Children's Commission

SUPREME COURT OF TEXAS PERMANENT JUDICIAL COMMISSION FOR CHILDREN, YOUTH AND FAMILIES

HB915 Implementation Workgroup

Tuesday, June 11, 2013

Hatton Sumners Room
State Bar of Texas
Texas Law center
1414 Colorado Street
Austin, TX 78701

Supreme Court of Texas
Permanent Judicial Commission for Children, Youth and Families

June 11, 2013
Meeting Notebook

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Tuesday, June 11, 2013
9:30 am – 12:30 pm

9:30 a.m. Convening and Introductions – Judge John Specia, Judge Scott McCown

10:00 a.m. Overview and Charge from Judge Specia to Implementation Workgroup

DFPS will create an implementation plan for HB915, by soliciting input and collaboration from the Children's Commission and interested stakeholders. This Workgroup will:

- Identify existing practices and policies that support HB915;
- Make recommendations regarding new policies required to support the implementation and ongoing execution of the DFPS's duties under the new bill;
- Identify training needs required to support new practices, expanded collaboration, and communication to support the objectives and the mandates of HB915; and
- Meet regularly to ensure ongoing stakeholder involvement and communication about implementation progress.

10:15 a.m. Facilitated Discussion Regarding Implementation

12:00 p.m. Ongoing Collaboration

- Provide periodic updates to DFPS Commissioner and Implementation Workgroup
- Final plan by August 31, 2013, including recommendations regarding the need for reauthorization or changes to the structure or membership of the Implementation Workgroup.
    - Future Meetings - July 2013, August 2013**,** January 2014

12:30 p.m. Adjourn

List of Invitees

First Name	Last Name	Email Address	Company	Title
Tina	Amberboy	tina.amberboy@txcourts.gov	Permanent Judicial Commission for Children, Youth and Families	Executive Director
Pam	Baker	Pamela.Baker@dfps.state.tx.us	Texas Department of Family and Protective Services	Well-Being Specialist Medical Services Division
Don	Barber	Donald.Barber_HC@house.state.tx.us	Texas House of Representatives	Committee Clerk Texas House Committee on Public Health
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Laura	Blanke	laura.blanke@txpeds.org	Texas Pediatric Society	Education Manager
Karin	Bonicoro	Karin.Bonicoro@txcourts.gov	CPC of Central Texas	Associate Judge
Heather	Bradford	heather.bradford@senate.state.tx.us.	Health and Human Services Committee	Policy Analyst
Denise	Brady	DENISE.BRADY@dfps.state.tx.us	Texas Department of Family and Protective Services	Senior Policy Attorney, Child Protective Services
Allison	Brock	Alison.Brock@house.state.tx.us	Texas House Rep. Sylvester Turner	Chief of Staff
Dan	Capouch	daniel.capouch@dfps.state.tx.us	Child Protective Services, TDFPS	CPS Director of Services
Kara	Crawford	kara.crawford_sc@senate.state.tx.us	Senate Finance	Budget Analyst
Molly	Czepiel	Molly.Czepiel@hhsc.state.tx.us	Health and Human Services Commission	External Relations Director
Helen	Davis	helen.davis@texmed.org	Texas Medical Association	Director, Governmental Affairs
Audrey	Deckinga	audrey.deckinga@dfps.state.tx.us	Texas Dept. of Family & Protective Services	Assistant Commissioner
Jennifer	Deegan	jennifer.deegan@speaker.state.tx.us	Speaker's Office	Senior Advisor
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Tracy	Eilers	TEILERS@CENTENE.COM	Cenpatico	Director, Foster Care
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heather	fleming	Heather.Fleming_HC@house.state.tx.us	House Appropriations	Analyst
Mike	Foster	yfoster@austin.rr.com	A World for Children	Program Specialist
Shannon	Ghangurde	shannon.ghangurde@senate.state.tx.us	Health and Human Services Committee	Policy Analyst
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Jennifer	Goodman	Jennifer.Goodman@dfps.state.tx.us	DFPS	Government Relations Specialist
Diane	Guariglia	diane_guariglia@justex.net	245th Family Court	Associate Judge
David	Harmon	DHARMON@CENTENE.COM	STAR Health	Chief Medical Officer
Ashley	Harris	aharris@txchildren.org	Texans Care for Children	Child Welfare Policy Associate
Robert	Hartman	rhartman@provcorp.com	Providence Service Corporation	Executive Director, Single Source Continuum Contract, Texas
John	Hathaway	john.hathaway@co.travis.tx.us	Travis County District Courts and Juvenile Court	Associate Judge
Colleen	Horton	colleen.horton@austin.utexas.edu	Hogg Foundation for Mental Health	Policy Program Officer
Shaniqua	Johnson	shaniqua.johnson@lbb.state.tx.us	Legislative Budget Board	Senior Analyst
Katherine	Keenan	KATHERINE.KEENAN@dfps.state.tx.us	Texas Department of Family and Protective Services	CPS Medical Services
Phoebe	Knauer	PHOEBE.KNAUER@dfps.state.tx.us	Texas Department of Family and Protective Services	DFPS Interim General Counsel
Mark	Konyecsni	mkonyecsni@centene.com	Cenpatico	Medical Director
Liz	Kromrei	elizabeth.kromrei@dfps.state.tx.us	Child Protective Services, TDFPS	Project Director
Richard	Lavallo	rlavallo@disabilityrightstx.org	Disability Rights, Texas (fmr Advocacy, Inc.)	Legal Director
Stephanie	LeBleu	Slebleu@texascasa.org	Texas CASA	Public Policy Coordinator
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F. Scott	McCown	mccown@cppp.org	Center for Public Policy Priorities	Executive Director
Pamela	McPeters	Pamela.McPeters@house.state.tx.us	State Rep. Dawnna Dukes	Chief of Staff
Mary	Mitchell	mary.mitchell@txcourts.gov	Children's Commission	Executive Assistant
Holly	Munin	HMUNIN@CENTENE.COM	Superior HealthPlan/Centene	CEO Texas Foster Care
Han	Nguyen	Han.Nguyen_HC@house.state.tx.us	House Public Health Committee	Committee Director
Cynthia	O'Keeffe	Cynthia.O'Keeffe@oag.state.tx.us	Texas Department of Family and Protective Services	DFPS General Counsel
Katie	Olse	katie.olse@dfps.state.tx.us	Texas Department of Family and Protective Services	Associate Commissioner

