



1995 ASSEMBLY BILL 755

December 19, 1995 - Introduced by Representatives R. YOUNG, BOCK, KRUG, WASSERMAN, L. YOUNG, SPRINGER, BALDWIN, NOTESTEIN and COGGS, cosponsored by Senators HUELSMAN, RISSER, ROSENZWEIG, BURKE and DARLING. Referred to Committee on Children and Families.

1 **AN ACT** *to renumber and amend* 51.47 (1); *to amend* 46.10 (2m), 51.30 (4) (b)
2 20. (intro.), 51.30 (5) (b) 1., 51.47 (title), 51.47 (2) (intro.), 51.47 (2) (b), 51.47 (3),
3 51.47 (4) and 51.61 (6); and *to create* 51.30 (4) (b) 13m. and 51.47 (1) of the
4 statutes; **relating to:** permitting certain minors to obtain certain mental
5 health services without parental consent, permitting certain minors to refuse
6 access by their parents to certain treatment records and notifying parents of the
7 provision to minors of certain mental health services.

Analysis by the Legislative Reference Bureau

Under current law, a physician or health care facility may provide preventive, diagnostic, assessment, evaluation or treatment services for alcohol or other drug abuse to a minor aged 12 or older without obtaining the consent of or notifying the minor's parent or guardian. Consent of a parent or guardian must be obtained, however, before performing nonemergency surgical procedures, administering certain controlled substances or admitting a minor to an inpatient treatment facility unless the admission is for a period of detoxification that is less than 72 hours. In addition, the physician or health care facility must notify the minor's parent or guardian as soon as practicable about any services that have been provided. Lastly, if the care-giving situation is not one for which consent of the parent or guardian is required, the physician or health care facility must obtain the minor's consent before billing a 3rd party; if the minor refuses to consent, he or she is solely liable for payment.

This bill adds an outpatient treatment program (as defined in the bill) to the kinds of treatment providers that need not obtain a parent's or guardian's consent before rendering certain services for alcohol or other drug abuse to a minor aged 12

or older. The bill expands the types of services that may be rendered to these minors without obtaining parental or guardian consent to include mental health services. Lastly, the bill requires that parental or guardian consent be obtained before administering prescription drugs to a minor as a part of the services.

Under current law, the parent, guardian or person in place of a parent of a minor other than a developmentally disabled minor has the same rights of access to treatment records of the minor for services for mental illness, developmental disability or alcohol or drug dependence as does the minor himself or herself. A developmentally disabled minor aged 14 or older may deny this access by filing a written objection with the record custodian. However, if the parent, guardian or person in the place of a parent is directly involved in providing care to or monitoring treatment of the minor, that parent, guardian or person may, under certain conditions, obtain access to certain of the minor's treatment records.

This bill permits a minor who is not developmentally disabled and is aged 12 or older to deny access by a parent, guardian or person in the place of a parent to the minor's records by filing with the record custodian a written objection to that access. The parent, guardian or person in place of a parent of such a minor who directly provides care to or monitors treatment for the minor may have the same access to records as is currently provided to like parents, guardians or persons in place of a parent of objecting minors who are developmentally disabled. In addition, the parent, guardian or person in the place of a parent of a minor who is permitted to object to records access and who has received certain mental health treatment or services may have access, without the minor's consent, to notice that the minor is or has been a patient of a physician, health care facility or outpatient program that provided mental health treatment or services to the minor. Lastly, the bill requires a physician, health care facility or outpatient treatment program that provides alcohol and other drug abuse or mental health treatment to minors to notify the minor's parent or guardian of any services proposed to be rendered beyond the first 2 sessions before providing a 3rd session of the treatment unless the parent, health care facility or outpatient treatment program determines and documents in the minor's records that the notification would be seriously detrimental to the minor's well-being or is unable with reasonable effort to locate the parent or guardian. The physician, health care facility or outpatient treatment program must immediately notify, however, if the physician, health care facility or outpatient program later determines that the notification would not be detrimental; in such a case, the physician, health care facility or outpatient program must inform the minor that notification will be made.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 46.10 (2m) of the statutes is amended to read:

1 46.10 (2m) The liability specified in sub. (2) shall not apply to tuberculosis
2 patients receiving care, maintenance, services and supplies under ss. 58.06 and s.
3 252.07 to 252.10, to persons 18 and older receiving care, maintenance, services and
4 supplies provided by prisons named in s. 302.01 or to parents of a minor who receives
5 ~~care for alcohol or other drug abuse or mental health services~~ under s. 51.47 (1) (1m)
6 without consent of the minor's parent or guardian.

