

**Department of Legislative Services**  
Maryland General Assembly  
2012 Session

**FISCAL AND POLICY NOTE**  
**Revised**

Senate Bill 72

(Senator Kelley)

Finance

Health and Government Operations

**Medical and Dental Treatment - Consent by Minors and Protections for Licensed  
Health Care Practitioners**

This bill extends to a minor the same capacity had by an adult to consent to (1) dental treatment, if the minor is either married or the parent of a child; and (2) dental *or* medical treatment, if the minor is self-supporting and is living separate and apart from the minor's parent, parents, or guardian. The bill also extends freedom from liability – in specified circumstances in which a minor does not have capacity to consent to medical treatment – to any licensed health care practitioner who treats the minor. In addition, the bill authorizes any licensed health care practitioner to provide specified information regarding a minor's medical treatment to the minor's parent, step-parent, guardian, or custodian.

**Fiscal Summary**

**State Effect:** The bill does not directly affect governmental finances or operations.

**Local Effect:** None.

**Small Business Effect:** None.

**Analysis**

**Bill Summary/Current Law:** Under current law, a minor has the same capacity as an adult to consent to medical treatment if the minor is either married or the parent of a child. In addition, a minor has the same capacity as an adult to consent to (1) treatment for or advice about venereal disease, pregnancy, contraception other than sterilization, and (in general) drug abuse and alcoholism; (2) physical examination and treatment of

injuries from, or to obtain evidence of, an alleged rape or sexual offense; and (3) initial medical screening and physical examination on and after admission of the minor into a detention center. A minor also has the same capacity as an adult to consent to medical treatment if, in the judgment of the attending physician, the life or health of the minor would be affected adversely by a delay of treatment to obtain another individual's consent.

Current law specifies that a physician or psychologist (or an individual under the direction of a physician or psychologist) who treats a minor is generally not liable to civil damages or subject to any criminal or disciplinary penalty solely because the minor did not have capacity to consent. The bill alters this freedom from liability to apply to any licensed health care practitioner.

Current law also states that, without the consent of or over the express objection of a minor, the attending physician, psychologist, or – on advice or direction of the attending physician or psychologist – a medical staff member of a hospital or public clinic is authorized (but not required) to give certain information regarding treatment (except for information about an abortion) to a minor's parent, step-parent, guardian, or custodian. The bill alters this authority to apply to any licensed health care practitioner.

**Additional Comments:** Assuming that a “licensed health care practitioner” includes any individual licensed under the Health Occupations Article, the bill generally expands the category of individuals who are protected from liability and who may provide information regarding a minor's medical treatment. However, the bill also repeals language that protects from liability individuals working under the direction of a physician or psychologist. Thus, the bill excludes individuals such as psychology associates and medical students that are protected under current law. With regard to the provision of information regarding a minor's medical treatment, the bill also repeals language authorizing a (possibly unlicensed) medical staff member of a hospital or public clinic to provide such information on the advice or direction of an attending physician or psychologist.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** Although designated as a cross file, HB 68 (Delegates Rosenberg and Hubbard - Health and Government Operations) is not identical.

**Information Source(s):** Department of Health and Mental Hygiene, Department of Legislative Services

**Fiscal Note History:** First Reader - January 23, 2012  
ncs/mwc Revised - Senate Third Reader - March 23, 2012

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Analysis by: Jennifer A. Ellick

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510