise the authority without potentially consulting former guardians, the child/youth, family members and persons who have a significant relationship with the child/youth.

Custody Agreement with Guardian (CAG)

- When a child is under a CAG, the Director is not the guardian.
- Under a CAG, the Director has custody and day to day control of the child and is responsible for the child's care, maintenance and well-being.
- The CAG will prescribe terms in which the guardian will determine the extent of the Director's decision making authority.
- The guardian would retain decision making authority regarding medical treatment.

Custody Agreement with Youth (CAY)

- When a "youth" (defined under the CYFEA as a person who is 16 years of age or older, but under the age of 18) is under a CAY, the Director is not the guardian of the youth.
- Under a CAY, the Director has custody and day to day control of the child and is responsible for the child's care, maintenance and well-being.
- The CAY will include terms regarding the access between the youth and the youth's guardian or any other person and a plan of care that addresses the youth's need for preparation for the transition to independence and adulthood.
- The Director does not have decision making authority regarding medical treatment.

Family Enhancement Agreement (FEA)

- The Director is not the guardian of the child.
- The Director does not have custody of the child.
- The Director has no decision making authority regarding medical treatment.

Permanent Guardian Agreement (PGA)

- For the purposes of adoption the guardians may decide to permanently surrender their rights to their child under the age of 6 months
- When a child is under a PGA, the Director becomes the sole guardian of the child and can exercise all the guardianship powers and authorities to the exclusion of all others, including previous guardians and parents.
- The Director does not have custody of the child.
- Under the PGA the Director has decision making authority regarding medical treatment.

AHS and CS Collaborative Information Sharing Process

1. Rationale / Purpose for Sharing Information

- a) Information shared with others shall benefit the treatment and care of the patient, and shall be guided by the concept of “need to know” and determined on a case-by-case basis.

2. Determining Legal Authority

- a) The Health Information Act (HIA) and the *Freedom of Information and Protection of Privacy Act* (FOIP) regulate the collection, use, disclosure and protection of personal and health information in Alberta by custodians (as defined in the HIA) and public bodies, and give individuals the right to access their own information.
- b) Collection, use and disclosure of personal and/or health information necessary for collaborative medical decision making within a multi-disciplinary model is governed under different privacy laws and supporting regulations, including: FOIP Act, the HIA, the CFA and the *Child, Youth and Family Enhancement Act* (CYFEA).

3. Collaborative Information Sharing

- a) Understanding each other’s role and legal authority supports a collaborative environment for shared decision making. Recognizing that information needs to flow among / between AHS and the Child Intervention Division of Children’s Services and understanding the legal authority assessed to authorize the necessary information sharing supports the joint decision making process.
- b) AHS Health Care Providers - decisions regarding release of patient information without consent (e.g., due to urgent health and safety circumstances or by the courts) is documented consistent with legislation, professional standards and relevant AHS policy.
- c) Child Intervention staff - may provide information to AHS on request if disclosing that information is in the best interest of the child and is necessary for planning for or providing services to the child and shall be consistent with the FOIP Act and CYFEA and be documented.

Summary of Relevant Legislation Supporting Information Sharing

Health Information Act (HIA)

HIA s. 35(1) m: *in respect to disclosure without consent for health and safety reasons*

- (m) *to any person if the custodian believes, on reasonable grounds, that the disclosure will avert or minimize*
- (i) *a risk of harm to the health or safety of a minor, or*
- (ii) *an imminent danger to the health or safety of any person,*

HIA s.35(1)(p): *which works in conjunction with s.126 of CYFEA.*

Freedom of Information and Protection of Privacy (FOIP) Act:

FOIP Act s.40 (1)(ee)

(ee) if the head of the public body believes, on reasonable grounds, that the disclosure will avert or minimize

- (i) a risk of harm to the health or safety of a minor, or*
- (ii) an imminent danger to the health or safety of any person,*

FOIP Act s.40(1)(f) *allows a public body to disclose personal information for any purpose in accordance with an enactment of Alberta or Canada that authorizes or requires the disclosure – this works in conjunction with s.126 of CYFEA.*

Children First Act (CFA)

CFA s.4 Information Sharing for purposes of providing services

4(1)*For the purposes of enabling or planning for the provision of services or benefits to a child, a service provider may collect and use either or both of the following:*

- (a) personal information about the child or a parent or guardian of the child from another service provider;*
- (b) health information about the child from a custodian.*

(2) *For the purposes of enabling or planning for the provision of services or benefits to a child,*

(a) a service provider may disclose to another service provider personal information about the child or a parent or guardian of the child, and

(b) a custodian may disclose to another custodian or to a service provider health information about the child if, in the opinion of the service provider or custodian making the disclosure, the disclosure is in the best interests of the child.

