

## **CHAPTER 65C-35 PSYCHOTROPIC MEDICATION FOR CHILDREN IN OUT-OF-HOME CARE.**

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### **65C-35.001 Definitions.**

(1) “Assent” when used in this chapter means a process by which a provider of medical services helps the patient achieve a developmentally appropriate awareness of the nature of his or her condition; informs the patient of what can be expected with tests and treatment; makes a clinical assessment of the patient’s understanding of the situation and the factors influencing how he or she is responding; and solicits an expression of the patient’s willingness to accept the proposed care.

(2) “Behavioral Health Assessment” includes both Comprehensive Behavioral Health Assessments as defined by the Medicaid Community Mental Health Services Coverage and Limitations Handbook and all other assessments performed by mental health professionals

(3) “Caregiver” means, for purpose of this chapter, a person who is approved in writing by the Department as responsible for providing for the child’s daily needs, or any other person legally responsible for the child’s welfare in a residential setting.

(4) “Chemical Restraint” means the use of a medication as a restraint to control behavior or restrict freedom of movement that is not an accepted treatment for the person's medical or psychiatric condition.

(5) "Children's Legal Services" is a statewide law firm focusing on children’s issues within the Department of Children and Families.

(6) “Child Protective Investigator” means an authorized agent in a professional position within the Department or designated sheriff’s office with the authority and responsibility of investigating reports of child abuse, neglect, or abandonment received by the Florida Abuse Hotline, as defined in Section 39.01(62), F.S.

(7) “Department” means the Department of Children and Family Services.

(8) “Dependency Case Manager” means an individual who is accountable for service delivery regarding safety, permanency, and well-being for a caseload of children in out-of-home care.

(9) “Dependency case plan” means the dependency case plan as defined in Section 39.01(11), F.S., which refers to the services plan jointly developed between the family and dependency case manager delineating specific interventions aimed at addressing the contributing factors and underlying conditions that lead to child maltreatment.

(10) “Express and Informed Consent” means, for the purposes of this chapter; voluntary written consent from a competent person who has received full, accurate, and sufficient information and explanation about a child’s medical condition, medication, and treatment to enable the person to make a knowledgeable decision without being subjected to any deceit or coercion. Express and informed consent for the administration of psychotropic medication may only be given by a parent whose rights have not been terminated, or a legal guardian of the child. Sufficient explanation includes but is not limited to the following information, provided and explained in plain language by the prescribing physician to the consent giver: the medication, reason for prescribing it, and its purpose or intended results; side effects, risks, and contraindications, including effects of stopping the medication; method for administering the medication, and dosage range when applicable; potential drug interactions; alternative treatments; and the behavioral health or other services used to complement the use of medication, when applicable.

(11) “Florida Safe Families Network (FSFN)” is the Statewide Automated Child Welfare Information System (SACWIS) for the state of Florida. FSFN is the electronic system of record for each case. It contains information regarding a particular child and his or her family.

(12) “Guardian ad Litem” is defined in Section 39.820(1), F.S.

(13) “Lead Agency” means the not-for-profit or governmental community-based care provider responsible for the provision of support and services for eligible children and their families who have been abused, abandoned, or neglected.

(14) “Legal Guardian” means a permanent guardian as described in Section 39.6221, F.S., or a "guardian" as defined in Section 744.102, F.S., or a relative with a court order of temporary custody under Chapter 751, F.S. Dependency case managers and Guardians ad Litem do not meet the definition of legal guardian.

(15) “Medical Report” means a report prepared by the prescribing physician that includes information required by Section 39.407(3)(c), F.S. The form for the medical report is “Medical Report” (form CF-FSP 5339 dated January 2010), which is hereby incorporated by reference and is available by contacting the Family Safety Program Office at 1317 Winewood Boulevard, Tallahassee, Florida 32399-0700, or at <http://www.dcf.state.fl.us/DCFForms/Search/DCFFormSearch.aspx>.

(16) “Out-of-Home Care” means the placement of a child, arranged and supervised by the Department of Children and Families or its agent, outside the home of the child’s custodial parent or legal guardian. This includes placement in licensed shelter, foster home, group home, Residential Treatment Center (including Statewide Inpatient Psychiatric Programs), and non-licensed relative/non-relative settings.

