

§ 7B-308. Authority of medical professionals in abuse cases.

(a) Any physician or administrator of a hospital, clinic, or other medical facility to which a suspected abused juvenile is brought for medical diagnosis or treatment shall have the right, when authorized by the chief district court judge of the district or the judge's designee, to retain physical custody of the juvenile in the facility when the physician who examines the juvenile certifies in writing that the juvenile who is suspected of being abused should remain for medical treatment or that, according to the juvenile's medical evaluation, it is unsafe for the juvenile to return to the juvenile's parent, guardian, custodian, or caretaker. This written certification must be signed by the certifying physician and must include the time and date that the judicial authority to retain custody is given. Copies of the written certification must be appended to the juvenile's medical and judicial records and another copy must be given to the juvenile's parent, guardian, custodian, or caretaker. The right to retain custody in the facility shall exist for up to 12 hours from the time and date contained in the written certification.

(b) Immediately upon receipt of judicial authority to retain custody, the physician, the administrator, or that person's designee shall so notify the director of social services for the county in which the facility is located. The director shall treat this notification as a report of suspected abuse and shall immediately begin an assessment of the case.

(1) If the assessment reveals (i) that it is the opinion of the certifying physician that the juvenile is in need of medical treatment to cure or alleviate physical distress or to prevent the juvenile from suffering serious physical injury, and (ii) that it is the opinion of the physician that the juvenile should for these reasons remain in the custody of the facility for 12 hours, but (iii) that the juvenile's parent, guardian, custodian, or caretaker cannot be reached or, upon request, will not consent to the treatment within the facility, the director shall within the initial 12-hour period file a juvenile petition alleging abuse and setting forth supporting allegations and shall seek a nonsecure custody order. A petition filed and a nonsecure custody order obtained in accordance with this subdivision shall come on for hearing under the regular provisions of this Subchapter unless the director and the certifying physician together voluntarily dismiss the petition.

(2) In all cases except those described in subdivision (1) above, the director shall conduct the assessment and may initiate juvenile proceedings and take all other steps authorized by the regular provisions of this Subchapter. If the director decides not to file a petition, the physician, the administrator, or that person's designee may ask the prosecutor to review this decision according to the provisions of G.S. 7B-305 and G.S. 7B-306.

(c) If, upon hearing, the court determines that the juvenile is found in a county other than the county of legal residence, in accord with G.S. 153A-257, the juvenile may be transferred, in accord with G.S. 7B-903(2), to the custody of the department of social services in the county of residence.

(d) If the court, upon inquiry, determines that the medical treatment rendered was necessary and appropriate, the cost of that treatment may be charged to the parents, guardian, custodian, or caretaker, or, if the parents are unable to pay, to the county of residence in accordance with G.S. 7B-903 and G.S. 7B-904.

(e) Except as otherwise provided, a petition begun under this section shall proceed in like manner with petitions begun under G.S. 7B-302.

(f) The procedures in this section are in addition to, and not in derogation of, the abuse and neglect reporting provisions of G.S. 7B-301 and the temporary custody provisions of G.S. 7B-500. Nothing in this section shall preclude a physician or administrator and a director of

social services from following the procedures of G.S. 7B-301 and G.S. 7B-500 whenever these procedures are more appropriate to the juvenile's circumstances. (1979, c. 815, s. 1; 1981, c. 716, s. 2; 1995, c. 255, s. 1; 1998-202, s. 6; 1999-456, s. 60; 2005-55, s. 8.)