List of Invitees

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Eric	Woomer	eric@ericwoomer.com	Texas House of Rep. Mark Strama	Legislative Aide

AN ACT

relating to the administration and monitoring of health care provided to foster children.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 107.002, Family Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) In addition to the duties required by Subsection (b), a guardian ad litem appointed for a child in a proceeding under Chapter 262 or 263 shall:

(1) review the medical care provided to the child; and

(2) in a developmentally appropriate manner, seek to elicit the child's opinion on the medical care provided.

SECTION 2. Section 107.003, Family Code, is amended to read as follows:

Sec. 107.003. POWERS AND DUTIES OF ATTORNEY AD LITEM FOR CHILD AND AMICUS ATTORNEY. (a) An attorney ad litem appointed to represent a child or an amicus attorney appointed to assist the court:

(1) shall:

(A) subject to Rules 4.02, 4.03, and 4.04, Texas Disciplinary Rules of Professional Conduct, and within a reasonable time after the appointment, interview:

(i) the child in a developmentally appropriate manner, if the child is four years of age or older;

(ii) each person who has significant knowledge of the child's history and condition, including any foster parent of the child; and

(iii) the parties to the suit;

(B) seek to elicit in a developmentally appropriate manner the child's expressed objectives of representation;

(C) consider the impact on the child in formulating the attorney's presentation of the child's expressed objectives of representation to the court;

(D) investigate the facts of the case to the extent the attorney considers appropriate;

(E) obtain and review copies of relevant records relating to the child as provided by Section 107.006;

(F) participate in the conduct of the litigation to the same extent as an attorney for a party;

(G) take any action consistent with the child's interests that the attorney considers necessary to expedite the proceedings;

(H) encourage settlement and the use of alternative forms of dispute resolution; and

(I) review and sign, or decline to sign, a proposed or agreed order affecting the child;

(2) must be trained in child advocacy or have experience determined by the court to be equivalent to that training; and

(3) is entitled to:

(A) request clarification from the court if the role of the attorney is ambiguous;

(B) request a hearing or trial on the merits;

(C) consent or refuse to consent to an interview of the child by another attorney;

(D) receive a copy of each pleading or other paper filed with the court;

(E) receive notice of each hearing in the suit;

(F) participate in any case staffing concerning the child conducted by an authorized agency; and

(G) attend all legal proceedings in the suit.

(b) In addition to the duties required by Subsection (a), an attorney ad litem appointed for a child in a proceeding under Chapter 262 or 263 shall:

(1) review the medical care provided to the child;

(2) in a developmentally appropriate manner, seek to elicit the child's opinion on the medical care provided; and

(3) for a child at least 16 years of age, advise the child of the child's right to request the court to authorize the child to consent to the child's own medical care under Section 266.010.

SECTION 3. Section 263.001, Family Code, is amended by amending Subdivision (1) and adding Subdivisions (1-a) and (3-a) to read as follows:

(1) "Advanced practice nurse" has the meaning assigned by Section 157.051, Occupations Code.

(1-a) "Department" means the Department of Family and

Protective Services.

(3-a) "Physician assistant" has the meaning assigned by Section 157.051, Occupations Code.

SECTION 4. Section 263.306(a), Family Code, is amended to read as follows:

(a) At each permanency hearing the court shall:

(1) identify all persons or parties present at the hearing or those given notice but failing to appear;

(2) review the efforts of the department or another agency in:

(A) attempting to locate all necessary persons;

(B) requesting service of citation; and

(C) obtaining the assistance of a parent in providing information necessary to locate an absent parent, alleged father, or relative of the child;

(3) review the efforts of each custodial parent, alleged father, or relative of the child before the court in providing information necessary to locate another absent parent, alleged father, or relative of the child;

(4) return the child to the parent or parents if the child's parent or parents are willing and able to provide the child with a safe environment and the return of the child is in the child's best interest;

(5) place the child with a person or entity, other than a parent, entitled to service under Chapter 102 if the person or entity is willing and able to provide the child with a safe environment and the placement of the child is in the child's best

interest;

(6) evaluate the department's efforts to identify relatives who could provide the child with a safe environment, if the child is not returned to a parent or another person or entity entitled to service under Chapter 102;

(7) evaluate the parties' compliance with temporary orders and the service plan;

(8) review the medical care provided to the child as required by Section 266.007;

(9) ensure the child has been provided the opportunity, in a developmentally appropriate manner, to express the child's opinion on the medical care provided;

(10) for a child receiving psychotropic medication, determine whether the child:

(A) has been provided appropriate psychosocial therapies, behavior strategies, and other non-pharmacological interventions; and

(B) has been seen by the prescribing physician, physician assistant, or advanced practice nurse at least once every 90 days for purposes of the review required by Section 266.011;

(11) determine whether:

(A) the child continues to need substitute care;

(B) the child's current placement is appropriate for meeting the child's needs, including with respect to a child who has been placed outside of the state, whether that placement continues to be in the best interest of the child; and

(C) other plans or services are needed to meet

the child's special needs or circumstances;

(12) [~~(9)~~] if the child is placed in institutional care, determine whether efforts have been made to ensure placement of the child in the least restrictive environment consistent with the best interest and special needs of the child;

(13) [~~(10)~~] if the child is 16 years of age or older, order services that are needed to assist the child in making the transition from substitute care to independent living if the services are available in the community;

(14) [~~(11)~~] determine plans, services, and further temporary orders necessary to ensure that a final order is rendered before the date for dismissal of the suit under this chapter;

(15) [~~(12)~~] if the child is committed to the Texas Juvenile Justice Department [~~Youth Commission~~] or released under supervision by the Texas Juvenile Justice Department [~~Youth Commission~~], determine whether the child's needs for treatment, rehabilitation, and education are being met; and

(16) [~~(13)~~] determine the date for dismissal of the suit under this chapter and give notice in open court to all parties of:

(A) the dismissal date;

(B) the date of the next permanency hearing; and

(C) the date the suit is set for trial.

