



Board of Nursing

Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Robert R. Neall,
Secretary

February 26, 2020

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

RE: HB 782 - Health – Mental and Emotional Disorders – Consent (Mental Health Access Initiative) – Letter of Opposition

Dear Chair Pendergrass and Committee Members:

The Maryland Board of Nursing (“the Board”) is submitting this letter of opposition for HB 782 - Health – Mental and Emotional Disorders – Consent (Mental Health Access Initiative). This bill provides that all minors, rather than only minors who are 16 years old or older, 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. It provides 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.

The Board does not believe that all minors 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 There is also no language in this bill requiring that the health care provider assess the minor’s mental capacity or maturity to consent. HB 782 discounts the importance of the maturity of the minor when obtaining consent. The bill removes the requirement that a minor 16 years or older has 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 a clinic.

The ultimate effect of this bill would be that a child of any age could be consenting to a treatment for many reasons; some that do not involve understanding the risk, benefits or alternatives. Young children are extremely impressionable and may feel pressured to consent. While some minors possess an adult-like intelligence, this bill does not account for those

¹ Innovations in Clinical Neuroscience, Mar – Apr 2014, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4008301/>

children who lack the capacity and maturity to understand what they would be consenting to. Additionally, there is currently no language in the proposed legislation to include individuals who may be mentally incapacitated and unable to make a decision for themselves and for their care.

For the reasons discussed above, the Board of Nursing submits this letter of concern for HB 782.

For more information, please contact Rhonda Scott, Deputy Director, at (410) – 585 – 1953 (rhonda.scott2@maryland.gov) or Karen E. B. Evans, Executive Director, at (410) – 585 – 1914 (karene.evans@maryland.gov).

Sincerely,

A handwritten signature in cursive script that reads "Gary N. Hicks". The signature is written in dark ink and is positioned above the printed name and title.

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.