(17) “Prescribing Physician” is a physician licensed under Chapter 458 or 459, Florida Statutes.

(18) “Psychotropic Medication” means, for the purpose of this rule, any chemical substance prescribed with the intent to treat psychiatric disorders; and those substances, which though prescribed with the intent to treat other medical conditions, have the effect of altering brain chemistry or involve any of the medications in the categories listed below. The medications include, without limitation, the following major categories:

- (a) Antipsychotics;
- (b) Antidepressants;
- (c) Sedative Hypnotics;
- (d) Lithium;

- (e) Stimulants;
- (f) Non-stimulant Attention Deficit Hyperactivity Disorder medications;
- (g) Anti-dementia medications and cognition enhancers;
- (h) Anticonvulsants and alpha-2 agonists; and
- (i) Any other medication used to stabilize or improve mood, mental status, behavior, or mental illness.

(19) “Residential treatment center” means a 24-hour residential program which provides mental health services to emotionally disturbed children or adolescents as defined in Sections 394.492 (5) or (6), F.S. that is licensed by the Agency for Health Care Administration. For purposes of this rule, therapeutic group homes are not considered a residential treatment center.

(20) “Resource Record” means the child’s standardized record that contains copies of all available and accessible medical and psychological information (including behavioral health information) pertaining to the child as described in 65C-30.001 (24) and 65C-30.011 (4)-(6), F.A.C.

(21) “Statewide Inpatient Psychiatric Program” or “SIPP” means those residential mental health treatment programs selected and contracted by the Agency for Healthcare Administration to participate in the Institution for Mental Disease waiver.

*Rulemaking Authority 39.407(3)(g) FS. Law Implemented 39.407(1), (2), (3) FS. History— New \_\_\_\_.*

## **65C-35.002 Behavioral Health Services.**

(1) Behavioral health services shall be provided to children in out-of-home care without delay once the need for such services is identified. Prior to prescribing a psychotropic medication, the physician must consider other treatment interventions that may include, but are not limited to, medical, mental health, behavioral, counseling, or other services. All decision making should be guided by the principle that it is important to comprehensively address all the concerns in a child’s life – family, legal, health, education, and social/emotional issues – as well as to provide behavioral supports and parent training, so that a child’s behavioral and mental health issues can be addressed in the least restrictive setting and in a comprehensive treatment plan.

(2) The child’s dependency case manager will ensure that all behavioral health services that are identified in behavioral health assessments or prescribed by a medical or mental health professional have been integrated into the child’s dependency case plan and are provided to the child in a timely manner.

(3) The department and contracted service providers who provide behavioral health services shall comply with the requirements of Section 39.407(3), F.S., and the Florida Rules of Juvenile Procedure 8.355 whenever a child is considered for administration of psychotropic medications.

(4) The Medical Report must include recommendations for medical, behavioral health, or other services that will be used in conjunction with psychotropic medication, as required by Section 39.407(3)(c)5., F.S.

(5) Prior to prescribing a psychotropic medication, the physician must consider the child's history for conditions that may indicate the presence of brain injury (for example, blows to head, fetal alcohol syndrome, loss of consciousness, head scars, fever above 104°) and document any follow-up assessments or referrals on the Medical Report.

(6) The administration of medication for the sole purpose of chemical restraint is strictly prohibited.

*Rulemaking Authority 39.407(3)(g), 39.0121, FS. Law Implemented 39.407(1), (3), FS. History– New \_\_\_\_.*

#### **65C-35.003 Parent or Legal Guardian Involvement.**

(1) The dependency case manager or child protective investigator shall facilitate the child's parent (where parental rights are intact) or legal guardian attending of medical appointments, and the parent or legal guardian obtaining of information about medications, possible side effects, and other details about treatment listed in (2) of this section.

(2) If the parent or legal guardian is unable to attend medical appointments, the dependency case manager or child protective investigator shall convey the information to the parent or legal guardian. The information conveyed shall include:

- (a) A copy of the Medical Report;
- (b) The method of administering the medication;
- (c) An explanation of the nature and purpose of the treatment;
- (d) The recognized side effects, risks and contraindications of the medication;
- (e) Drug-interaction precautions;
- (f) Possible side effects of stopping the medication;
- (g) Alternative treatment options,
- (h) How treatment will be monitored; and

(i) The physician's plan to reduce and/or eliminate ongoing administration of the medication.

