

AN ACT

1 Amending the act of February 13, 1970 (P.L.19, No.10), entitled
2 "An act enabling certain minors to consent to medical, dental
3 and health services, declaring consent unnecessary under
4 certain circumstances," further providing for mental health
5 treatment and for release of medical records.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Sections 1.1 and 1.2 of the act of February 13,
9 1970 (P.L.19, No.10), entitled "An act enabling certain minors
10 to consent to medical, dental and health services, declaring
11 consent unnecessary under certain circumstances," are repealed:

12 [Section 1.1. Mental Health Treatment.--(a) The following
13 shall apply to consent for outpatient treatment:

14 (1) Any minor who is fourteen years of age or older may
15 consent on his or her own behalf to outpatient mental health
16 examination and treatment, and the minor's parent's or legal
17 guardian's consent shall not be necessary.

18 (2) A parent or legal guardian of a minor less than eighteen
19 years of age may consent to voluntary outpatient mental health

1 examination or treatment on behalf of the minor, and the minor's
2 consent shall not be necessary.

3 (3) A minor may not abrogate consent provided by a parent or
4 legal guardian on the minor's behalf, nor may a parent or legal
5 guardian abrogate consent given by the minor on his or her own
6 behalf.

7 (b) The following shall apply to consent for inpatient
8 treatment:

9 (1) A minor's parent or legal guardian may consent to
10 voluntary inpatient treatment pursuant to Article II of the act
11 of July 9, 1976 (P.L.817, No.143), known as the "Mental Health
12 Procedures Act," on behalf of a minor less than eighteen years
13 of age on the recommendation of a physician who has examined the
14 minor. The minor's consent shall not be necessary.

15 (2) Nothing in this section shall be construed as
16 restricting or altering a minor's existing rights, including,
17 but not limited to, those enumerated under the "Mental Health
18 Procedures Act," to consent to voluntary inpatient mental health
19 treatment on his or her own behalf at fourteen years of age or
20 older.

21 (3) Nothing in this section shall be construed as
22 restricting or altering a parent or legal guardian's existing
23 rights to object to a minor's voluntary treatment provided
24 pursuant to the minor's consent on his or her own behalf.

25 (4) A minor may not abrogate consent provided by a parent or
26 legal guardian on the minor's behalf, nor may a parent or legal
27 guardian abrogate consent given by the minor on his or her own
28 behalf.

29 (5) A parent or legal guardian who has provided consent to
30 inpatient treatment under paragraph (1) may revoke that consent,

1 which revocation shall be effective unless the minor who is
2 fourteen to eighteen years of age has provided consent for
3 continued inpatient treatment.

4 (6) A minor who is fourteen to eighteen years of age who has
5 provided consent to inpatient treatment may revoke that consent,
6 which revocation shall be effective unless the parent or legal
7 guardian to the minor has provided for continued treatment under
8 paragraph (1).

9 (7) At the time of admission, the director of the admitting
10 facility or his designee shall provide the minor with an
11 explanation of the nature of the mental health treatment in
12 which he may be involved together with a statement of his
13 rights, including the right to object to treatment by filing a
14 petition with the court. If the minor wishes to exercise this
15 right, the director of the facility or his designee shall
16 provide a form for the minor to provide notice of the request
17 for modification or withdrawal from treatment. The director of
18 the facility or his designee shall file the signed petition with
19 the court.

20 (8) Any minor fourteen years of age or older and under
21 eighteen years of age who has been confined for inpatient
22 treatment on the consent of a parent or legal guardian and who
23 objects to continued inpatient treatment may file a petition in
24 the court of common pleas requesting a withdrawal from or
25 modification of treatment. The court shall promptly appoint an
26 attorney for such minor person and schedule a hearing to be held
27 within seventy-two hours following the filing of the petition,
28 unless continued upon the request of the attorney for the minor,
29 by a judge or mental health review officer who shall determine
30 whether or not the voluntary mental health treatment is in the

1 best interest of the minor. For inpatient treatment to continue
2 against the minor's wishes, the court must find all of the
3 following by clear and convincing evidence:

4 (i) that the minor has a diagnosed mental disorder;

5 (ii) that the disorder is treatable;

6 (iii) that the disorder can be treated in the particular
7 facility where the treatment is taking place; and

8 (iv) that the proposed inpatient treatment setting
9 represents the least restrictive alternative that is medically
10 appropriate.

