

110 CMR: DEPARTMENT OF CHILDREN AND FAMILIES

110 CMR 2.00: GLOSSARY

Whenever used throughout 110 CMR, the following words shall have the following meanings, unless the context plainly requires otherwise.

Abuse means the non-accidental commission of any act by a caretaker upon a child under age 18 which causes, or creates a substantial risk of physical or emotional injury, or constitutes a sexual offense under the laws of the Commonwealth or any sexual contact between a caretaker and a child under the care of that individual. Abuse is not dependent upon location (i.e., abuse can occur while the child is in an out-of-home or in-home setting.)

Antipsychotic Drugs shall mean drugs which are considered neuroleptics, in that they are used to treat certain psychotic symptoms. Such antipsychotic drugs shall include, but shall not be limited to:

<u>Generic Name</u>	<u>Trade Name</u>
1 Acetophenazine	Tindal
2 Amoxapine	Asendin
3 Butaperazine	Repoise
4 Carphenazine	Proketazine
5 Chlorpromazine	Thorazine
6 Chlorprothizene	Taractan
7 Fluphenazine	Prolixin, Permitil
8 Haloperidol	Haldol
9 Loxapine	Loxitane
10 Mesoridazine	Serentil
11 Molindone	Moban
12 Perphenazine	Trilafon, Etrafon, Triavil
13 Pimozide	Orap
14 Piperacetezine	Quide
15 Prochlorperazine	Compazine
16 Promazine	Sparine
17 Reserpine	—
18 Thioridazine	Mellaril
19 Thiothixene	Navane
20 Trifluoperazine	Stelazine
21 Triflupromazine	Vesprin

Antipsychotic drugs include the above-listed drugs by whatever official name, common or usual name, chemical name, or brand name they may be designated. All isomers, esters, ethers, and salts of; and any combination of; drugs listed above are deemed to be antipsychotic drugs.

Area means one of the 29 geographic areas of the Department of Children and Families.

Area Director means the director of one of the Areas of the Department of Children and Families.

Caretaker means a child's:

- (a) parent
- (b) stepparent
- (c) guardian
- (d) any household member entrusted with the responsibility for a child's health or welfare
- (e) any other person entrusted with the responsibility for a child's health or welfare whether in the child's home, a relative's home, a school setting, a day care setting (including babysitting), a foster home, a group care facility, or any other comparable setting. As such "caretaker" includes (but is not limited to) school teachers, babysitters, school bus drivers, camp counselors, etc. The "caretaker" definition is meant to be construed broadly and inclusively to encompass any person who is, at the time in question, entrusted with a degree of responsibility for the child. This specifically includes a caretaker who is him/herself a child (i.e. a babysitter under 18 years of age).

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Central Registry means a subset of the Department's computerized system. Every area and regional office of the Department, as well as the Central Office of the Department, shall have access to the computerized system, via terminals and printers which shall be located in each such office. The computerized system shall have security procedures which protect the data contained therein against unauthorized users or access. The Department's Central Registry shall consist exclusively of data located within the designated subset of the Department's computerized system. No files, papers, index card systems, or any other form of document shall constitute a part of the Department's Central Registry.

Child means a person who has not reached his/her 18th birthday, but does not include unborn children.

Child in the Care of the Department means a child receiving services from the Department pursuant to a Voluntary Placement Agreement.

Child in the Custody of the Department means a child placed in the Department's custody through court order, including an order under a Child in Need of Services (CHINS) petition, or through adoption surrender.

Closed Referral means that a client may be referred to a provider only by the Department, i.e., the provider may only be reimbursed by the Department for delivering the service(s) if the client was so referred. Compare, "Open Referral".

Commissioner means the Commissioner of the Department of Children and Families.

Contract means any agreement between the Department and a provider, and shall specifically include Purchase of Service Agreements, Master Agreements, etc.

Day means calendar day, unless noted to the contrary (i.e. "working day").

Department means the Department of Children and Families.

Designee means any Department employee designated by means of a written memorandum, bearing the written approval of the Commissioner or Deputy Commissioner, and filed with the General Counsel of the Department.

