



Board of Nursing

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

February 16, 2021

The Honorable Shane E. Pendergrass
Chair, Health and Government Operations Committee
Room 241 House Office Building
Annapolis, MD 21401-1991

RE: HB 132 – Health – Mental and Emotional Disorders – Consent (Mental Health Access Initiative) – Letter of Opposition

Dear Chair Pendergrass:

The Maryland Board of Nursing (“the Board”) respectfully submits this letter of opposition for HB 132 – 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 for HB 132.

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 be '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.