11 (9) A minor ordered to undergo treatment due to a
12 determination under paragraph (8) shall remain and receive
13 inpatient treatment at the treatment setting designated by the
14 court for a period of up to twenty days. The minor shall be
15 discharged whenever the attending physician determines that the
16 minor no longer is in need of treatment, consent to treatment
17 has been revoked under paragraph (5) or at the end of the time
18 period of the order, whichever occurs first. If the attending
19 physician determines continued inpatient treatment will be
20 necessary at the end of the time period of the order and the
21 minor does not consent to continued inpatient treatment prior to
22 the end of the time period of the order, the court shall conduct
23 a review hearing in accordance with this subsection to determine
24 whether to:

25 (i) release the minor; or

26 (ii) make a subsequent order for inpatient mental health
27 treatment for a period not to exceed sixty days subject to
28 discharge of the minor whenever the attending physician
29 determines that the minor no longer is in need of treatment, or
30 if consent has been revoked under paragraph (5).

1 (10) The procedure for a sixty-day period of treatment under
2 paragraph (9)(ii) shall be repeated until the court determines
3 to release the minor or the minor is discharged in accordance
4 with paragraph (9).

5 (11) Nothing in this subsection shall prevent a
6 nonconsenting parent who has legal custody rights of a minor
7 child to object to the consent given by the other parent to
8 inpatient treatment under paragraph (1) by filing a petition in
9 a court of common pleas in the county where the child resides.
10 The court shall hold a hearing on the objection within seventy-
11 two hours of the filing of the petition.

12 (c) Nothing in subsections (a) and (b) is intended to
13 restrict the rights of a minor who satisfies the conditions of
14 section 1.

15 (d) As used in this section, the following words and phrases
16 shall have the meanings given to them in this subsection:

17 "Court of common pleas" means the court of common pleas in
18 the county where the subject of the proceeding is being treated.

19 "Facility" means any mental health establishment, hospital,
20 clinic, institution, center, day-care center, base service unit,
21 community mental health center, or part thereof, that provides
22 for the diagnosis, treatment, care or rehabilitation of mentally
23 ill persons.

24 "Inpatient treatment" means all mental health treatment that
25 requires full-time or part-time residence in a facility that
26 provides mental health treatment.

27 "Mental health treatment" means a course of treatment,
28 including evaluation, diagnosis, therapy and rehabilitation,
29 designed and administered to alleviate an individual's pain and
30 distress and to maximize the probability of recovery from mental

1 illness. The term also includes care and other services which
2 supplement treatment and aid or promote recovery.

3 Section 1.2. Release of Medical Records.--(a) When a parent
4 or legal guardian has consented to treatment of a minor fourteen
5 years of age or older under section 1.1(a)(2) or (b)(1), the
6 following shall apply to release of the minor's medical records
7 and information:

8 (1) The parent or legal guardian may consent to release of
9 the minor's medical records and information, including records
10 of prior mental health treatment for which the parent or legal
11 guardian had provided consent, to the minor's current mental
12 health treatment provider.

13 (2) If deemed pertinent by the minor's current mental health
14 treatment provider, the release of information under this
15 subsection may include a minor's mental health records and
16 information from prior mental health treatment for which the
17 minor had provided consent to treatment.

18 (3) The parent or legal guardian may consent to the release
19 of the minor's mental health records and information to the
20 primary care provider if, in the judgment of the minor's current
21 mental health treatment provider, such release would not be
22 detrimental to the minor.

23 (b) Release of mental health records and information under
24 subsection (a) shall be limited to release directly from one
25 provider of mental health treatment to another or from the
26 provider of mental health treatment to the primary care
27 provider.

28 (c) The parent or legal guardian who is providing consent to
29 mental health treatment of a minor fourteen years of age or
30 older under section 1.1(a)(2) or (b)(1) shall have the right to

1 information necessary for providing consent to the minor's
2 mental health treatment, including symptoms and conditions to be
3 treated, medications and other treatments to be provided, risks
4 and benefits and expected results.

5 (d) Except to the extent set forth in subsection (a), (b) or
6 (c), the minor shall control the release of the minor's mental
7 health treatment records and information to the extent allowed
8 by law. When a minor has provided consent to outpatient mental
9 health treatment under section 1.1(a)(1), subject to subsection
10 (a)(2), the minor shall control the records of treatment to the
11 same extent as the minor would control the records of inpatient
12 care or involuntary outpatient care under the act of July 9,
13 1976 (P.L.817, No.143), known as the "Mental Health Procedures
14 Act," and its regulations.

15 (e) Consent to release of mental health records for all
16 purposes and in all circumstances other than those provided for
17 in this section shall be subject to the provisions of the
18 "Mental Health Procedures Act" and other applicable Federal and
19 State statutes and regulations.]

20 Section 2. This act shall take effect in 60 days.