7 **SECTION 2.** 51.30 (4) (b) 13m. of the statutes is created to read:

8 51.30 (4) (b) 13m. To the parent, guardian or person in the place of a parent of
9 a minor who is receiving or has received mental health preventive, diagnostic,
10 assessment, evaluation or treatment services under s. 51.47 (1m). Information
11 released under this subdivision is limited to notice that the minor is or has been a
12 patient of the physician, health care facility or outpatient treatment program that
13 provided the mental health preventive, diagnostic, assessment, evaluation or
14 treatment services to the minor.

15 **SECTION 3.** 51.30 (4) (b) 20. (intro.) of the statutes is amended to read:

16 51.30 (4) (b) 20. (intro.) Except with respect to the treatment records of a
17 subject individual who is receiving or has received services for alcoholism or drug
18 dependence, to the spouse, parent, guardian, person in the place of a parent, adult
19 child or sibling of a subject individual, if the spouse, parent, guardian, person in the
20 place of a parent, adult child or sibling is directly involved in providing care to or
21 monitoring the treatment of the subject individual and if the involvement is verified
22 by the subject individual's physician, psychologist or by a person other than the
23 spouse, parent, guardian, person in the place of a parent, adult child or sibling who
24 is responsible for providing treatment to the subject individual, in order to assist in
25 the provision of care or monitoring of treatment. Except in an emergency as

1 determined by the person verifying the involvement of the spouse, parent, guardian,
2 person in the place of a parent, adult child or sibling, the request for treatment
3 records under this subdivision shall be in writing, by the requester. Unless the
4 subject individual has been adjudged incompetent under ch. 880, the person
5 verifying the involvement of the spouse, parent, guardian, person in the place of a
6 parent, adult child or sibling shall notify the subject individual about the release of
7 his or her treatment records under this subdivision. Treatment records released
8 under this subdivision are limited to the following:

9 **SECTION 4.** 51.30 (5) (b) 1. of the statutes is amended to read:

10 51.30 (5) (b) 1. The guardian of an individual who is adjudged incompetent
11 under ch. 880 shall have access to the individual's court and treatment records at all
12 times. The parent, guardian or person in the place of a parent of a developmentally
13 disabled minor shall have access to the minor's court and treatment records at all
14 times except in the case of a developmentally disabled minor aged 14 or older who
15 files a written objection to such the access with the custodian of the records. The
16 parent, guardian or person in the place of a parent of ~~other minors~~ a minor who is
17 not developmentally disabled shall have the same rights of access as provided to a
18 subject ~~individuals~~ individual under this section unless the minor, if aged 12 or older,
19 files a written objection to the access with the custodian of the records. If a minor
20 files an objection under this subdivision, the parent, guardian or person in the place
21 of a parent may obtain access only as specified under sub. (4) (b) 13m. and 20.

22 **SECTION 5.** 51.47 (title) of the statutes is amended to read:

23 **51.47 (title) Alcohol and other drug abuse ~~treatment and mental health~~**
24 **services for minors.**

1 **SECTION 6.** 51.47 (1) of the statutes is renumbered 51.47 (1m) and amended to
2 read:

3 51.47 **(1m)** Except as provided in subs. (2) and (3), any physician ~~or~~ health care
4 facility or outpatient treatment program licensed, approved or certified by the state
5 for the provision of health or mental health services may render alcohol and other
6 drug abuse or mental health preventive, diagnostic, assessment, evaluation or
7 treatment services ~~for the abuse of alcohol or other drugs~~ to a minor aged 12 years
8 ~~of age or over~~ older who is in need of the services without obtaining the consent of
9 or notifying the minor's parent or guardian. Unless consent of the minor's parent or
10 guardian is required under sub. (2), the physician ~~or~~ health care facility or
11 outpatient treatment program shall obtain the minor's consent prior to billing a 3rd
12 party for services under this section. If the minor does not consent, the minor shall
13 be solely responsible for paying for the services, which the department shall bill to
14 the minor under s. 46.03 (18) (b).

