



February 12, 2021

The Honorable Delores G. Pendergrass
House Health & Government Operations Committee
Room 241, House Office Building
Annapolis, MD 21401

RE: Oppose – HB 132: Mental Health Access Initiative

Dear Chairman Pendergrass and Honorable Members of the Committee:

The Maryland Psychiatric Society (MPS) and the Washington Psychiatric Society (WPS) are state medical organizations whose physician members specialize in diagnosing, treating, and preventing mental illnesses, including substance use disorders. Formed more than sixty-five years ago to support the needs of psychiatrists and their patients, both organizations work to ensure available, accessible, and comprehensive quality mental health resources for all Maryland citizens; and strives through public education to dispel the stigma and discrimination of those suffering from a mental illness. As the district branches of the American Psychiatric Association covering the state of Maryland, MPS and WPS represent over 1000 psychiatrists and physicians currently in psychiatric training.

MPS and WPS oppose House Bill 132: Health – Mental and Emotional Disorders – Consent (Mental Health Access Initiative) (HB 132) as many children under the age of sixteen, and especially as young as twelve years of age, lack the capacity as adults to make some of these important mental health decisions. The United States Supreme Court has long recognized that children possess characteristics that make them unique and consistently distinguish them from adults when ruling on juvenile matters. The Court understands that children lack maturity and responsibility, experience, perspective, and judgment that may cause them to make poor choices. Children's ability to understand the world around them is often limited. Because of these unique characteristics, the law often places limits on children as a class, such as preventing them from marrying without parental consent, or from entering binding contracts. These limitations reflect an "understanding that the differentiating characteristics of youth are universal" and that "children cannot be viewed simply as miniature adults."

HB 123 takes a different approach and arbitrarily tasks mental health providers with determining a minor "to be mature and capable of giving informed consent." Such capacity assessments go well beyond a mere conversation with the minor and are potentially complicated. MPS and WPS would contend that capacity assessments are not even possible if the provider does not have a parent's or guardian's consent to conduct them.

More importantly, almost every effective strategy at treating younger children with mental illness benefits from the involvement of the parent or guardian. Parent or guardian involvement



undisputedly increases the effectiveness of most therapies and some interventions require such participation to even occur. Starting a child in treatment and then later involving a parent or guardian would result in a highly problematic dynamic between the mental health provider and parent or guardian that would be difficult to repair. Even in the rare cases, in which a competent child is interested in care and a guardian opposes that decision, the guardian's involvement is a must. The guardian's absence and family conflict most often is the predominant problem that must be addressed in care.

An important part of the provision of mental health services is the ability to coordinate care when additional services are necessary. Assisting with educational advocacy or accessing psychiatric services, adjunctive mental health services or higher levels of care would become exceedingly complicated without guardian involvement. Children can access school counseling services as part of their educational resources. If there is a need for more intensive mental health services, the school counselor can work with the child and family to enroll in services and if necessary, help the child advocate for such services. Finally, creating such a system will result in questions about billing. It seems incongruous that a mental health provider can, on one hand, enroll a child in care without guardian consent, yet on the other hand bill the guardian's insurance provider for the services.

From the initial discussions of this issue, before a bill was even drafted, MPS and WPS believed that the purpose of this legislation was to allow children to access meaningful mental health resources in the school setting. This can be accomplished with focused amendments to the Maryland Education Article and not this broad approach of amending the Maryland Health General Article.

For these reasons, MPS and WPS respectfully ask the committee for an unfavorable report on HB 132. If you have any questions with regard to this testimony, please feel free to contact Thomas Tompsett, Jr. at tommy.tompsett@mdlobbyist.com

Respectfully submitted,
The Maryland Psychiatric Society and the Washington Psychiatric Society
Joint Legislative Action Committee