

IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT  
IN AND FOR BROWARD COUNTY, FLORIDA

IN THE INTEREST OF:

DEPENDENCY DIVISION / DA

All Children in the Custody of the Department of  
Children and Families, District X, in the Division of  
the Honorable Judge John A. Frusciante.

JUDGE : JOHN A. FRUSCIANTE

OMNIBUS ORDER RELATING TO "MEDICAL PASSPORTS"  
AND HEALTH HISTORY

The following individuals and organizations were present for an emergency medical related review hearing on July 20, 2001, regarding a minor child in this Dependency Division and for which a separate Order was entered.

Present before the Court were the Office of the Attorney General, Children's Legal Services; Michelle Austin, Esq., representing the Department of Children and Families; the Guardian Ad Litem, Robert A. Lawrence, Esq.; the Guardian Ad Litem Program, Colleen Landy and Program attorneys, Erica Kumer, Esq., and Chris Connally, Esq.; Bernadette Brown, Dependency Court Liaison for the School Board of Broward County; Linda Krause and her supervisor, Deborah Goldman, for Henderson Mental Health's targeted case management program; Nellie Alfonso for Mentor of Florida, Inc.; Dr. Fran Korn of the Sexual Assault Treatment Center; Dr. Antoinette Appel, Forensic Neuropsychologist; Richard Komando, Esq., Attorney Ad Litem, and Andrea L. Moore, Esq., Attorney Ad Litem.

On August 16, 2001, a hearing was held regarding a proposed Omnibus Order and the following individuals were present: Mary Allegretti, Deputy District Administrator for the DCF District 10; Gilbert Perez, Managing Attorney for Children's Legal Services, Office of the Attorney General; Charles M. Fahlbusch, OAG; Andrea L. Moore, Attorney Ad Litem; Richard Komando, Attorney Ad Litem; Howard Talenfeld, Esq.; Dr. Antoinette Appel, Forensic Neuropsychologist; David Bazeran, Esq., Legal Aid of Broward County; Laverne Pinkney, Esq., DCF Chief Legal Counsel, District 10; Erica Kumer, Esq., Guardian Ad Litem Program Attorney; and Janice Deeb, Guardian Ad Litem Program Case Coordinator.

All parties and individuals participated in the discussion of the Court's concerns and its Order. No party or individual objected to the hearing of the issue nor the entry of the concept of this Order.

I

This Court has grown increasingly concerned about the children in its Division for whom it is asked to consent for medical treatment, including the administration of psychotropic medication. Medical information provided to this Court is often minimal. More troubling, however, is that no information, scant information or misinformation has reportedly been provided to doctors who are asked to treat these children. In this Court's experience and opinion, this situation places the children at an unreasonable risk of harm.

The importance of records, especially health records, is a matter of common knowledge. All of us go to the doctors and are asked if we have allergies, have had surgeries, and have family histories of physical or mental illness. Our doctors need that information in order to make informed decisions and treat us appropriately. It is no different for the children brought before this Court - children who have been committed to the custody of the Department of Children and Families.

The problems created by the lack of a concise, complete and accurate medical history are compounded in many of our cases because it appears that each time the Department of Children and Families changes the child's residential provider or program, the child's treating physician, psychiatrist, psychologist and other professionals all change as well. Although this Court agrees with one of the experts who suggested it would be in the best interest of each child if one primary care physician was to follow him or her in foster care, such a requirement appears to, at this time, be beyond the scope of reality.

In the opinion of this Court, there must be a summary collection of accurate and complete medical, psychiatric and psychological information which should be available to treating and medical personnel and to this Court for judicial reviews, motions and hearings related to medical issues and the approval of administration of psychotropic medications. Equally important, summary information must be readily available to each professional working with the child and every caregiver, Guardian Ad Litem, and Attorney Ad Litem. The guide and process for this occurring has already been established. The compilation and maintenance of these records is required in a number of sections of the Florida Administrative Code including, but not limited to 65C-12.007 FAC and 65C-13.010 FAC and 65C-13.016 FAC. Specifically, the Florida Administrative Code provision related to health care for foster children outlines the information to be compiled as well as requiring that information accompany the child on all health care provider visits. 65C-13.016 FAC. The foster care counselor (now called the family services counselor) is required to review this record quarterly (i.e. every 90 days) to insure that the information is current, legible and accurate. 65C-13.016(1)(f)(5)FAC.

This Court takes notice that in the case before it on July 20, 2001, the Child Resource Record and Medical Passport<sup>1</sup>, provided to the Attorney Ad Litem, were blank. This Court has had other hearings in which there were no records, inaccurate or incomplete records. This lack of medical information has jeopardized the health, safety and welfare of the children of this Division.