15 **SECTION 7.** 51.47 (1) of the statutes is created to read:

16 51.47 **(1)** In this section, "outpatient treatment program" means any publicly
17 or privately operated program providing treatment on an outpatient basis to persons
18 for alcohol abuse, other drug dependency, mental illness or developmental disability.

19 **SECTION 8.** 51.47 (2) (intro.) of the statutes is amended to read:

20 51.47 **(2)** (intro.) The physician ~~or~~ health care facility or outpatient treatment
21 program shall obtain the consent of the minor's parent or guardian in each of the
22 following circumstances:

23 **SECTION 9.** 51.47 (2) (b) of the statutes is amended to read:

24 51.47 **(2)** (b) Before administering any prescription drugs or controlled
25 substances to the minor, except to detoxify the minor under par. (c).

1 **SECTION 10.** 51.47 (3) of the statutes is amended to read:

2 51.47 (3) ~~The Except as provided in s. 51.30 (4) (c), the physician or, health care~~
3 ~~facility or outpatient treatment program shall notify the minor's parent or guardian~~
4 ~~of any services rendered under this section as soon as practicable proposed to be~~
5 ~~rendered under this section beyond the first 2 sessions prior to providing the 3rd~~
6 ~~session of treatment under this section unless the physician, health care facility or~~
7 ~~outpatient treatment program determines that notification would be seriously~~
8 ~~detrimental to the minor's well-being and documents this determination in the~~
9 ~~minor's treatment records or is unable with reasonable effort to locate the parent or~~
10 ~~guardian. If the physician, health care facility or outpatient treatment program~~
11 ~~later determines that notification would not be seriously detrimental to the minor's~~
12 ~~well-being, the physician, health care facility or outpatient treatment program shall~~
13 ~~immediately notify the parent or guardian that services have been rendered under~~
14 ~~this section. Prior to notifying the parent or guardian, the physician, health care~~
15 ~~facility or outpatient treatment program shall inform the minor that notification will~~
16 ~~be given to the parent or guardian.~~

17 **SECTION 11.** 51.47 (4) of the statutes is amended to read:

18 51.47 (4) No physician or, health care facility rendering or outpatient
19 ~~treatment program that renders~~ services under sub. (1) ~~(1m)~~ is liable solely because
20 of the lack of consent or notification of the minor's parent or guardian.

21 **SECTION 12.** 51.61 (6) of the statutes is amended to read:

22 51.61 (6) Subject to the rights of patients provided under this chapter, the
23 department, county departments under s. 51.42 or 51.437 and any agency providing
24 services under an agreement with the department or those county departments have
25 the right to use customary and usual treatment techniques and procedures in a

1 reasonable and appropriate manner in the treatment of patients who are receiving
2 services under the mental health system, for the purpose of ameliorating the
3 conditions for which the patients were admitted to the system. The written,
4 informed consent of any patient shall first be obtained, unless the person has been
5 found not competent to refuse medication and treatment under s. 51.61 (1) (g). In
6 the case of a minor, the written, informed consent of the parent or guardian is
7 required as provided under s. 51.47. Except as provided under an order issued under
8 s. 51.14 (3) (h) or (4) (g), if the minor is 14 years of age or older, the written, informed
9 consent of the minor and the minor's parent or guardian is required. A refusal of
10 either a minor 14 years of age or older or the minor's parent or guardian to provide
11 written, informed consent for outpatient mental health treatment is reviewable
12 under s. 51.14.

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(END)