(3) *A service provider may disclose personal information and a custodian may disclose health information about a child to a guardian of the child if*

(a) the disclosure is not contrary to the express request of the child, and

(b) the service provider or custodian making the disclosure is of the opinion that the disclosure is in the best interests of the child.

(4) *A service provider or custodian shall, in accordance with the procedures set out in the regulations, maintain records about the disclosure of information under this section.*

Child, Youth and Family Enhancement Act (CYFEA)

CYFEA s.126(4) *A custodian may disclose health information to a director or a person acting on behalf of a director, including an agency providing services on behalf of a director, for the purposes set out in subsection (3).*

CYFEA s. 126(5) *A public body may disclose personal information to a director or a person acting on behalf of a director, including an agency providing services on behalf of a director, for the purposes set out in subsection (3).*

Note: The purposes set out in subsection (3) include conducting an assessment or an investigation or providing services under the CYFEA

CYFEA s.126(3) *A director or a person acting on behalf of a director, including an agency providing services on behalf of a director, may collect and use personal information, including health information, for the purposes of conducting an assessment or an investigation or providing services under this Act.*

Legal Status & Decision Making Chart

Legal Authority	Who has Guardianship?	Who makes decisions?	Who should be contacted or notified?	What is the document you need to see?	Who should be present?
Apprehension Order	parent /guardian	*Director(CS) makes day to day decisions If medical treatment is necessary, CS to consult with parent. If consent is not obtained refer to algorithm in Appendix B of the guideline.	Caseworker	Apprehension Order	Case worker and/or parent/ guardian
Interim Custody	parent /guardian	Director (CS) makes day to day decisions If medical treatment is necessary, CS to consult with parent. If consent is not obtained refer to algorithm in Appendix B of the guideline.	Caseworker	Interim Custody	Case worker and/or parent/ guardian
Initial Custody Order	parent /guardian	Director (CS) makes day to day decisions If medical treatment is necessary, CS to consult with parent. If consent is not obtained refer to appendix A	Caseworker	Initial Custody Order	Case worker and/or parent/ guardian
Family Enhancement Agreement with Guardian	parent /guardian	parent/ guardian	parent/ guardian	Not applicable This is a support agreement and parent decides if CS should come as a support	parent/ guardian

Legal Authority	Who has Guardianship?	Who makes decisions?	Who should be contacted or notified?	What is the document you need to see?	Who should be present?
Family Enhancement Agreement with Youth	parent/ guardian	parent/ guardian	parent/ guardian	Not applicable as this is a support agreement and parent decides if CS should come as a support	parent/ guardian or Caseworker as support to youth
Custody Agreement with Guardian	parent/ guardian	Director (CS) makes day to day decisions	Caseworker and parent/ guardian	Custody Agreement with Guardian	Caseworker. If medical treatment is necessary then the parent/ guardian should be present to consent. If unable to locate, CS may need to apprehend.
Custody Agreement with Youth (age 16 to 18 years old)	parent/ guardian	Director (CS) makes day to day decisions	parent /guardian and Caseworker	Custody Agreement with Youth	Caseworker. If medical treatment is necessary then the parent/ guardian should be present to consent. If unable to be locate, CS may need to apprehend.
Supervision Order	parent/ guardian	parent / guardian	The parent and caseworker / crisis line	Not applicable as parent/ guardian maintains guardianship	parent/ guardian (depending on situation, Caseworker maybe required to attend)