(3) When the court has authorized the provision of psychotropic medication, the dependency case manager or child protective investigator must continue to try to involve the parent or legal guardian in the child's ongoing medical treatment planning, and shall continue to facilitate the parent or legal guardian's communication with the prescribing physician so that the parent or legal guardian has the opportunity to consider whether to authorize the provision of any new medications or dosages, unless the parent or legal guardian's rights have been terminated.

(4) The dependency case manager or child protective investigator shall make the following minimum efforts to enable the prescribing physician to obtain express and informed consent from the child's parent or legal guardian:

(a) Attempt to invite the parent or legal guardian to the doctor's appointment and to offer them transportation to the appointment, if necessary;

(b) Attempt to contact the parent or legal guardian as soon as possible upon learning of the recommendation for psychotropic medication by the prescribing physician and provide specific information to them on how and when to contact the physician; and

(c) Facilitate transportation arrangements to the appointment and/or telephone calls between the parent or legal guardian and the prescribing physician.

(5) If there are any changes in medication, including dosage or dosage range, that go beyond the existing authorization, the dependency case manager or child protective investigator will be responsible for facilitating discussions between the prescribing physician and the parent or legal guardian or pursuing a new court authorization. The dependency case manager or child protective investigator shall inform Children's Legal Services and all parties of any changes in medication and shall provide Children's Legal Services with a copy of the amended Medical Report.

*Rulemaking Authority 39.407(3)(g) FS. Law Implemented 39.407(3), FS. History— New \_\_\_\_.*

#### **65C-35.004 Caregiver Involvement.**

(1) The child's caregiver must make every effort to attend medical appointments and obtain the information about medications, possible side effects, and other information as listed in (2) of this section. Caregivers do not have the authority to provide express and informed consent for psychotropic medication. However, nothing in this rule prohibits caregivers from expressing their concerns regarding prescribing psychotropic medication to children.

(2) If the caregiver is unable to attend, the child's appointment should be rescheduled to allow attendance. If the appointment cannot be rescheduled, the dependency case manager or child protective investigator shall attend the appointment and convey the information to the caregiver. The information to be conveyed shall include:

- (a) A copy of the Medical Report;
- (b) The method of administering the medication;
- (c) An explanation of the nature and purpose of the treatment;
- (d) The recognized side effects, risks and contraindications of the medication;
- (e) Drug-interaction precautions;
- (f) Possible side effects of stopping the medication;
- (g) Alternative treatment options;
- (h) How treatment will be monitored; and
- (i) The physician's plan to reduce and/or eliminate ongoing administration of the medication.

(3) The caregiver shall monitor the child, and report to the prescribing physician and the dependency case manager any behavior or other incident that could indicate an adverse side effect.

*Rulemaking Authority 39.407(3)(g) FS. Law Implemented 39.407(3) History— New \_\_\_\_\_.*

#### **65C-35.005 Child Involvement in Treatment Planning.**

(1) The prescribing physician must discuss the proposed course of treatment with the child, in developmentally appropriate language the child can understand. The physician must explain the risks and benefits of the prescribed medication to the child.

(2) The physician will discuss the medication proposed, the reason for the medication, and the signs or symptoms to report to caregivers. Information discussed with the child shall include:

- (a) Alternative treatment options;
- (b) The method of administering the medication;
- (c) An explanation of the nature and purpose of the treatment;
- (d) The recognized side effects, risks and contraindications of the medication;
- (e) Drug-interaction precautions;
- (f) Possible side effects of stopping the medication;

(g) How treatment will be monitored; and

(h) The physician's plan to reduce and/or eliminate ongoing administration of the medication.

(3) The prescribing physician must ascertain the child's position with regard to the medication and consider whether to revise the recommendation based on the child's input. The child's position must be noted in the Medical Report.

(a) It is the physician's responsibility to inform the child as clearly as possible and as fully as is appropriate. However, the child's failure to understand or assent to treatment is not, by itself, sufficient to prevent the administration of a prescribed medication. Likewise, the child's assent to the treatment is not a substitute for express and informed consent by a parent or legal guardian or a court order. Children are more likely to be successful in treatment if they fully understand and participate in treatment decisions.

