

**STATE OF RHODE ISLAND
DEPARTMENT OF CHILDREN, YOUTH AND FAMILIES**

PUBLIC NOTICE OF PROPOSED RULE-MAKING

In accordance with Rhode Island General Law (RIGL) 42-35 and 42-72-5, notice is hereby given that the Department of Children, Youth and Families proposes to repeal the following DCYF rule:

Medical Neglect of Disabled Infants with Life Threatening Conditions

This rule is repealed because it is obsolete and relevant portions are addressed in other rules regarding child abuse and neglect. In the repeal of this rule, consideration was given to the following: (1) alternative approaches and (2) overlap or duplication with other statutory and regulatory provisions. No alternative approach or duplication or overlap was identified based upon available information.

This repealed rule is accessible on the DCYF website (<http://www.dcyf.ri.gov>) or the R.I. Secretary of State's website (<http://www.sec.state.ri.us/ProposedRules/>). Interested persons may submit written comments by November 7, 2011, to Susan Bowler, Department of Children, Youth and Families, 101 Friendship Street, Providence, RI 02903 (Susan.Bowler@dcyf.ri.gov).

In accordance with RIGL 42-35-3, an oral hearing will be granted if requested by twenty-five (25) persons, by an agency or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within thirty (30) days of this notice.

~~Medical Neglect of Disabled Infants with Life-Threatening Conditions~~

~~Rhode Island Department of Children, Youth and Families~~

~~Policy: 500.0115~~

~~Effective Date: October 7, 1985~~ ~~Revised Date: March 2, 1987~~ ~~Version: 2~~

~~The Child Abuse Prevention and Treatment Act (PL 98-457) and Rhode Island General Law (RIGL) 40-11-3 require the Department to receive and respond to reports of medical neglect, including reports of the withholding of medically indicated treatment, for disabled infants with life-threatening conditions. The following terms are defined in PL 98-457:~~

- ~~1. Medical Neglect is defined as the failure to provide adequate medical care and includes, but is not limited to, the withholding of medically indicated treatment from a disabled infant with life-threatening conditions.~~
- ~~2. Withholding of Medically Indicated Treatment is defined as the failure to respond to an infant's life-threatening conditions by providing treatment, including appropriate nutrition, hydration, and medication which, in the treating physician/nurse practitioner's reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all of the infant's life-threatening conditions.~~

~~An exception is made providing that treatment is not medically indicated when, in the physician/nurse practitioner's reasonable medical judgment, any of the following exist:~~

- ~~a. The infant is chronically and irreversibly comatose.~~
 - ~~b. The provision of treatment would merely prolong dying, would not be effective in correcting all of the infant's life-threatening conditions, or would otherwise be futile in terms of the physical survival of the infant.~~
 - ~~c. The provision of treatment would be virtually futile in terms of the survival of the infant and the treatment itself under such circumstances would be inhumane.~~
 - ~~d. PL 98-457 asserts that nutrition, hydration, and medication must be provided to all infants even if other treatment is not medically indicated. Future "quality of life" issues must not be considered in making a determination whether to provide or withhold treatment.~~
- ~~3. Infant is defined as a child less than one (1) year of age; however, the standards are also applied to an infant older than one (1) year who has been continuously hospitalized since birth, who was born extremely premature, or who has a long term disability.~~
 - ~~4. Reasonable Medical Judgment is defined as medical judgment that could be made by a reasonably prudent physician/nurse practitioner knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.~~

~~Any person who has knowledge or suspicion of medical neglect must report the incident to the Call Floor located within the Division of Child Protective Services at 1-800-RI-CHILD.~~

~~The Department will immediately intervene upon the receipt of a report that parents refuse, despite the advice of their physician/nurse practitioner, to consent to further evaluation by a specialist or to the transfer of their infant to a more specialized facility. In responding to reports of medical neglect or the withholding of medically indicated treatment, the Department is responsible for coordination and consultation with individuals designated by each hospital. This communication can help to diminish disruption to the hospital and the family during the course of the child protective investigation.~~

~~The Department is responsible to maintain current data identifying the individuals designated by each health care facility and to re-contact each facility on an annual basis to ensure the accuracy of this information.~~

~~The individuals designated by the health care facilities must immediately notify the Department of cases of suspected medical neglect or the withholding of medically indicated treatment. Rhode Island Law (40-11-3) allows the Department to pursue legal remedies through the initiation of court action in situations involving medical neglect. The Department will seek access to medical records and pursue a court order for an independent medical examination of an infant when necessary to assure an appropriate resolution to an investigation of medical neglect.~~

~~**Related Procedure**~~

~~**Medical Neglect of Disabled Infants with Life-Threatening Conditions**~~

Medical Neglect of Disabled Infants with Life-Threatening Conditions

Procedure From Policy 500.0115: ~~Medical Neglect of Disabled Infants with Life-Threatening Conditions~~

- A. ~~Any person who knows or suspects that an infant may be deprived of nutrition or hydration that is necessary to sustain life and/or medical or surgical intervention needed to remedy or ameliorate a life threatening medical condition must make immediate verbal notification to the Department at 1-800-RI-CHILD.~~

- B. ~~The Call Floor worker completes the CPS report and immediately submits the report to the Call Floor supervisor, alerting the supervisor that the medical neglect allegation is in regard to a disabled infant with life-threatening conditions. The Response Priority will always be "Emergency", which means that the Call Floor must process the CPS report within ten (10) minutes after the call is completed and a Child Protective CPI (CPI) must respond to the report within ten (10) minutes of assignment.~~

- C. ~~The Call Floor supervisor assigns the case to an Investigative Supervisor for immediate assignment to a CPI.~~

- D. ~~The Call Floor supervisor notifies the Chief, Child Protective Investigator or Assistant Director, Child Protective Services.~~