Legal Authority	Who has Guardianship?	Who makes decisions?	Who should be contacted or notified?	What is the document you need to see?	Who should be present?
Temporary Guardianship Order	Director (CS) and parent/guardian CS will need to consult and notify the parent/guardian as the parent still has guardianship rights (consent to elective surgery, end of life, etc.)	Caseworker for minor decisions CS Manager for major decisions Depending on the situation Director may contact former guardian or significant others for consultation	Caseworker For afterhours Northern Alberta Child Interventions Services (NACIS) or Southern Alberta Child Interventions Services (SACIS)	Temporary Guardianship Court order and Delegation to caregiver	Parent/guardian and Caregiver (foster parent or group care staff) and Caseworker. If medical treatment is necessary, CS to consult with parent/guardian. If not willing to consent or cannot be located may seek Treatment Order
Permanent Guardianship Order	Director (CS)	Caseworker for minor decisions. CS Manager for major decisions.	Caseworker For afterhours NACIS Or SACIS	Court order and Delegation to caregiver	Caregiver (foster parent or group care staff) and Caseworker
Permanent Guardianship Agreement	Director (CS)	Caseworker for minor decisions CS Manager for major decisions.	Caseworker For afterhours NACIS Or SACIS	Permanent Guardianship Agreement and Delegation to caregiver	Caregiver (foster parent or group care staff) and Caseworker

* Day to day decision making by Director includes such things as delegating to the caregiver (kinship caregiver or foster parent) choices about bedtime routines, homework, minor dental, medical checkup, recreational activities and religious or spiritual routines.

Points to consider:

- If a youth is a minor parent (under 18 years) they may or may not have a legal authority on their child.
- A call to the youth's caseworker may be warranted to best support the minor parent and their child.
- If there is a screening or investigation, the guardian maintains full legal guardianship and thereby has legal decision making capacity.

Children's Services Consent Process for Health and Surgical Care

Background:

A memo was circulated by the Statutory Director, *Child, Youth and Family Enhancement Act*, on January 28, 2012 setting out the agreed upon process between the Ministry of Children's Services: Children's Services (CS) and Alberta Health Services (AHS).

- Both AHS and CS have provincial policies regarding informed consent for medical procedures, including surgery.
- AHS hospitals have internal process for ensuring the appropriate documentation is complete before the surgery or procedure is to occur.
- When CS is the guardian:
 - CS Managers have been delegated the authority to give consent for most surgical procedures.
 - The Regional Director has the authority to approve high risk, radical, sensitive, research or innovative procedure.
 - Director/Associate Director approval is required for consent to high risk surgeries involving major body systems (for example transplants, organ removal, and neurological surgery).
- Regional Director must be consulted and is the only CS decision maker who can approve any abortion or cessation of life request.
- As part of the CS consent process, CS will consult with any involved guardians – even under Temporary/Permanent Guardianship status.

Caregiver and Caseworker Responsibilities in the CS Consent Process:

Caregiver Responsibilities:

Caregivers (foster parents, kinship providers, group care, residential care and specialized placements) are delegated to consent to ordinary medical or dental care including examinations, treatment for minor illnesses, injuries and other procedures that are performed routinely and do not require hospitalization, surgery or general anesthetic. In the event of emergency caregivers have the authority to admit the child to hospital but not to authorize any treatment or test(s).

In emergent cases, the caregiver is to immediately contact the caseworker/supervisor or the North/South After-Hours Team if the caseworker cannot be reached and if the consent is needed after hours.

Caregivers are responsible for ensuring the caseworker has timely information regarding the physician's recommendations to ensure that consent can be reviewed and a decision made in a timely fashion for any of the following scenarios:

- Testing that requires anesthetic either due to the nature of the test or the complexity/age of the child (CT Scan, MRI, etc.).
- Hospitalization for the purposes of surgery.
- Hospitalization for the purpose of treatment.
- Dental procedures that require anesthetic.
- Dental surgery

Caseworker Responsibilities:

Gather the following information and provide it in consultation with their supervisor to the CS Manager:

- Type of surgery, procedure or treatment.
- Date and location of proposed surgery, procedure or treatment.
- Length of surgery, procedure or treatment and subsequent hospital stay (on average).
- Name of referring physician or name of surgeon and contact information.
- Benefits of the surgery, procedure or treatment.
- Risks of same.
- Discuss any medical challenges the child has that might impact the intervention – asthma, anxiety, allergies etc.
- Obtain the above in writing from the physician/surgeon when possible.
- If not, place all of the information in a detailed contact note.
- Provide the information with FORM CS2047 “Consent by a Director or Authorized Delegate” to the Manager for approval.