SECTION 5. Section 263.503(a), Family Code, is amended to read as follows:

(a) At each placement review hearing, the court shall determine whether:

(1) the child's current placement is necessary, safe, and appropriate for meeting the child's needs, including with respect to a child placed outside of the state, whether the placement continues to be appropriate and in the best interest of the child;

(2) efforts have been made to ensure placement of the child in the least restrictive environment consistent with the best interest and special needs of the child if the child is placed in institutional care;

(3) the services that are needed to assist a child who is at least 16 years of age in making the transition from substitute care to independent living are available in the community;

(4) the child is receiving appropriate medical care;

(5) the child has been provided the opportunity, in a developmentally appropriate manner, to express the child's opinion on the medical care provided;

(6) a child who is receiving psychotropic medication:

(A) has been provided appropriate psychosocial therapies, behavior strategies, and other non-pharmacological interventions; and

(B) has been seen by the prescribing physician, physician assistant, or advanced practice nurse at least once every 90 days for purposes of the review required by Section 266.011;

(7) other plans or services are needed to meet the child's special needs or circumstances;

(8) [~~(5)~~] the department or authorized agency has exercised due diligence in attempting to place the child for

adoption if parental rights to the child have been terminated and the child is eligible for adoption;

(9) [~~(6)~~] for a child for whom the department has been named managing conservator in a final order that does not include termination of parental rights, a permanent placement, including appointing a relative as permanent managing conservator or returning the child to a parent, is appropriate for the child;

(10) [~~(7)~~] for a child whose permanency goal is another planned, permanent living arrangement, the department has:

(A) documented a compelling reason why adoption, permanent managing conservatorship with a relative or other suitable individual, or returning the child to a parent is not in the child's best interest; and

(B) identified a family or other caring adult who has made a permanent commitment to the child;

(11) [~~(8)~~] the department or authorized agency has made reasonable efforts to finalize the permanency plan that is in effect for the child; and

(12) [~~(9)~~] if the child is committed to the Texas Juvenile Justice Department [~~Youth Commission~~] or released under supervision by the Texas Juvenile Justice Department [~~Youth Commission~~], the child's needs for treatment, rehabilitation, and education are being met.

SECTION 6. Section 264.121, Family Code, is amended by adding Subsection (g) to read as follows:

(g) For a youth taking prescription medication, the department shall ensure that the youth's transition plan includes

provisions to assist the youth in managing the use of the medication and in managing the child's long-term physical and mental health needs after leaving foster care, including provisions that inform the youth about:

(1) the use of the medication;

(2) the resources that are available to assist the youth in managing the use of the medication; and

(3) informed consent and the provision of medical care in accordance with Section 266.010(1).

SECTION 7. Section 266.001, Family Code, is amended by amending Subdivision (1) and adding Subdivisions (1-a), (6), and (7) to read as follows:

(1) "Advanced practice nurse" has the meaning assigned by Section 157.051, Occupations Code.

(1-a) "Commission" means the Health and Human Services Commission.

(6) "Physician assistant" has the meaning assigned by Section 157.051, Occupations Code.

(7) "Psychotropic medication" means a medication that is prescribed for the treatment of symptoms of psychosis or another mental, emotional, or behavioral disorder and that is used to exercise an effect on the central nervous system to influence and modify behavior, cognition, or affective state. The term includes the following categories when used as described by this subdivision:

(A) psychomotor stimulants;

(B) antidepressants;

(C) antipsychotics or neuroleptics;

(D) agents for control of mania or depression;

(E) antianxiety agents; and

(F) sedatives, hypnotics, or other sleep-promoting medications.

SECTION 8. Section 266.004, Family Code, is amended by adding Subsections (h-1) and (h-2) to read as follows:

(h-1) The training required by Subsection (h) must include training related to informed consent for the administration of psychotropic medication and the appropriate use of psychosocial therapies, behavior strategies, and other non-pharmacological interventions that should be considered before or concurrently with the administration of psychotropic medications.

(h-2) Each person required to complete a training program under Subsection (h) must acknowledge in writing that the person:

(1) has received the training described by Subsection (h-1);

(2) understands the principles of informed consent for the administration of psychotropic medication; and

(3) understands that non-pharmacological interventions should be considered and discussed with the prescribing physician, physician assistant, or advanced practice nurse before consenting to the use of a psychotropic medication.

SECTION 9. Chapter 266, Family Code, is amended by adding Section 266.0042 to read as follows:

Sec. 266.0042. CONSENT FOR PSYCHOTROPIC MEDICATION. Consent to the administration of a psychotropic medication is valid

only if:

(1) the consent is given voluntarily and without undue influence; and

(2) the person authorized by law to consent for the foster child receives verbally or in writing information that describes:

(A) the specific condition to be treated;

(B) the beneficial effects on that condition expected from the medication;

(C) the probable health and mental health consequences of not consenting to the medication;

(D) the probable clinically significant side effects and risks associated with the medication; and

(E) the generally accepted alternative medications and non-pharmacological interventions to the medication, if any, and the reasons for the proposed course of treatment.