Diseases Dangerous to the Public Health is defined under 105 CMR 300.100 and 105 CMR 310.020 and includes the following:

- (a) Actinomycosis
- (b) AIDS (Acquired Immune Deficiency Syndrome)
- (c) Animal Bite
- (d) Anthrax
- (e) Brucellosis (Undulant Fever)
- (f) Chickenpox (Varicella)
- (g) Cholera
- (h) Diarrhea of the Newborn
- (i) Diphtheria

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- (j) Dysentery, Amebic
- (k) Dysentery, Bacillary (Shigellosis)
- (l) Encephalitis (specify if known)
- (m) Food Poisoning by:
 - 1. Botulism
 - 2. Mushrooms and other poisonous vegetable and animal products
 - 3. Mineral or organic poisons such as arsenic, lead, etc.
 - 4. Staphylococcal
- (n) German Measles (Rubella)
- (o) Glanders
- (p) Hepatitis, Viral (includes Infectious and Serum Hepatitis)
- (q) Impetigo of the Newborn
- (r) Leprosy
- (s) Leptospirosis (including Weil's Disease)
- (t) Lymphocytic Choriomeningitis
- (u) Malaria
- (v) Measles (Rubeola)
- (w) Meningitis (B. Influenzal, meningococcal, pneumococcal, streptococcal and other forms)
- (x) Mumps
- (y) Ophthalmia Neonatorum
- (z) Plague
- (aa) Poliomyelitis
- (bb) Psittacosis
- (cc) Rabies — Human
- (dd) Rickettsialpox
- (ee) Rocky Mountain Spotted Fever
- (ff) Salmonellosis (except Typhi and Paratyphi)
- (gg) Salmonellosis: Typhi and Paratyphi (Typhoid and Paratyphoid Fevers)
- (hh) Smallpox (Variola)
- (ii) Smallpox Vaccination Reactions — Generalized Vaccinia, Eczema Vaccinatum
- (jj) Streptococcal Infections (including Erysipelas Scarlet Fever, Streptococcal Sore Throat, etc)
- (kk) Tetanus
- (ll) Trachoma
- (mm) Trichinosis
- (nn) Tuberculosis
- (oo) Tularemia
- (pp) Typhus Fever (including Brills' Disease)
- (qq) Whooping Cough (pertussis)
- (rr) Yellow Fever

Electroconvulsive Treatment or ECT means a process that passes a controlled electric current into the brain to induce a seizure.

Emergency means a situation where the failure to take immediate action would place a family and/or child at substantial risk of serious and imminent family disruption, or death, or serious emotional or physical injury.

Extraordinary Medical Treatment shall include No-code orders, sterilization, electroconvulsive treatment, antipsychotic medication, withholding or providing life-prolonging treatment (as defined in this Glossary), and any other treatment determined to be extraordinary by using the following analysis:

Recognizing that it is impossible to itemize every extraordinary medical treatment, the Department shall utilize the following factors to determine whether a medical treatment is extraordinary:

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(a) Complexity, risk and novelty of the proposed treatment: The more complex the treatment, the greater the risk of death or serious complications, the more experimental the procedure, then the greater the need to determine that the treatment is extraordinary, and to obtain parental consent or to seek judicial approval prior to authorizing treatment. See, *In the Matter of Guardianship of Richard Roe III*, 421 N.E.2d 40, 53 (1981). In *the Matter of Spring*, 405 N.E.2d 115 (1980). In *the Matter of Moe*, 432 N.E.2d 712 (1982).

(b) Possible side effects: The more serious and permanent the side effect, the greater the need to determine that the treatment is extraordinary, and to obtain parental consent or to seek judicial approval prior to authorizing treatment. See, *Superintendent of Belchertown State School v. Saikewicz*, 370 N.E.2d 417 (1977). *Rogers v. Commissioner of DMH*, 390 Mass. 489, 501-502 (1983). In *the Matter of Guardianship of Richard Roe III*, 421 N.E.2d 40(1981). *Custody of a Minor*, 385 Mass. 697, 434 N.E.2d 601 (1982).

(c) Intrusiveness of proposed treatment: The more intrusive the treatment, the greater the need to determine that the treatment is extraordinary, and to obtain parental consent or prior judicial approval. See, *In the Matter of Hier*, 18 Mass. Appeals Court 200 (1984). *Superintendent of Belchertown State School v. Saikewicz*, supra. In *The Matter of Moe*, supra. In *The Matter of Spring*, supra.

(d) Prognosis with and without treatment: The less clear the benefit from the proposed treatment, the greater the need for parental consent or prior judicial approval. See, *Superintendent of Belchertown State School v. Saikewicz*, supra; *Custody of a Minor*, 385 Mass. 697, 434 N.E.2d 601 (1982); In *The Matter of Spring*, supra.

(e) Clarity of professional opinion: The more divided the medical opinion, the greater the need for parental consent or prior judicial approval. See, In *The Matter of Spring*, supra.

(f) Presence or absence of an emergency: In a medical emergency a physician can act without anyone's consent. See, M.G.L. c. 112, § 12F.

