



Board of Nursing

Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Dennis R. Schrader, Acting Secretary

February 2, 2021

The Honorable Delores G. Kelley
Chair, Finance Committee
3 East Miller Office Building
Annapolis, MD 21401-1991

RE: SB 41 – Health – Mental and Emotional Disorders – Consent (Mental Health Access Initiative) – Letter of Opposition

Dear Chair Kelley and Committee Members:

The Maryland Board of Nursing (“the Board”) respectfully submits this letter of opposition for Senate Bill 41 (SB 41) – Health – Mental and Emotional Disorders – Consent (Mental Health Access Initiative). This bill provides that minors, 12 years or older who have been determined to be mature and capable of giving informed consent, have the same capacity as an adult to consent to consultation, diagnosis, and treatment of a mental or emotional disorder by a health care provider or clinic. A health care provider may decide to provide information to a parent, guardian, or custodian under certain provisions of law unless the health care provider believes that the disclosure will lead to harm of the minor or deter the minor from seeking care.

The Board does not believe that minors as young as 12 years old have the capacity to understand the processes that may be required in mental and emotional health treatments. “When allowing a minor to consent to treatment, it is important to remember that although a minor may meet the legal criteria for granting consent, a psychiatrist should still satisfy him or herself that the minor patient possesses the capacity and maturity to understand to what he or she is consenting.”¹

The bill language is ambiguous in that it does not define how a health care provider would determine a minor “to be mature and capable of giving informed consent.” Maturity can be displayed in numerous ways and unless clearly defined would be assessed variably by each health care provider. The ultimate effect of this bill would be that a child, as young as 12 years old, could be consenting to a treatment without understanding the risk, benefits, or alternatives. Children are extremely impressionable and may feel pressured to consent. While some minors possess an adult-like intelligence, there are still many intricacies around receiving a consultation, diagnosis, and subsequent treatment for a mental or emotional disorder.

For the reasons discussed above, the Board of Nursing respectfully submits this letter of opposition to SB 41.

[1] McNary A. “Consent to Treatment of Minors.” *Innovations in Clinical Neuroscience*. Mar – Apr 2014.
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4008301/>

I hope this information is useful. For more information, please contact Iman Farid, Health Policy Analyst, at (410) 585 – 1536 (iman.farid@maryland.gov) or Rhonda Scott, Deputy Director, at (410) 585 – 1953 (rhonda.scott2@maryland.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "G. Hicks", written in a cursive style.

Gary N. Hicks
Board President

The opinion of the Board expressed in this document does not necessarily reflect that of the Department of Health or the Administration.