SECTION 10. The heading to Section 266.005, Family Code, is amended to read as follows:

Sec. 266.005. PARENTAL NOTIFICATION OF CERTAIN [~~SIGNIFICANT~~] MEDICAL CONDITIONS.

SECTION 11. Section 266.005, Family Code, is amended by adding Subsection (b-1) and amending Subsection (c) to read as follows:

(b-1) The department shall notify the child's parents of the initial prescription of a psychotropic medication to a foster child and of any change in dosage of the psychotropic medication at the

first scheduled meeting between the parents and the child's caseworker after the date the psychotropic medication is prescribed or the dosage is changed.

(c) The department is not required to provide notice under Subsection (b) or (b-1) to a parent who:

(1) has failed to give the department current contact information and cannot be located;

(2) has executed an affidavit of relinquishment of parental rights;

(3) has had the parent's parental rights terminated; or

(4) has had access to medical information otherwise restricted by the court.

SECTION 12. Section 266.007(a), Family Code, is amended to read as follows:

(a) At each hearing under Chapter 263, or more frequently if ordered by the court, the court shall review a summary of the medical care provided to the foster child since the last hearing. The summary must include information regarding:

(1) the nature of any emergency medical care provided to the child and the circumstances necessitating emergency medical care, including any injury or acute illness suffered by the child;

(2) all medical and mental health treatment that the child is receiving and the child's progress with the treatment;

(3) any medication prescribed for the child, [~~and~~] the condition, diagnosis, and symptoms for which the medication was prescribed, and the child's progress with the medication;

(4) for a child receiving a psychotropic medication:

(A) any psychosocial therapies, behavior strategies, or other non-pharmacological interventions that have been provided to the child; and

(B) the dates since the previous hearing of any office visits the child had with the prescribing physician, physician assistant, or advanced practice nurse as required by Section 266.011;

(5) the degree to which the child or foster care provider has complied or failed to comply with any plan of medical treatment for the child;

(6) [~~(5)~~] any adverse reaction to or side effects of any medical treatment provided to the child;

(7) [~~(6)~~] any specific medical condition of the child that has been diagnosed or for which tests are being conducted to make a diagnosis;

(8) [~~(7)~~] any activity that the child should avoid or should engage in that might affect the effectiveness of the treatment, including physical activities, other medications, and diet; and

(9) [~~(8)~~] other information required by department rule or by the court.

SECTION 13. Chapter 266, Family Code, is amended by adding Section 266.011 to read as follows:

Sec. 266.011. MONITORING USE OF PSYCHOTROPIC DRUG. The person authorized to consent to medical treatment for a foster child prescribed a psychotropic medication shall ensure that the

child has been seen by the prescribing physician, physician assistant, or advanced practice nurse at least once every 90 days to allow the physician, physician assistant, or advanced practice nurse to:

(1) appropriately monitor the side effects of the medication; and

(2) determine whether:

(A) the medication is helping the child achieve the treatment goals; and

(B) continued use of the medication is appropriate.

SECTION 14. Section 533.0161(b), Government Code, is amended to read as follows:

(b) The commission shall implement a system under which the commission will use Medicaid prescription drug data to monitor the prescribing of psychotropic drugs for [~~children who are~~]:

(1) children who are in the conservatorship of the Department of Family and Protective Services[~~,~~] and

[~~(2)~~] enrolled in the STAR Health Medicaid managed care program or eligible for both Medicaid and Medicare; and

(2) children who are under the supervision of the Department of Family and Protective Services through an agreement under the Interstate Compact on the Placement of Children under Subchapter B, Chapter 162, Family Code.

SECTION 15. The heading to Subchapter A, Chapter 266, Family Code, is repealed.

SECTION 16. The changes in law made by this Act apply to a

suit affecting the parent-child relationship pending in a trial court on or filed on or after the effective date of this Act.

SECTION 17. This Act takes effect September 1, 2013.

President of the Senate

Speaker of the House

I certify that H.B. No. 915 was passed by the House on April 19, 2013, by the following vote: Yeas 138, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 915 on May 16, 2013, by the following vote: Yeas 140, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 915 was passed by the Senate, with amendments, on May 15, 2013, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

_____

Governor

HB915 ACTION PLAN CONSOLIDATED RESPONSES - DRAFT

	DPFS-CPS	Children's Commission	One Voice Texas	Child Protection Courts of Central Texas	A World for Children	Prov Corp	Texas CASA
SECTION 1 – New Guardian Ad Litem Duties Adds to the duties of a guardian ad litem for a child the responsibility to review the medical care provided to the child and, in a developmentally appropriate manner, seek to elicit the child's opinion on the medical care provided. (Amends Texas Family Code §107.002)	Inform staff through a Protective Services Information Memo	Provide Judicial and Attorney Education about new GAL duties Bench Book Attorney Manual Online Training Judicial and Attorney Education conferences Jurist in Residence Letters, as appropriate	Work on specific rule/ policy changes Assist in the education/awareness of guardian ad litem, court and foster care stakeholders Produce communication tools		Policy implementation should be developed concurrently across all service delivery stakeholders. It is important that children and youth not just have an opinion but have a real voice and be empowered to become informed consumers of their own care that is developmentally and relationally appropriate	Provide information and oversight to providers re information shared with GAL	Education of CASA network about: these changes how to access medical records (through CPS and directly through providers) how to review them for needed information how to contact medical providers and consenters for more information how to talk to children about their medical care and elicit their opinions in a developmentally appropriate manner how to report these items to the court and bring concerns to stakeholders and the court.

