

To: Oregon Judicial Department

As Director of Oregon's Department of Human Services Division of Children, Adults and Families (CAF), I'm writing to you because there are important changes in the Oregon statutes and administrative policies relating to psychotropic medication use for children who are in foster care or residing in treatment programs.

CAF is working hard to ensure that children in our care receive all the services they need to address their mental health and other health needs. We have made significant gains in ensuring these children receive timely mental health assessments and are working on other efforts such as the Oregon Wraparound Initiative to advance the delivery of comprehensive services to children with behavioral health needs.

In 2009, the Oregon legislature passed House Bill 3114, which amended Oregon Revised Statute 418.571 concerning psychotropic medications for children in foster care. The full text of the law, which goes into effect on June 30, 2010, can be found [www.leg.state.or.us/09reg/measpdf/hb3100.dir/hb3114.en.pdf](http://www.leg.state.or.us/09reg/measpdf/hb3100.dir/hb3114.en.pdf).

The new law holds CAF responsible for the following:

- 1) A mental health assessment must be done before any child in foster care receives more than one new psychotropic medication or any antipsychotic medication, except in cases of urgent medical need;
- 2) An annual review of psychotropic medications is required for all children under the age of 6 on psychotropic medications or who are receiving more than two psychotropic medications. This annual review will be done by the Oregon Medicaid Drug Use Review (DUR) Program in concert with CAF medical personnel.

There is also major change related to consent. Pursuant to legal consultation indicating that psychotropic medication must be treated as a special procedure, starting July 1, 2010, the foster parent or caregiver will no longer be able to consent to a child receiving a psychotropic medication. Instead, DHS is assigning the responsibility for providing consent for psychotropic medications to the local Child Welfare Program Manager or his or her Designee.

When a new psychotropic medication is prescribed, the foster parent may no longer provide consent -- but they will be able to receive the prescription, which can be filled only after consent is provided by the Child Welfare Manager or Designee.

DHS is putting in place a process by which the foster parent will bring a Psychotropic Medication Consent Form and a fax cover sheet to the medical appointment. If a psychotropic

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medication is prescribed, the medical provider will be asked to complete the form during the visit and fax it to the appropriate CAF branch office. The Psychotropic Medication Consent Form will be reviewed by the Child Welfare Program Manager or Designee, who will fax a signed form back to the licensed medical provider and inform the foster parent that consent has, or has not, been given.

The expected turnaround time for consent is within 3 working days. Only after the foster parent has received notice of consent may he or she fill the prescription and give the psychotropic medication to the child.

**Note:** These changes do not affect DHS Child Welfare's requirement to inform the courts and legal parties in a timely manner when a child is prescribed a psychotropic medication.

We have included a flow chart diagram of the new consent process with this letter, and we ask you to familiarize yourself with the steps. DHS Child Welfare has been fortunate to have had a highly engaged multi-disciplinary stakeholder work group, including physicians, foster parents, mental health providers and other agency representatives, which met over the past 3 months to help draft the new administrative rule language for both the implementation of HB 3114 and the new consent procedures. To review the new CAF Psychotropic Medication draft rules, visit <http://www.dhs.state.or.us/policy/childwelfare/drafts/drafts.htm#ie331>

Above all, I want to express how much we appreciate the contribution you make every day in the lives of our state's most vulnerable children. We look forward to continuing to collaborate with you to help them grow into healthy adults.

If you have any questions about details of the new law or the consent procedures, please feel free to contact Teri Shultz, RN, Nurse Manager at 503-945-6620.

With appreciation,

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