(g) Prior judicial involvement: if a court has been involved in past medical decisions, this argues for judicial involvement in any future medical treatment decision, but this is not conclusive. See, In *The Matter of Guardianship of Richard Roe III*, supra at 56.

(h) Conflicting Interests: Where the interests of the decision maker conflict with the interests of the child, the greater the need for obtaining parental consent or prior judicial approval. In *the Matter of Guardianship of Richard Roe III*, 421 N.E.2d 40 (1981).

Family Planning Services means medical, educational and social services, excluding abortion and sterilization, which enable individuals voluntarily to limit family size or plan spacing of children. Family planning services include the below-listed services. See, 106 CMR 269.030(A)(B) and 106 CMR 421.412.

(a) Information and referral (including outreach & follow-up)

(b) Individual and group counseling

(c) A physical examination:

1. for a female, includes thyroid, breast, heart, abdominal, speculum, pelvic, and rectal examinations, and measurements of height, weight and blood pressure;

2. for a male, includes thyroid, heart, genital, abdominal, and rectal examinations, and measurements of height, weight and blood pressure. See, 106 CMR 421.412(2).

(d) A pap smear for females. See, 106 CMR 421.412(3).

(e) Any laboratory test indicated by the child's history or examination. See, 106 CMR 421.412(4).

(f) A medically approved method of contraception. See, 106 CMR 421.427(5).

(g) Medical examinations, consultations, laboratory tests and contraceptive services rendered by a licensed physician

(h) Medical treatment for related conditions, such as venereal diseases or vaginal infections

(i) Prescriptions and medical items related to family planning services including drugs, supplies and devices

(j) Clinical follow-up

Foster Parent Applicant means a person who has applied to be a foster parent and meets the initial eligibility criteria set forth at 110 CMR 7.100.

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Foster Parent means a person approved by the Department to be a foster parent in accordance with 110 CMR 7.100 et seq.

Guardian means the individual, organization or agency which has been appointed guardian of the person by a Court of the Commonwealth, in accordance with M.G.L. c. 201, or a court of competent jurisdiction in another state.

Guardian Ad Litem means the person appointed by a court to serve as an independent investigator for the court, not as an advocate for the ward, in a particular legal proceeding, without control over either the individual's person or property.

Handicapped Person means any person who:

- (a) has a physical or mental impairment which substantially limits one or more of such person's major life activities,
- (b) has a record of such an impairment, or
- (c) is regarded as having such an impairment.

Incompetent means determination made by a court, in accordance with M.G.L. c. 201, that an individual does not have the legal power to direct his personal or financial affairs.

Institutional Abuse or Neglect means abuse or neglect which occurs in any facility for children, including but not limited to group homes, residential or public or private schools, hospitals, detention and treatment facilities, family foster care homes, group day care centers, and family day care homes.

Life-prolonging Treatment, as distinguished from live-saving treatment, means intrusive medical treatment where there is no prospect of recovery. In the Matter of Earle A. Spring, 380 Mass. 629, 405 N.E.2d 115, 120(1980). Recovery does not mean the ability to remain alive but rather life without intolerable suffering. Saikewicz, 373 Mass. 728, 370 N.E.2d 417 (1977).

Mandated Reporters are defined at M.G.L. c. 119, § 51A and include: any physician; medical intern; hospital personnel engaged in the examination, care or treatment of persons; medical examiner; psychologist; emergency medical technician; dentist; nurse; chiropractor; podiatrist; osteopath; public or private school teacher; educational administrator; guidance or family counselor; day care worker or any person paid to care for or work with a child in any public or private facility, or home or program funded by the Commonwealth or licensed pursuant to the provisions of M.G.L. c. 28A, which provides day care or residential services to children or which provides the services of child care resource and referral agencies, voucher management agencies, family day care systems and child care food programs; probation officer; clerk/magistrate of the district courts; parole officer, social worker; foster parent; firefighter; or police officer, office for children licenser, school attendance officer, allied mental health and human services professional as licensed pursuant to the provisions of M.G.L. c. 112, § 165, drug and alcoholism counselor, psychiatrist, and clinical social worker.

Mature Child means a child who is able to understand the circumstances and implications of the situation in which he/she is involved and is able to participate in the decision-making process without excessive anxiety or fear. A child who is 14 years of age or older is presumed to be a mature child. Other relevant sources of law concerning a "mature child" include:

- (a) M.G.L. c. 119, § 21 (CHINS);
- (b) M.G.L. c. 210, § 2 (adoptions);
- (c) M.G.L. c. 112, § 12F (certain medical treatment);
- (d) M.G.L. c. 4, § 7 (general age of majority).