HB915 ACTION PLAN CONSOLIDATED RESPONSES - DRAFT

	DPFS-CPS	Children's Commission	One Voice Texas	Child Protection Courts of Central Texas	A World for Children	Prov Corp	Texas CASA
SECTION 2 – New Attorney Ad Litem Duties Adds to the duties of an attorney ad litem for a child the responsibility to: • review the medical care provided to the child; • elicit the child's opinion on the medical care provided; and • for a youth at least 16 years of age, advise the youth of their right to ask the court to authorize the youth to be his or her own medical consenter under Section 266.010 of the Family Code. Note: §266.010 is the provision that governs when a youth at least 16 years of age can be authorized by the court to consent to the youth's own medical care. (Amends Texas Family Code §107.003)	Inform staff through a Protective Services Information Memo	Provide Judicial and Attorney Training Online Training Attorney Manual Advanced Family Law SBOT CAN Training Trial Skills Training Certification Training Bench Book Attorney Manual Online Training Judicial and Attorney Education conferences Jurist In Residence Letters, as appropriate	Work on specific rule/ policy changes Assist in the education/awareness of attorney ad litem, court and foster care stakeholders Produce communication tools		Same as above. It is important that the Ad Litem collaboratively and proactively communicate with caregivers, medical professional and other stakeholders to implement these duties. It should not be just reactively responding to complaints but once again empowering children and youth. Unless it is developmentally and cognitively contraindicated most youth should be encouraged to be their own consenters	Same as Section 1 Assure attorney has access to child / policy already in place Provide information to youth re choice and medical consenter	

HB915 ACTION PLAN CONSOLIDATED RESPONSES - DRAFT

	DPFS-CPS	Children's Commission	One Voice Texas	Child Protection Courts of Central Texas	A World for Children	Prov Corp	Texas CASA
SECTION 3 – Adds definitions of Advanced Practice Nurse and Physician Assistant Adds definitions for Advanced Practice Nurse and Physician Assistant by referring to the relevant sections of the Texas Occupations Code. (Amends Texas Family Code §263.001)	Add this language to staff communications and publications where needed	Provide Judicial and Attorney Education about new definitions					Meeting with the professional associations for both APN and PA to introduce CASA and CASA's role, including specifically re: medical care of children in care

HB915 ACTION PLAN CONSOLIDATED RESPONSES - DRAFT

	DPFS-CPS	Children's Commission	One Voice Texas	Child Protection Courts of Central Texas	A World for Children	Prov Corp	Texas CASA
SECTION 4 – Permanency Hearings Adds the following new responsibilities to the list of things the court is required to do at each Chapter 263 permanency hearing: review the medical care provided to the child; ensure the child has been provided the opportunity to express the child's opinion on the medical care provided; for a child receiving psychotropic medication, determine whether the child: ** has been provided appropriate psychosocial therapies, behavior strategies, and other non-pharmacological interventions; and ** has been seen by the prescribing physician, physician assistant, or advanced practice nurse at least once every 90 days. (Amends Texas Family Code § 263.306(a))	Revise: Court report prompts CPS policy Training for staff and caregivers / medical consenters Possible CPS Residential Child Care (RCC) contract revisions	Provide Judicial and Attorney Education about new responsibilities Bench Book Attorney Manual Online Training Judicial and Attorney Education conferences Jurist In Residence Letters, as appropriate	Work on specific rule/ policy changes Assist in the education/awareness of youth in foster care, kinship and foster caregivers and DFPS staff Produce communication tools	Read the court report for information related to medical care Question the child, if age appropriate Question the placement Question the medical consenter Question the caseworker	Once again this needs to be a proactive and collaborative approach. Improved consumer education for children/youth, caregivers and stakeholders and medical and clinical practitioners. For caregivers it includes pre-service and annual continuing ed med training. The curriculum should include and stress non-pharmacological, holistic and trauma informed interventions. It will be a cultural shift in service delivery and there will be barriers to implementation	Review information required in 90 case planning meetings, document in file, share with court	

HB915 ACTION PLAN CONSOLIDATED RESPONSES - DRAFT

	DPFS-CPS	Children's Commission	One Voice Texas	Child Protection Courts of Central Texas	A World for Children	Prov Corp	Texas CASA
SECTION 5 – Placement Review Hearings Adds to the list of things the court is required to do at each Chapter 263 placement review hearing the new responsibilities to determine whether: • the child is receiving appropriate medical care; • the child has been provided the opportunity to express the child's opinion on the medical care provided; and • for a child receiving psychotropic medication, determine whether the child: ** has been provided appropriate psychosocial therapies, behavior strategies, and other non- pharmacological interventions; and ** has been seen by the prescribing physician, physician assistant, or advanced practice nurse at least once every 90 days. (Amends Texas Family Code § 263.503(a))	Revise: Court report prompts, CPS policy Training for staff and caregivers/medi-cal consenters Possible CPS/RCC contract revisions	Provide Judicial and Attorney Education about new responsibilities Bench Book Attorney Manual Online Training Judicial and Attorney Education conferences Jurist In Residence Letters, as appropriate	Work on specific rule/ policy changes Assist in the education/aware ness of court stakeholders Assist in the education/aware ness of youth in foster care as well as substitute care providers	Read the court report for information related to medical care. Question the child, if age appropriate. Question the placement. Question the medical consenter. Question the caseworker.	See Comments in Section 4	Provide training to providers and information to court, monitor through UM and QA process Engagement of child in court Documentation in child's file every 90 days	Educate CASA network on: issues to include in their reports to the court, about other psychosocial therapies and behavior strategies and other non-pharmacological interventions about how to advocate for these other strategies

