Hawaii's Minor Consent Law: What you need to know

Young people may seek mental health treatment without parents for a variety of reasons, the most worrisome of which is thoughts of suicide. Parents usually seek treatment on their child's behalf but some minors may not be comfortable telling their parents about their problems. Hawaii's Minor Consent Law allows minors, 14 years or older, to consent to outpatient mental health treatment.

MINOR CONSENT LAW

The minor consent law, Act 37 SLH 2020, allows minors 14 years of age or older, to consent to outpatient mental health services without the consent, knowledge or participation of their parents or legal guardians, upon consultation and agreement of their licensed therapist. Neither the minor nor their parents or legal guardian can be held liable for payment for these services. Licensed therapist may receive insurance reimbursement for these services by billing the minor's family health plan, and must inform the insurance plan that services are minor-initiated. Upon receiving notification from the therapist, the health plan cannot disclose to the minor's parents or legal guardians that minor-initiated mental health services were rendered.

FOR YOUTH, 14 YEARS AND OLDER

If in crisis, call Hawaii CARES 1-800-753-6879

- Youth, 14 years or older can ask for and receive mental health services on their own. When the youth and their therapist agree not to disclose treatment information to parents or legal guardians, the youth may be asked to sign an agreement for non-disclosure. The youth, parents or legal guardians cannot be required to pay out of pocket to receive these services but information about the youth's family's health plan may be needed for the therapist to be paid for their time. Non-disclosure is temporary until the youth and the therapist agree that non-disclosure is no longer needed or when the youth or the therapist wants to withdraw from the agreement.

- Minor initiated mental health services are for outpatient services only and not for inpatient or residential treatment or medications.

FOR THERAPISTS

- Hawaii State licensed mental health counselors, marriage & family therapists, clinical social workers, psychologists, psychiatrists and advanced practice registered nurses specializing in psychiatry may provide and/or supervise mental health professionals to do minor-initiated mental health counseling without parental or legal guardian consent.

- It is recommended that therapists clarify the limits of mental health confidentiality at the onset of treatment; and on an ongoing basis, assess and document the minor's maturity, ability to participate in treatment intelligently, and the severity of the minor's condition and safety concerns because the minor cannot consent to medications or inpatient services. Also, a minor cannot cancel a parent's or legal guardian's consent given on the minor's behalf, nor can parents/legal guardians cancel the minor's consent.

- When the therapist and the minor agree that mental health treatment should not be disclosed to parents or legal guardians, an agreement may be signed to signify that the decision was made jointly, and to document the length of the temporary non-disclosure. The agreement may be filed in the minor's record along with documentation of the reasons for non-disclosure.

- The therapist may submit an insurance claim to the minor's family health plan but the law does not allow billing for out-of-pocket payments, copayments, coinsurance, or deductibles.

- The therapist must inform the family's health plan not to disclose minor-initiated mental health services information *prior to billing for minor-initiated mental health services*. Contact health plans for notification forms. Most forms require identifying the minor's family plan, the therapists name, organization and NPI# and may ask for a copy of the aforementioned agreement. Should the agreement be extended or withdrawn, the therapist must notify the health plan of extended or withdrawn dates of the non-disclosure agreement.