

Treatment Of Minors Without Parental Consent

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... California has been one of the more liberal states when it comes to allowing treatment of a minor without parental consent. Now, as a result of legislation signed by Governor Schwarzenegger in late September 2010, the law will soon significantly expand the rights of minors (twelve years of age or older) to access mental health care or counseling without the consent of a parent. Effective January 1, 2011, minors who are twelve or older will be able to obtain outpatient mental health treatment or counseling from, for example, a licensed marriage and family therapist, licensed clinical social worker, or clinical psychologist provided that the practitioner determines that the minor is mature enough to participate intelligently in such outpatient treatment or counseling. Licensed professional clinical counselors are not as yet covered by this law allowing for treatment of minors without parental consent.

Under current law (2010), the practitioner must additionally be able to determine, as a pre-condition to treatment, that the minor is either the alleged victim of child abuse or that the minor would present a danger of serious physical or mental harm to self or others without such mental health treatment or counseling. This required determination by the practitioner is effectively eliminated by the passage of this new law. The practitioner's burden is therefore substantially lessened, since determining whether or not the minor is able to participate intelligently in mental health treatment is seemingly not a difficult determination.

The law does place some burdens on the practitioner with respect to parental involvement in the mental health treatment of the minor and requires documentation of certain matters by the provider of care. More specifically, the statute requires parental (or guardian) involvement in the treatment of the minor, unless the therapist finds, after consulting with the minor, that such involvement would not be appropriate under the circumstances. The therapist must state in the records whether and when he or she attempted to contact the minor's parent or guardian, and whether the attempt to contact was successful or unsuccessful, or the reason why, in the opinion of the therapist, it would be inappropriate to contact the minor's parent or guardian.

The author of the bill argued that the general requirement of parental consent to provide mental health services to minors was an unnecessary barrier to the treatment of children, where early intervention and prevention is so important. He argued that this barrier was especially harmful to certain populations of youth, such as gay, bisexual, lesbian, and transgender youth, youth from immigrant families, homeless youth, and youth from cultural backgrounds that do not condone receiving mental health services. This change in law, the author argued, will mean that minors do not have to wait until their

mental health deteriorates, and their safety is compromised by suicide, substance abuse, or violence, to receive services. Again, the treating practitioner will no longer have to make determinations regarding the dangerousness of the minor.

What is the status of the law in your state of practice? Are there significant restrictions on treating a minor without parental consent? Should the law be changed to enable greater access to mental health care or counseling for minors?