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	DPFS-CPS	Children's Commission	One Voice Texas	Child Protection Courts of Central Texas	A World for Children	Prov Corp	Texas CASA
SECTION 6 – Transition Plan Adds a new requirement regarding the Transitional Living Services Program. DFPS must ensure that a youth's transition plan includes provisions to assist the youth in managing medication usage after exiting foster care, including information that educates the youth about: the use of the medication; resources available to assist the youth in managing the medication; and informed consent and the provision of medical care under 266.010(l). Note: §266.010(l) is the provision that requires DFPS or the Child Placing Agency to advise a youth 16 years of age or older of the youth's right to request that the court authorize the youth to be his or her own medical consenter. (Texas Family Code § 264.121)	Incorporate requirements into Transition Planning policy and practices currently being revised Update Youth Website Include in plan: court may allow 16 + youths to consent to some or all of their medical care RCC contract revisions if needed Coordinate with HHSC and STAR Health to inform them of these transition planning requirement changes which impact: Service Coordination and Service Management provided by STAR Health for young people over the age of 18 STAR Health communications and publications to this age group	Provide Judicial and Attorney Education about the transition plan Bench Book Attorney Manual Judicial and Attorney Education conferences Jurist In Residence Letters, as appropriate	Work on specific rule/ policy changes Assist in the education/awareness of guardian ad litem and PAL staff Assist in the education/awareness of youth in foster care Work with foster care alumni to build a support network for youth exiting care		Provision needs to be added to the requirements for the youth's Plan of Service and their transition Plan of Service. Education need to be hands on and experiential not just classroom and ideally the youth will be provided ample time and opportunities to practice managing their own health care before leaving care	Policy change in contract with SIL providers, service requirements, training, tracking, Engagement and Information For youth, on-going service support	Educate CASA network about this new requirement and how to advocate that the requirement is met

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SECTION 7 – Adds definitions of Advanced Practices Nurse, Physician Assistant, and Psychotropic Medication Adds definitions to the section of the Family Code that deals with medical care and education. Defines "advanced practice nurse" and "physician assistant" by reference to the relevant sections of the Occupations Code (identical to SECTION 3). Defines "psychotropic medication" to mean a medication that is prescribed for the treatment of symptoms of psychosis or another mental, emotional, or behavioral disorder and that is used to exercise an effect on the central nervous system to influence and modify behavior, cognition, or affective state. The term includes the following categories *psychomotor stimulants; *antidepressants; *antipsychotics or neuroleptics; *agents for control of mania or depression; *antianxiety agents; and *sedatives, hypnotics, or other sleep-promoting medications. Note: This definition was based on Texas Health and Safety Code, Section 574.101(3), definition of "psychoactive medication." (Amends Texas Family Code §266.001)	Add this language to staff communications and publications where needed	Judicial and Attorney Education			Change definitions to reflect current state of practice.		Educate CASA network about new provision

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	DPFS-CPS	Children's Commission	One Voice Texas	Child Protection Courts of Central Texas	A World for Children	Prov Corp	Texas CASA
SECTION 8 - Medical Consenter Training Adds new components to the training that medical consenters are currently required to have. Medical consenter training must include training related to informed consent for psychotropic medications, and the psychosocial therapies, behavior strategies, and other non-pharmacological interventions that should be considered before or concurrently with the administration of psychotropic medications. Each medical consenter must acknowledge in writing that they: have received the training, as described above; understand the principles of informed consent for psychotropic medication; and understand that non-pharmacological interventions should be considered and discussed with the prescribing practitioner before consenting to the use of a psychotropic medication. (Amends Texas Family Code §266.004)	Revise training, policy, internal and external communications Develop Medical Consent Mailbox- include notice in trainings - respond to medical consenter's questions. Revise Medical Consent training to meet requirements, including the acknowledgment process and information related to young people who are their own medical consenters. Develop specialized training for Human Services Technician (HST) Plan and coordinate provision of training Coordinate with RCC on changes to Residential Contracts	Provide Judicial and Attorney Training about Medical Consenter training Participate in the development of a Medical Consent Form	Work on specific rule/ policy changes Assist in the education/awareness of stakeholders including foster parents and kinship caregivers	Require the acknowledged writing to be filed w/the court report for review by the court.	DFPS and contracted agencies should develop curriculums to train new and current medical consenters in best practice treatment interventions and their efficacy. The curriculum should include both med and non-med interventions and their advantages and contraindications .	Arrange or provide training Require and document signatures	Educate CASA network about new provision

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	DPFS-CPS	Children's Commission	One Voice Texas	Child Protection Courts of Central Texas	A World for Children	Prov Corp	Texas CASA
SECTION 9 – Requirement for Informed Consent Before Prescribing Psychotropic Medications Outlines requirements regarding informed consent for psychotropic medications. Consent to the administration of a psychotropic medication is valid only if: the consent is given voluntarily and without undue influence; and the person authorized by law to consent for the foster child receives verbally or in writing information that describes: ** the specific condition to be treated; ** the beneficial effects on that condition expected from the medication; ** the probable health and mental health consequences of not consenting to the medication; ** the probable clinically significant side effects and risks associated with the medication; and ** the generally accepted alternative medications and non-pharmacological interventions to the medication, if any, and the reasons for the proposed course of treatment. (Adds new Texas Family Code §266.0042)	Revise CPS policy to add Human Services Technician (HST) staff to those staff designated as Medical Consenters Finalize Informed Consent Brochure and post on DFPS website Coordinate with RCC on changes to Residential Contracts Coordinate with HHSC and STAR Health on the role of Prescribing Providers in the informed consent process, including adoption of a form if a form is needed.	Education about when consent for psychotropic medication is valid Bench Book Attorney Manual Judicial and Attorney Education conferences Jurist In Residence Letters, as appropriate	Work on specific rule/ policy changes Assist in the education/awareness of stakeholders including foster parents and kinship caregivers Assist in the education/awareness of youth in foster care	The written consent form can include these requirements be filled in or checked off as appropriate and provided to the court for review.	Compliance and regulatory guidelines and new P&P will have to be developed to roll out implementation. Medical and clinical practitioners will have to be trained and monitored.		Educate CASA network about new provision and how to help ensure that consent is informed

