

Chapter 743

(Senate Bill 41)

AN ACT concerning

**Health – Mental and Emotional Disorders – Consent
(Mental Health Access Initiative)**

FOR the purpose of altering the minimum age at which a minor has the same capacity as an adult to consent to consultation, diagnosis, and certain treatment of a mental or emotional disorder by a health care provider or clinic; providing that a health care provider may decide to provide certain information to a certain parent, guardian, or custodian under certain provisions of law unless the health care provider believes that the disclosure will lead to harm to the minor or deter the minor from seeking care; and generally relating to the consultation, diagnosis, and treatment of mental and emotional disorders and consent by minors.

BY repealing and reenacting, with amendments,
 Article – Health – General
 Section 20–104
 Annotated Code of Maryland
 (2019 Replacement Volume and 2020 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 That the Laws of Maryland read as follows:

Article – Health – General

20–104.

(a) In this section, “health care provider” means an individual who is:

(1) Licensed under the Health Occupations Article; and

(2) Acting within the scope of the individual’s license to diagnose and treat mental and emotional disorders.

(b) (1) **[A] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A** minor who is **[16] 12** years old or older **WHO IS DETERMINED BY A HEALTH CARE PROVIDER TO BE MATURE AND CAPABLE OF GIVING INFORMED CONSENT** has the same capacity as an adult to consent to consultation, diagnosis, and treatment of a mental or emotional disorder by **[a] THE** health care provider or a clinic.

(2) The capacity of a minor to consent to consultation, diagnosis, and treatment of a mental or emotional disorder by a health care provider or a clinic under

paragraph (1) of this subsection does not include the capacity to [refuse]:

(I) REFUSE consultation, diagnosis, or treatment for a mental or emotional disorder for which a parent, guardian, or custodian of the minor has given consent; **OR**

(II) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, IF THE MINOR IS UNDER THE AGE OF 16 YEARS, CONSENT TO THE USE OF PRESCRIPTION MEDICATIONS TO TREAT A MENTAL OR EMOTIONAL DISORDER.

(c) (1) Except as provided in paragraph (2) of this subsection **AND SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION**, without the consent of or over the express objection of a minor, the health care provider or, on advice or direction of the health care provider, a member of the medical staff of a hospital or public clinic may, but need not, give a parent, guardian, or custodian of the minor or the spouse of the parent information about treatment needed by the minor or provided to the minor under this section.

(2) **[If] SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, IF** a health care provider is on a treatment team for a minor that is headed by a physician, the physician heading the treatment team shall decide whether a parent, guardian, or custodian of the minor or the spouse of the parent should receive information about treatment needed by the minor or provided to the minor under this section.

(3) A HEALTH CARE PROVIDER MAY DECIDE TO PROVIDE INFORMATION TO A PARENT, GUARDIAN, OR CUSTODIAN OF A MINOR UNDER PARAGRAPHS (1) AND (2) OF THIS SUBSECTION UNLESS THE HEALTH CARE PROVIDER BELIEVES THAT THE DISCLOSURE WILL LEAD TO HARM TO THE MINOR OR DETER THE MINOR FROM SEEKING CARE.

(d) Unless the parent, guardian, or custodian of a minor consents to consultation, diagnosis, or treatment of the minor, the parent, guardian, or custodian is not liable for any costs of the consultation, diagnosis, or treatment of the minor under this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2021.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 30, 2021.