

Government Relations Institute 2004
Laws of the Land
Submitted by Tamara Marsico
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Overview of House Bill 826

House Bill 826 addresses consent for mental health treatment by minors between the ages of 14 and 18. The initial act of February 13, 1970 required minors (over the age of 14) to give consent for their mental health treatment. This act allowed minors to access treatment without the consent of their parents. It is a normal development process for adolescent to seek people other than parents to confide in and this act may have permitted some adolescent to find professional support. It is also a reality that many adolescents do not understand the benefits of mental health services and may reject much needed treatment. The act of 1970 made it difficult for families and mental health providers to engage adolescents in voluntary treatment.

The proposed House Bill 826 continues to permit minors to access treatment without the consent of their parents but also permits parents to give consent for their adolescent's treatment without the agreement of their child. This revision to the age of consent could potentially facilitate much needed mental health treatment for minors.

History

There is an 8 year long history of attempts to change the age of consent for mental health services in Pennsylvania. The initial Bill amended the Mental Health Procedures Act and because of this, encountered much opposition from both consumer and provider groups. The present Bill amends the Minors Consent Act with the intent of avoiding the risk to rights established in the Mental Health Procedures Act.

The Bill was referred to committee on Judiciary, March 11, 2003. Many legislators are identified as introducing the bill with Representative Maitland listed as the prime sponsor.

It is of interest to note that Senate bill 137 was introduced on March 25, 2003 by Senator Mowery to the Public Health and Welfare Committee. The language is almost identical to that of HB 286.

The Pennsylvania Medical Society has been very active in studying both Bills and recommending language. The resulting language in the bills is intended to mirror that in the Mental Health Procedure Act so that they will work in conjunction with the Act. For example, if the parent gives consent to treatment, the child has the right to a court hearing.

The following organizations have been active in the development and analysis of the bills: PCPA, NAMI, Disabilities Law Project, DPW, ACLU and others from across the state.

(Note: Much of my information comes from my phone interview with Dr. Gwen Lehman.)

Positions

The Psychiatric Society of Pennsylvania endorses this Bill as it establishes both the child's right to consent to treatment and the parents' right to seek and consent to their child's treatment. Gwen Lehman as the Executive Director of this organization has been active since the conception of this Bill. She believes that those opposed to this concept are people who do not have an understanding of mental illness but rather view the problem as rebellious adolescents and object to hospitalization against the adolescents' wishes. The Child and Adolescents in the Psychiatric Society believe that permitting parental consent will get seriously ill adolescents the treatment they very much need. Medical Necessity Criteria will continue to be a requirement so that children cannot be inappropriately placed in this level of care. This may also be a more cost effective intervention because delaying treatment could result in exacerbated symptoms requiring a longer course of perhaps involuntary treatment at a later time. Dr. Steven Jewell, the President of the Pennsylvania Child and Adolescent Committee of the Psychiatric Society, was involved in the wording of the section that addresses confidentiality of client records. Parents will be limited in their rights to release information to entities other than for the purposes of continuity of treatment and treatment planning. The Psychiatric Society proposes that the parents can only be permitted to release records to Mental Health Providers and PCP's.

The Mental Health Association is opposed to this bill because they believe that it will result in a greater utilization of inpatient services thereby using Medical Assistance monies that should be spent on intensive community services. They cite the research that demonstrates that treatment in natural environment is more effective.

PCPA supports the legislation but suggests strengthening language to explicitly state that least restrictive environment is preferable.

Summary of Impressions

I currently have administrative over site of 3 Partial Hospital Programs and have managed child and adolescent inpatient programs in the past. I see this is a long awaited positive piece of legislation that will get services to adolescents when they are in critical need. My experience with 13 year olds who were resistant to inpatient hospitalization on admission was that they connected both with peers and built therapeutic relationships with staff in very brief periods of time. Most of these kids benefited greatly from the safety and intensity of treatment that inpatient programs provide. I believe that medical necessity criteria is very narrow today, permitting only those kids at risk for harm to self

or other to be admitted. I do not think that this will change the utilization of less restrictive services, in fact I believe that these kids may be more open and committed to other levels of care having completed inpatient treatment.

Action

The bill was in Committee on 3/31/04. It was expected to pass but new language was introduced regarding the confidentiality of records. There is expected movement on this bill this month. I believe the changes that would be enacted with this Bill have significant implications for work with Adolescents and their families. I intend to celebrate its passage!

Addendum

On April 13th both the Senate and House versions of the bill were passed out of committee and are identical in language. Anticipated at this point is the possibility of amendments on the floor that may require a court hearing for every situation in which a parents wants to admit a child (14-18) into an inpatient program. This would delay the admission for up to 72 hours until after the court hearing which could significantly impede the beneficial impact of intense treatment during a critical crisis period.

References

The Pennsylvania General Assembly Website – www.legis.stat.pa.us

The General Assembly of Pennsylvania House Bill No. 826 Session of 2003

The General Assembly of Pennsylvania Senate Bill No. 137 Session of 2003

Interview by phone – Dr. Gwen Lehman, Executive Director, Psychiatric Society of Pennsylvania.