(b) If a child of sufficient age, understanding, and maturity declines to assent to the psychotropic medication, the dependency case manager or child protective investigator will request that Children's Legal Services request an attorney be appointed for the child.

(4) Whenever the child requests the discontinuation of the psychotropic medication, and the prescribing physician refuses to order the discontinuation, the dependency case manager or child protective investigator will request that Children's Legal Services request an attorney be appointed for the child. Children's Legal Services will notice all parties and file a motion with the court presenting the child's concerns, the physician's recommendation, and any other relevant information, pursuant to Section 39.407(3) (d) 1., F.S.

*Rulemaking Authority 39.407(3)(g) FS. Law Implemented 39.407, (3) FS. History— New \_\_\_\_.*

#### **65C-35.006 Taking a Child Into Custody Who Is Taking Psychotropic Medication.**

(1) When a child protective investigator takes a child into custody they must determine whether the child is taking psychotropic medications. If so, the child protective investigator must ascertain the purpose of the medication, the name and phone number of the prescribing physician, the dosage, instructions regarding administration (e.g., timing, whether to administer with food), and any other information.

(a) The child protective investigator must seek written authorization from the parent or legal guardian to continue administration of currently prescribed psychotropic medications. This authorization is good for the first 28 calendar days the child is in shelter.



(b) The child protective investigator must take the following actions:

1. If the medication is in its original container, and clearly marked as a current prescription for the child, the medication must continue to be provided to the child. The protective investigator must notify or cause to be notified the parent or legal guardian that the medication is being provided to the child.

2. If the medication is not in the original container, is not clearly marked and current, a physician or pharmacist must confirm that the medication is the child's prescription and that the prescription is current. Current means the child is or should be taking the medication at the time the child is taken into custody, according to the prescription information.

3. If there is a pre-existing prescription and the other conditions regarding the medication's container, labeling, and current date above are met, the psychotropic medication must be provided to the child as prescribed, but only until the emergency shelter hearing is held as required by Section 39.407(3)(b)1., F.S.

4. The child protective investigator may determine that the medication does not meet the conditions of being "in the original container, clearly marked, and current." In this case, the medication provided by the parent or legal guardian will not be administered to the child until the identity of the medication is confirmed by a physician or pharmacist.

5. If a physician or pharmacist is unable to confirm the identity of any provided medications, the child will be evaluated by a physician at the child health check-up (within 72 hours). The physician will determine the on-going need for a currently prescribed psychotropic medication.

(2) To continue administering the medication beyond the date of the shelter hearing, the child protective investigator must have a determination from a physician licensed under chapter 458 or chapter 459, Florida Statutes, that the child should continue the psychotropic medication. This determination must be transmitted in writing to Children's Legal Services.

(3) If the dependency case manager or the child protective investigator is unable to contact the prescribing physician prior to the shelter hearing, the information on the medication bottle may be used by the court as evidence of the intent of the prescribing physician to continue the medication until medical advice can be obtained by the dependency case manager or child protective investigator.

(4) In the absence of parent or legal guardian authorization, when a physician determines the child should continue psychotropic medication, Children's Legal Services must file a motion requesting that continuation of the

medication be determined at the shelter hearing. The motion must indicate the prescribing physician's reasons for wanting to continue the medication and provide the court with any other available information relevant to the request.

(5) Authorization in a shelter order to continue the medication shall be valid only until the arraignment hearing on the petition for dependency, or for 28 calendar days following the date of removal, whichever occurs first.

(6) Within 28 calendar days of removal, or no later than the arraignment hearing on the petition for dependency, whichever occurs first, the child must be evaluated by a physician to determine whether it is appropriate to continue the medication.

(7) All actions taken by the child protective investigator will be entered into FSFN within three (3) business days of receipt of the parent or legal guardian authorization or court order approving the medication.

(8) The parent or legal guardian authorization to continue a psychotropic medication that was obtained at the point of a child's removal is separate from the general "Consent for Treatment and Release of Information". The general consent allows ordinary and necessary medical and dental care, to include immunizations, tuberculin testing, and well child care. The administration of psychotropic medication is considered an extraordinary procedure for which parental informed consent or a court order is required by law.