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	DPFS-CPS	Children's Commission	One Voice Texas	Child Protection Courts of Central Texas	A World for Children	Prov Corp	Texas CASA
SECTIONS 10 and 11 – Notify Parents of Psychotropic Medication DFPS is required to notify a child's parents of: the initial prescription of a psychotropic medication to a child in foster care; and any change in dosage of the psychotropic medication at the first scheduled meeting between the parents and the child's caseworker after the date the psychotropic medication is prescribed or the dosage is changed. DFPS is not required to provide the notice to a parent who can't be located, who has executed an affidavit of relinquishment, who had rights terminated, or who has had access to medical information otherwise restricted by the court. (Amends §266.005 Texas Family Code)	Revise CPS policy Revise Medical Consent training and other training for staff and Caregivers Coordinate with Residential Contracts	Provide Judicial and Attorney Education about then notice required for parents Bench Book Attorney Manual Online Training Judicial and Attorney Education conferences Jurist In Residence Letters, as appropriate	Work on specific rule/ policy changes Assist in the education/awareness of parents, kinship caregivers youth in foster care		I think this is a welcomed family engagement piece but is another cultural change that will face barriers to implementation and proactive education will be necessary. Caregivers, especially FP may be concerned. This needs to be a treatment team approach. Notification is the only requirement but at some point it is important to make birth parents part of the decision as well even if it is informal	Coordinate information with DFPS caseworker in Phase I of Foster Care Redesign, include in service policy and add to training and tracking in Phase II and III of contract	Educate CASA Network about requirement

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	DPFS-CPS	Children's Commission	One Voice Texas	Child Protection Courts of Central Texas	A World for Children	Prov Corp	Texas CASA
SECTION 12 – Judicial Review of Medical Care Requires that for a child receiving psychotropic medication, the summary of medical care that is presented to the court at each hearing where medical care is reviewed must include (in addition to the other information currently required by law to be included for all children): * a description of the psychosocial therapies, behavior strategies, or other non-pharmacological interventions that have been provided to the child; and * the dates since the previous hearing of any office visits the child had with the prescribing physician, physician assistant, or advanced practice nurse as required by SECTION 13 of the bill. (Amends Texas Family Code §266.007(a))	Revise: Court report prompts CPS policy Training for staff and caregivers/medical consenters (Implementation tasks in Sections 8 and 9 support this section) Possible Residential Contracts revisions	Provide Judicial and Attorney Education about how to review medical care Bench Book Attorney Manual Online Training Judicial and Attorney Education conferences Jurist In Residence Letters, as appropriate	Assist in the education/awareness of youth in foster care	Require this information to be included in either the court report for the court's review; or Be included in the informed-consent form and provided to the court for review at the hearing; or Questions to medical consenter. Questions to placement. Questions to child. Questions to caseworker.	Probably P&P changes for everyone that this gets appropriately documented. There will have to be some work on agreed upon nomenclature to identify and describe what these therapies include.		Educate CASA network on: issues to include in their reports to the court, about other psychosocial therapies and behavior strategies and other non-pharmacological interventions about how to advocate for these other strategies

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	DPFS-CPS	Children's Commission	One Voice Texas	Child Protection Courts of Central Texas	A World for Children	Prov Corp	Texas CASA
SECTION 13 - Monitoring Use of Psychotropic Medications at Least Every 90 Days Requires the medical consenter for a child in foster care to ensure that a child prescribed a psychotropic drug has an office visit with the prescribing physician, physician assistant, or advanced practice nurse at least once every 90 days to allow the practitioner to: * appropriately monitor the side effects of the drug; and * determine whether the drug is helping the child achieve the treatment goals and whether continued use of the drug is appropriate. (Adds new Texas Family Code §266.011)	Revise CPS policy and training (Implementation tasks in Sections 8 and 9 support this section) Possible Residential Contracts revisions	Provide Judicial and Attorney Education about 90-day rule Bench Book Attorney Manual Online Training Judicial and Attorney Education conferences Jurist In Residence Letters, as appropriate			New P&P and see response to SECTION 12	Assure this is in policy, review in 90 day case plan update meetings, Scheduled visits with medical professional at least every 90 days; training for caregivers	Educate CASA on this requirement and how to effectively advocate on this issue, include this issue in the court report

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	DPFS-CPS	Children's Commission	One Voice Texas	Child Protection Courts of Central Texas	A World for Children	Prov Corp	Texas CASA
SECTION 14 – Monitoring New Populations of Children Requires the HHSC to use Medicaid prescription drug data to monitor the prescribing of psychotropic drugs for: * children who are in DFPS conservatorship and enrolled in STAR Health or who are eligible for both Medicaid and Medicare ("dually-eligible" children); and * children who are under the supervision of DFPS [but not in DFPS conservatorship] through an agreement under the Interstate Compact on the Placement of Children (ICPC). (Amends Texas Government Code §533.0161(b))	IT changes to allow HHSC to identify children in ICPC placements for medication monitoring Develop processes for monitoring children who are dually eligible for Medicaid and Medicare HHSC and DFPS will coordinate to determine medication monitoring processes	Judicial and Attorney Education Bench Book Attorney Manual Checklists	Work on specific rule/ policy changes Assist in the education/awareness of guardian ad litem and court stakeholders Assist in the education/awareness of youth in foster care		New P&P. This is a very superficial way to monitor individual use of psychotropic medication.		