Medical Emergency means any immediately life threatening condition and shall include, but is not limited, to the following conditions.

- (a) severe, profuse bleeding
- (b) choking, blocked airway
- (c) unconsciousness
- (d) cardiac arrest

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- (e) cardio-vascular accident
- (f) any fracture
- (g) extensive burns
- (h) severe cuts
- (i) other similar severe injury
- (j) other sudden signs of serious physical illness
- (k) any condition where delay in treatment will endanger the life, limb or mental well being of the patient. See, M.G.L. c. 112, § 12F.

Possibility that a disease may deteriorate to an irreversible condition at an uncertain but relatively distant date is not an emergency. See, 104 CMR 2.11(3) and In the Matter of Guardianship of Richard Roe, 111, 421 N.E.2d 40, 55; 383 Mass. 415 (1981).

In determining whether a medical emergency exists the relevant time period to be examined begins when the claimed emergency arises, and ends when the individual who seeks to act in the emergency could, with reasonable diligence, obtain parental consent or judicial review, as applicable. See, Roe at 55.

Mental Health Facility means a public or private facility for the in-patient care or treatment or diagnosis or evaluation of mentally ill or mentally retarded persons, except for the Bridgewater State Hospital. See M.G.L. c. 123, § 1. Community residential care facilities for children (as defined at 110 CMR 7.120) are not mental health facilities for purposes of 110 CMR.

Neglect means failure by a caretaker, either deliberately or through negligence or inability, to take those actions necessary to provide a child with minimally adequate food, clothing, shelter, medical care, supervision, emotional stability and growth, or other essential care; provided, however, that such inability is not due solely to inadequate economic resources or solely to the existence of a handicapping condition. This definition is not dependent upon location {i.e., neglect can occur while the child is in an out-of-home or in-home setting.}

No Code order means a medical order regarding a terminally ill patient directing a hospital and its staff not to use heroic medical efforts in the event of cardiac or respiratory failure. Heroic medical efforts include invasive and traumatic life-saving techniques such as intracardial medication, intracardial massage and electric shock treatment. No code orders include "do not resuscitate" orders or orders stated in different language attempting to accomplish substantially the same result as a "no code" order. See, Custody of a Minor, 385 Mass. 697, 434 N.E.2d 601 (1982).

Non-mandated Reporters are all persons who are not mandated reporters.

Open Referral means that a client may be referred to a provider in any fashion (including client self-referral) and that the provider may thereafter be reimbursed by the Department for delivering the service(s), regardless of how the client was referred to the provider. Compare, "Closed Referral".

Outreach means those Department activities conducted in the community to make the community aware of the philosophy of the Department, the variety of social services offered by the Department, the ways to obtain Department services, and the Department's desire to work in conjunction with other community resources and agencies to meet clients' needs. Outreach activity provides a way for the Department to identify existing resources, duplications and gaps in services, and unmet service needs in the community.

Partner means a non-Department entity that is providing cash contributions to a provider, which, when joined with Department funds, result in funding the total cost of one or more services which are provided by a provider.

Preadoptive Parent means a person approved by the Department to be an adoptive parent in accordance with 110 CMR 7.200 et seq.

Pre-adoptive Parent Applicant means a person who has applied to be an adoptive parent and meets the eligibility criteria established by 110 CMR 7.100 and 7.200.

Pre-adoptive Placement means the provision of substitute care by pre-adoptive parents, pending their adoption of the child placed in substitute care with them.

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Provider means any party agreeing by contract with the Department to provide one or more services, or agreeing by a Purchase of Service Agreement to serve Department clients. Some providers provide a comprehensive array of activities and services (investigation, case management, legal services, etc.) which parallel those of the Department. Other providers merely provide a single service (day care, counseling, etc.)

Region means one of the six geographic regions of the Department of Children and Families.

Regional Director means the director of one of the Regions of the Department of Children and Families.

Routine Medical Care shall include but is not limited to the following:

- (a) Allergy Shots.
- (b) Blood Pressure Test. See, 106 CMR 421.445(J).
- (c) Comprehensive Physical Examination — documenting the finding of an unclothed physical examination including a complete system review pertinent to the age of the child, fundoscopic examination of the eyes for children over five years of age, and observation of the teeth and gums for children three years of age or older. See, 106 CMR 421.445(D).
- (d) Dental Care.
- (e) Developmental Assessment — the child's current levels of functioning in the below-listed areas, as appropriate to the child's age. See, 106 CMR 421.445(F).
 - 1. gross motor development, including strength, balance, and locomotion
 - 2. fine motor development, including eye-hand coordination
 - 3. language development, including expression, comprehensive and articulation
 - 4. self-help and self-care skills
 - 5. social interaction and emotional development
 - 6. cognitive skills, including problem-solving and reasoning abilities
- (f) Diseases Dangerous to the Public Health, Treatment of. See, M.G.L. c. 112, § 12F and 105 CMR 300.100.
- (g) Drug Dependency Treatment. See, M.G.L. c. 112, § 12E.
- (h) Family Planning Services. See, 106 CMR 421.401 et seq.
- (i) Fractures, Treatment of
- (j) Hearing Test. See, 106 CMR 421.445(k).
- (k) Immunization — against diphtheria, pertussis, tetanus, measles, poliomyelitis, mumps, rubella and such other communicable diseases as may be specified by the Department of Public Health. See, M.G.L. c. 76, § 15 and 105 CMR 220.100.
 - (l) Laboratory Tests and Special Medical Studies — when determined by the examining physician to be necessary.
- (m) Lead Poisoning Test. See, 106 CMR 421.445(P).
- (n) Nutritional Status Assessment — the evaluation of the child's nutritional health in light of dietary practice and the entire health assessment (that is, history, physical examination, height and weight measurements, and the laboratory tests) and documentation of any nutritional disturbance or dysfunction. See, 106 CMR 421.445(G).
- (o) Pelvic Examination. See, 106 CMR 421.445(O).
- (p) Pregnancy Treatment — except abortion or sterilization. See, M.G.L. c. 112, § 12F.
- (q) Preventive Health Services.
- (r) Psychiatric Assessment, Evaluation, or Treatment on out-patient basis, or up to 90 days on in-patient basis.
- (s) Treatment — commonly prescribed for a specific physical illness, which treatment does not pose risks of permanent serious side effects or risk of death, See, Custody of a Minor, 375 Mass. 733, 379 N.E.2d 1053, 1064 (1978) or is determined not to be extraordinary medical treatment by using the analysis outlined in 110 CMR.
- (t) Tubercular Skin Test or Chest X-ray.
- (u) Venereal Disease Treatment. See, M.G.L. c. 112, § 12F; 105 CMR 300.140.
- (v) Vision Test. See, 106 CMR 421.445(L).

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Emotional Injury means an impairment to or disorder of the intellectual or psychological capacity of a child as evidenced by observable and substantial reduction in the child's ability to function within a normal range of performance and behavior.

Physical Injury means

- (a) death; or
- (b) fracture of a bone, a subdural hematoma, burns, impairment of any organ, and any other such nontrivial injury; or
- (c) soft tissue swelling or skin bruising depending upon such factors as the child's age, circumstances under which the injury occurred, and the number and location of bruises; or
- (d) addiction to drug at birth; or
- (e) failure to thrive.

Sterilization means any medical procedure, treatment, or operation intended to render an individual permanently incapable of reproducing. See, Matter of Moe, 385 Mass. 555, 432 N.E.2d 712, 716 ft. 3 (1982); 106 CMR 485.002.

Substitute Care means the provision of planned, temporary 24 hour a day care when the parent or principal caretaker is unable or unavailable to provide care on a daily basis. Substitute care encompasses the provision of foster care, community residential care, and supervised independent living. The Department shall protect and promote the basic principle that every child has a right to permanent family by providing substitute care which is time-limited, community-based and in the least restrictive setting possible.

Substitute Judgment means a decision regarding proposed health care made for an individual incapable of consenting to his/her own health care, which would be made by the incapable individual if s/he were capable, taking into account his/her actual interests and preferences and also his/her present and future incapability. See, Rogers v. Commissioner of Dept. of Mental Health, 390 Mass. 489 (1983).

Support means to find after an investigation that there is reasonable cause to believe a report that a child has suffered abuse or neglect inflicted by a caretaker. Support shall mean the same as the earlier phrase Substantiate.

Unsupport means to find after an investigation a lack of reasonable cause to believe a report that a child has suffered abuse or neglect inflicted by a caretaker. Unsupport shall mean the same as the earlier phrase Unsubstantiate.

Venereal Diseases is defined in accordance with 105 CMR 300.100, 105 CMR 300.140 and 105 CMR 340.100 and includes.

- (a) Chancroid
- (b) Gonorrhea
- (c) Granuloma Inguinale
- (d) Lymphogranuloma Venereum
- (e) Syphilis

Volunteer means any person who gives his/her services to the Department without any express or implied promise of remuneration.

Ward means a person who has been adjudicated incompetent and for whom a guardian has been appointed by a Probate Court in accordance with M.G.L. c. 201.

REGULATORY AUTHORITY

110 CMR 2.00: M.G.L. c. 18B.