*Rulemaking Authority 39.407(3)(g) FS. Law Implemented 39.407(1),(2), (3) FS. History– New \_\_\_\_.*

**65C-35.007 Authority to Provide Psychotropic Medications to Children in Out-of-Home Care Placements.**

(1) Parents or legal guardians retain the right to consent to or decline the administration of psychotropic medications for children taken into state care until such time as their parental rights, or court ordered guardianship or custodial rights, have been terminated.

(2) If the parents' or guardians' legal rights have been terminated; their identity or location is unknown; or they decline to approve administration of psychotropic medication, and any party believes that administration of the medication is in the best interest of the child and medically necessary, then authorization to treat with psychotropic medication must be pursued through a court order. Children's Legal Services must file a motion in court that will allow the court to "hear" the request and upon consideration of the facts, circumstances, and law, authorize the

provision of the medication. Court authorization must occur before the psychotropic medication is administered to the child except in the circumstances described in 65C-35.010.

(3) In no case may the dependency case manager, child protective investigator, the child's caregiver, representatives from the Department of Juvenile Justice, or staff from Residential Treatment Centers provide express and informed consent for a child in out-of-home care to be prescribed a psychotropic medication.

(4) The dependency case manager or child protective investigator must assist the prescribing physician in obtaining express and informed consent and must take steps as required in 65C-35.003 (4) to include the parent or legal guardian in the child's consultation with the prescribing physician.

(5) All details about prescribed psychotropic medications, updates (including changes in dosage or physician prescribed cessation of the medication), and all actions taken by the dependency case manager or child protective investigator, will be entered into FSFN by the dependency case manager or child protective investigator within three (3) business days of the action.

(6) If a child on psychotropic medication is moved from an out-of-home placement and placed into another out-of-home placement, the dependency case manager or child protective investigator must obtain the child's Resource Record and any psychotropic prescription medication currently taken by the child. The dependency case manager or child protective investigator must provide the caregiver receiving the child sufficient information about the medication, as provided below, to ensure that the medication is continued as directed by the prescribing physician. The dependency case manager or child protective investigator shall obtain the medication in labeled medication bottles, inventory the medications provided, and transport the medications to the child's new caregiver. At no time shall the medication be handed to the child. The information provided to the caregiver shall include, at a minimum:

- (a) The full name of the child for whom the medication is prescribed;
- (b) The condition and purpose for which the medication is prescribed for the child;
- (c) The prescribing physician's name and contact information;
- (d) The pharmacy from which the prescription was obtained and the contact information;
- (e) The prescription number;
- (f) The drug name and dosage;
- (g) The times, frequency and method of administration, and if the dosages vary at different times;

(h) Any identified side effects, risks and contraindications (including possible side effects of stopping the medication);

(i) Any other specific instructions regarding the medication;

(j) The physician's plan to reduce and/or eliminate ongoing administration of the medication; and

(k) A space for the caregiver to sign and date the medication inventory to indicate receipt of the child's medication.

(7) If the child is moved from an out-of-home placement and placed into another out-of-home placement and the medication is in an unlabeled container or prescription information is insufficient, the dependency case manager or child protective investigator shall contact the prescribing physician to ensure the proper identification and labeling of the medication or to arrange for a medical evaluation in order that treatment not be interrupted.

(8) Whenever a child in out-of-home care is receiving psychotropic medications pursuant to express and informed consent by the parent or legal guardian or as authorized by an order of the court, the Department shall fully inform the court of the child's medical and behavioral status at each subsequent Judicial Review hearing, and shall furnish copies of all pertinent medical records contained in the child's Resource Record that have been generated since the previous court hearing, including the Medical Report.

(9) When court authorization is needed to provide psychotropic medication, the dependency case manager or child protective investigator shall provide Children's Legal Services a written report that documents efforts made to enable the prescribing physician to obtain express and informed consent from the child's parent or legal guardian. This report must include:

(a) Dates and time the dependency case manager or child protective investigator attempted to contact the parent or legal guardian by phone or other means upon learning of the recommendation for psychotropic medication by the prescribing physician.

(b) Dates, times, and methods used to attempt to contact the parent or legal guardian and provide them with specific information for how and when to contact the physician.

(c) Efforts to facilitate transportation arrangements to the appointment and/or telephone calls between the parent or legal guardian and the prescribing physician.