This Court's concern about this issue is well known to the Department of Children and Families. In individual cases, the Court has entered orders about the Child Resource Records and Medical Passports. At a recent Dependency Court Improvement Project Meeting, the Court specifically reminded the Department of Children and Families and others that history and information regarding medication and treatment must be provided to the hospitals when children are admitted under the "Baker Act" procedures. Nevertheless, the testimony of the Department of Children and Families in the underlying case was that no medical history, including psychotropic medication information, was provided to the "Baker Act" receiving hospital for at least two days after the child's admission and then only upon reminder from the Attorney Ad Litem. The Court received a report from the treating psychiatrist at the "Baker Act" hospital that this particular child was being administered an antipsychotic medication even though there was no Court Order approving that medication and in spite of concerns that the child has a seizure disorder which may render the particular medication contraindicated. (It is unclear if the psychiatrist knew of the seizure disorder when selecting the medication.)

## II

This Court, therefore, enters the following Omnibus Order Relating to Medical Passports and Health History. This Court expects and requires the DCF to completely comply with Florida Administrative Code 65(C)12.001(18) for all new children entering Shelter/Foster Care in this Court's Dependency Division. This court further orders the DCF to update and fulfill, within 90 days, these requirements for all existing children in cases within this Court's division. This Court acknowledges that because the DCF has, in the past, failed to comply with its own procedural guidelines as detailed in the Florida Administrative Code, it may be impossible in some existing cases to recreate all the required medical history. This Court, however, orders the Department to make every diligent effort to recreate that information, as detailed below, from the time a child entered into shelter/foster care.

The DCF is ordered to have the following information immediately available for all medical and mental health related personnel within ninety (90) days of this Order. This

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<sup>1</sup> As defined in Florida Administrative Code 65C-12.00(18), the medical passport is a "written health history of a child in shelter status or foster care, which is used to document health care. The medical passport is to be kept with the child's caregiver (in the child's resource record) and updated at each health care provider visit."

information shall also be available for this Court at health related hearings and when psychotropic medication approval is being sought.

The Medical Passport (health information) required for this Division shall, at a minimum, contain the following:

- a. The names and telephone numbers of all physicians who have treated the minor child, and the respective dates and purpose of treatment;
- b. Any and all known medical operation(s) and procedure(s) the minor child has undergone, including but not limited to, psychiatric and psychological consultations, and the respective date(s) of said operation(s) and procedure(s) or treatment;
- c. Any and all known hospitalization(s), and the respective date(s), location, treating physician(s), and reason for said hospitalization;
- d. Any and all known medication previously and currently prescribed for the child, including the date(s) that the prescription was first administered to the date(s) that said prescription was discontinued, the dosage and frequency of administration; and any subsequent re-prescribing of each medication;
- e. Any and all known allergies and negative reactions to medication;
- f. The name and phone number of a contact person from the Department of Children and Families or one of its agents who is currently responsible for the child; as well as all such individuals who had the same responsibility previously;
- g. The local after hours Department of Children and Families emergency contact phone number(s);

The medical history shall be kept current, accurate and complete from the time of any Shelter Hearing forward. Diligent efforts should be made to learn relevant history from the birth to date of Shelter. The failure of any biological parent or caregiver to cooperate in compiling medical history for the child from the period prior to Shelter should be reported to the Court at an appropriate hearing.

Failure to have the above information available for treating doctors and health related personnel (as well as this Court) ninety (90) days from the date of this Order will subject the DCF and/or its agents to contempt proceedings. If the DCF can not fulfill its obligations under this Order they shall, in any individual case, state in writing to this Court the reasons for their noncompliance. Notice shall be given to this Court within the ninety (90) day period.

This Court seeks to be clear that any and every child in this Division must have this "Medical Passport." The Department of Children and Families has long known of its legal duty to gather and keep this information and the need for it to be accurate and current. The

compilation of this health history is necessary to determine issues brought before treating medical and mental health personnel as well as issues presented to this Court - Issues critical to protecting the health, safety and welfare of the children.

DONE AND ORDERED at Fort Lauderdale, Florida, Broward County, this 17 day of August, 2001.

  
JOHN A. FRUSCIANTE  
CIRCUIT COURT JUDGE

Copies furnished to:

Department of Children and Families  
Guardian Ad Litem Program  
Office of the Attorney General, Children's Legal Services, DCF  
Bernadette Brown, Dependency Court Liaison for School Board of Broward County  
Dr. Fran Korn  
Dr. Antoinette Appel  
Richard Komando, Esq.  
Andrea L. Moore, Esq.  
Lisa Peters, Kids in Distress, Inc.  
All Special Public Defenders representing parents and children in this Division