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	DPFS-CPS	Children's Commission	One Voice Texas	Child Protection Courts of Central Texas	A World for Children	Prov Corp	Texas CASA
SECTION 15 - Technical Correction							

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	DPFS-CPS	Children's Commission	One Voice Texas	Child Protection Courts of Central Texas	A World for Children	Prov Corp	Texas CASA
SECTION 16 – Scope of Bill Changes in law apply to a suit affecting the parent-child relationship pending in a trial court ON, OR FILED ON OR AFTER, the effective date of September 1, 2013.							

http://www.hhsc.state.tx.us/medicaid/reports/PB9/PinkBook.pdf

Texas Medicaid and CHIP in Perspective
Ninth Edition
Texas Health and Human Services Commission January 2013

Excerpt from Chapter 6:

Behavioral Health Services
Texas Medicaid also funds behavioral health services. Behavioral health services are defined as services used to treat a mental, emotional, or chemical dependency disorder. Services include:
• Therapy by psychiatrists,
• Therapy by psychologists, licensed clinical social workers, licensed professional counselors, and licensed marriage and family therapists,
• Inpatient psychiatric care in a general acute hospital,
• Inpatient care in psychiatric hospitals (for persons under age 21 and age 65 and older),
• Outpatient adolescent chemical dependency counseling by state-licensed facilities,
• Prescription medicines,
• Rehabilitative and targeted case management services for people with severe and persistent mental illness or children with severe emotional disturbance,
• Ancillary services required to diagnose or treat behavioral health conditions,
• Care and treatment of behavioral health conditions by a primary care physician,
• Comprehensive substance use disorder benefits for adults in Medicaid including assessment, medication assisted therapy, outpatient and residential detoxification and outpatient and residential treatment, and
• Services through the Youth Empowerment Services (YES) waiver program for children and young adults under age 21 who are at risk of hospitalization because of serious emotional disturbance.

Behavioral health services are provided by therapists in private practice, physicians, private and public psychiatric hospitals, and by community mental health centers and chemical dependency treatment programs. Behavioral health services are also included in Texas managed care programs such as STAR, STAR Health, STAR+PLUS, and NorthSTAR. NorthSTAR is a behavioral health managed care program that offers a broader array of behavioral health services than other managed care programs. These additional services are paid for through savings derived from better management of services.

Link to Chapter 6:

http://www.hhsc.state.tx.us/medicaid/reports/PB9/7_PB%209th_ed_Chapter6.pdf

http://www.tmhp.com/TMPPM/TMPPM_Living_Manual_Current/Vol2_Medical_Specialists_and_Physicians_Services_Handbook.pdf

9.2.74 Telemedicine Services

Telemedicine is defined as the practice of health-care delivery by a provider who is located at a site other than the site where the client is located. Telemedicine requires the use of advanced telecommunications technology and is used for the purposes of evaluation, diagnosis, consultation, or treatment.

Only those services that involve direct face-to-face interactive video communication between the client and the distant-site provider constitute a telemedicine interactive video consultation. The audio and visual fidelity and clarity of all telemedicine services must be functionally equivalent to a face-to-face visit. Telephone conversations, chart reviews, electronic mail messages, and facsimile transmissions alone do not constitute a telemedicine interactive video consultation and will not be reimbursed as telemedicine services.

Use of telemedicine services within ICF-MR State Schools is subject to the policy established by DSHS and the Texas Department of Aging and Disability Services (DADS) established policies.

The provider requesting the telemedicine service must maintain medical record documentation indicating the medical necessity for the service. The referring provider is responsible for contacting the distant-site provider and arranging for the telemedicine service. In the absence of a referring provider, the distant-site provider is responsible for arranging the telemedicine service.

More than one medically necessary telemedicine service may be reimbursed for the same date of service and place of service, if the services are billed by physicians of different specialties.

Documentation for a service provided via telemedicine must be the same as for a comparable in-person service.

Providers may not disclose any medical information revealed by the client or discovered by the physician in connection with the treatment of the client via telemedicine without proper authorization from the patient.

*9.2.74.1 * Distant Site*

A distant site is the location of the provider rendering the service. The distant-site provider must be a physician enrolled as a Texas Medicaid provider.

The distant-site provider must maintain medical record documentation that:
• Indicates the reason for the telemedicine service.
• Includes the name of the referring provider, if any, and the name of the client's primary care physician, if any.
• Includes a copy of the distant-site provider's findings, diagnosis, plan of care, and treatment recommendations.

9.2.74.2 Patient Site

A patient site is where the client is physically located while the service is rendered. Patient-site providers must be located in a rural or underserved area.

• A rural area is defined as a county that is not included in a metropolitan statistical area as defined by the U.S. Office of Management and Budget (OMB) according to the most recent United States Census Bureau population estimates.

• An underserved area is an area that meets the U.S. Department of Health and Human Services (DHHS) Index Primary Care Underservice criteria.

Board-eligible or board-certified specialists and subspecialists, who provide care to clients who are 20 years of age and younger, are exempt from the rural and underserved geographic limitation. The specialist or subspecialist cannot be designated as the client's primary care provider.

Patient-site services may only be provided by one of the following Texas Medicaid enrolled providers: physicians, physician assistants, nurse practitioner, clinical nurse specialist, and outpatient hospitals.

Patient-site providers must use procedure code Q3014 for the facility fee.

A telepresenter who meets one of the qualifications listed below must be at the patient site when the service is provided via telemedicine:
• An individual who is licensed or certified in Texas to perform health-care services and who presents or is delegated tasks and activities only within the scope of the individual's licensure or certification
• A qualified mental health professional (QMHP) as defined in 25 TAC §412.303(48)

All patient sites must maintain documentation for each service, including the following:
• Date of the service
• Name of the client
• Name of the distant-site provider

The patient site that bills for the service must maintain records that document the following:
• Name of the referring or requesting provider
• Name of the telepresenter

A patient site that does not bill for the patient-site service must still capture this information if it is available.

The following procedure codes, when billed with the GT modifier, are a benefit for distant-site providers:

90791 90792 90832 90833 90834 90836 90837 90838 90951 90952
90954 90955 90957 90958 90960 90961 99201 99202 99203 99204
99205 99211 99212 99213 99214 99215 99241 99242 99243 99244
99245 99251 99252 99253 99254 99255 G0406* G0407* G0408* G0425
G0426 G0427 M0064
Procedure codes are limited to one service per day.