*Rulemaking Authority 39.407(3)(g) FS. Law Implemented 39.407(2), (3), FS. History-- New \_\_\_\_.*

**65C-35.008 Parent or Legal Guardian Declines to Consent to or Withdraws Consent for the Provision of Psychotropic Medication.**

(1) If the parent or legal guardian declines to authorize the provision of psychotropic medication, or withdraws consent that was previously provided, the parent or legal guardian's decision, and any reason provided therefore, must be recorded in the Medical Report. If the prescribing physician determines that the parent or legal guardian cannot provide express and informed consent, the basis for that determination must be recorded in the Medical Report. In either event, the following steps must be taken:

(a) The dependency case manager shall consult with the prescribing physician within one (1) business day of being notified that the parent will not authorize the provision of psychotropic medication, withdraws consent, or is found by the prescribing physician to lack the ability to provide express and informed consent.

(b) If the prescribing physician determines that the medication is medically necessary for the child despite the lack of authorization, the prescribing physician must include the reasons for recommending the administration of the medication in the Medical Report.

(c) The dependency case manager must obtain a completed Medical Report from the prescribing physician.

(d) Within three (3) business days of receiving the Medical Report from the prescribing physician, the dependency case manager must submit the Medical Report and any supporting documentation to Children's Legal Services, with a request for legal action to obtain a court order authorizing the administration of the prescribed medication.

(e) Children's Legal Services must file a motion in court that will allow the court to "hear" the request and upon consideration of the facts, circumstances, and law, determine whether to authorize the provision of the medication. Children's Legal Services shall notify all parties. Court authorization must occur before the psychotropic medication is administered to the child.

*Rulemaking Authority 39.407(3)(g) FS. Law Implemented 39.407(1), (2), (3) FS. History— New \_\_\_\_.*

**65C-35.009 Parent or Legal Guardian Rights Terminated; Parent or Legal Guardian Refuses to Participate; or Parent or Legal Guardian Location or Identity Unknown.**

(1) Whenever the parent or legal guardian rights have been terminated, the parent/legal guardian refuses to participate in the child's treatment, or the parent or legal guardian's location or identity is unknown or cannot

reasonably be ascertained, the Department must seek court approval for the administration of psychotropic medication.

(2) The dependency case manager or child protective investigator must obtain from the prescribing physician the completed Medical Report.

(3) Within three (3) business days of receiving the Medical Report from the prescribing physician, the dependency case manager or child protective investigator must submit the Medical Report and other documentation to Children's Legal Services, with a request for court authorization to administer the prescribed medication.

(4) Children's Legal Services must file a motion in court that will allow the court to "hear" the request and upon consideration of the facts, circumstances, and law, authorize the provision of the medication. Children's Legal Services shall notify all parties. Court authorization must occur before the psychotropic medication is administered to the child.

*Rulemaking Authority 39.407(3)(g,) FS. Law Implemented 39.407(3), FS. History– New \_\_\_\_\_.*

#### **65C-35.010 Emergency Administration of Psychotropic Medication.**

(1) Psychotropic medications may be administered in advance of a court order or parental authorization under two circumstances, as described in Section 39.407(3)(e), F.S.:

(a) If the prescribing physician certifies that delay in providing the prescribed psychotropic medication would more likely than not cause significant harm to the child. This certification shall be in writing on the Medical Report form.

(b) If the child is in a hospital, Crisis Stabilization Unit (CSU) or Psychiatric Residential Treatment Center.

(2) The dependency case manager or child protective investigator must assist the prescribing physician in obtaining express and informed consent and must take steps as required in 65C-35.003 (4) to include the parent or legal guardian in the child's consultation with the prescribing physician.

(3) If express and informed consent has not been obtained, the dependency case manager or child protective investigator must obtain a completed copy of the Medical Report that is signed by a treating physician and provide it to Children's Legal Services in time for a motion to be filed by Children's Legal Services within three (3) business days of beginning the medication, as required in Section 39.407(3)(e)1., F.S.. This report shall also be provided to the child's Guardian Ad Litem, the child's lawyer and all other parties.

(a) Children's Legal Services shall submit a motion to the court within three (3) business days of the initiation of the medication, and shall schedule the motion to be heard at the next regularly scheduled court hearing, or within 30 calendar days after the date of the prescription, whichever occurs sooner. All parties shall be notified within three (3) business days.

(b) If any party objects to the motion the court shall hold a hearing within seven (7) calendar days.

(c) Medication information will be entered into FSFN within three (3) business days of beginning the medication.

*Rulemaking Authority 39.407(3)(g) FS. Law Implemented 39.407(1), (2), (3) FS. History— New \_\_\_\_.*

#### **65C-35.011 Medication Administration and Monitoring.**

(1) Psychotropic medications will be administered only by the child's caregivers. Children who are age and developmentally appropriate must be given the choice to self administer medication under the supervision of the caregiver or school personnel. Children assessed as appropriate to self administer medication must be educated on the following:

- (a) The method of administering the medication;
- (b) The recognized side effects, risks and contraindications of the medication;
- (c) Drug-interaction precautions;
- (d) Possible side effects of stopping the medication; and
- (e) How medication administration will be supervised by the caregiver.

(2) The dependency case manager or other designee will attend medication reviews as requested by the prescribing physician and/or agency.

(3) The monitoring of the use of psychotropic medication provided to children will be a joint responsibility among the prescribing physician, caregiver, dependency case manager or child protective investigator, and the supervisor.

(4) The dependency case manager or child protective investigator is responsible for implementing the medication plan developed by the prescribing physician. The dependency case manager or child protective investigator will arrange for any additional medical evaluations and laboratory tests required. All information will

be added to the child's Resource Record. Results of evaluations and tests will be reported to Children's Legal Services, all parties, and the prescribing physician.

(5) Any person with information that calls into question the child's health and safety, including but not limited to the signs or symptoms of side effects or adverse reactions to the medication, shall immediately bring that information to the attention of the prescribing physician and child protective investigator's or dependency case manager's supervisor, and emergency services arranged as appropriate to protect the child's safety and well being. This information shall be provided to Children's Legal Services, the court, and all parties within three (3) business days of the reported concerns.

(6) The dependency case manager or child protective investigator, the supervisor, and the caregiver have joint responsibility to assure the physician's directions and intent as documented in the completed Medical Report and Medication Treatment Plan are implemented.

(7) The Department or its contracted service providers will develop locally approved medication logs for documenting the administration of psychotropic medications and any side effects or adverse reactions.

(8) Dependency case manager supervisors and child protective investigator supervisors shall provide on-going review and oversight of children prescribed psychotropic medications.

(9) The Department may address the efficacy of psychotropic medication through requirements in lead agency contracts, including but not limited to the utilization of pre-consent reviews or second opinions by child psychiatrists.

(10) Lead agencies shall develop and implement protocols which ensure collaboration among those responsible for a child's care, specifically addressing the use of psychotropic medication and the need to share all relevant information with all parties involved in the child's care..

*Rulemaking Authority 39.407(3)(g), 39.0121 FS. Law Implemented 39.407(2), (3), FS. History— New \_\_\_\_.*

#### **65C-35.012 Requests for Second Opinions.**

(1) The child protective investigator or dependency case manager may seek a second medical opinion at any time after consultation with a supervisor as to the need for a second opinion.

(2) When any party files a motion requesting that the court order a second medical opinion, the court may order the Department or its contracted service provider to obtain a second opinion within a reasonable timeframe as



established by the court. Within one (1) business day of the court's order, the child protective investigator or the dependency case manager will make a referral for an appointment for the second opinion.

(3) The child protective investigator or dependency case manager must obtain the second opinion within twenty-one (21) calendar days of receipt of the court order.

*Rulemaking Authority 39.407(3)(g) FS. Law Implemented 39.407(3)(d), FS. History– New \_\_\_\_.*

#### **65C-35.013 Medical Report.**

(1) If a court order is required to obtain authorization to administer psychotropic medication, the prescribing physician must complete and sign the Medical Report form that is incorporated by reference into Rule 65C-35, F.A.C.. The physician may submit a medical report on a form of their choice as long as the form includes all information required on the Medical Report that is incorporated by reference into Rule 65C-35, F.A.C..

*Rulemaking Authority 39.407(3)(g) FS. Law Implemented 39.407(3)(c) FS. History– New \_\_\_\_.*