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State Law Regarding Minor Consent to Psychiatric Commitment

Table 1 contains the policy on the commitment of minors to psychiatric care for a variety of states. Within this sample, seven out of eleven states allow minors under 18 to be committed “voluntarily” without the minor’s consent, but with parental consent.

Table 1	
State	State Laws Sample for Involuntary Hospitalization
Alabama	A minor under 18 years is a child and can be committed “voluntarily” without consent, but with parental consent (§ 12-15-90).
Alaska	A minor under 18 years is a child and can be committed “voluntarily” without consent, but with parental consent (Sec. 47.30.775).
Arizona	A minor under 18 years is a child and can be committed “voluntarily” without consent, but with parental consent (Arizona Revised Code §8-273).
Illinois	A minor 12 and older who objects must be discharged within 15 days, unless objection is withdrawn or a petition is filed for court review (405 ILCS 5/3-501).
Maryland	A minor under 18 years is a child and can be committed “voluntarily” without consent, but with parental consent which will not exceed 20 days (Maryland Code § 10-610).
Massachusetts	Minors 16 and 17 years old may be involuntary committed without consent, but with parental consent, not exceeding 90 days (M.G.L. c. 231, § 85P).
Minnesota	At age 16 and 17, if parent gives consent but child refuses, an independent examination is conducted to determine necessity to commit (Minnesota Statutes 253B.04).
Pennsylvania	A minor under 18 years is a child and can be committed “voluntarily” without consent, but with parental consent (50 Pennsylvania Code).
Utah	A minor under 18 years is a child and can be committed “voluntarily” without consent, but with parental consent (62A-15-705).
Virginia	A minor 14 years and older admitted without their consent, but the consent of their parent, shall be examined involuntarily (§ 16.1-339).
Washington	Under 18 is a child and can be committed without consent, needs parental consent, but may petition to be released (Revised Code of Washington 71.34).
Source: Compiled by authors from state statutes.	

Relevant Studies

One difficult issue that often arises is that children who need mental health treatment are often the ones with the least capacity to make appropriate decisions for themselves. For instance, child psychiatrists find that children raised in a healthy environment have a better understanding about treatment options. These children also are more likely to have parents who will make the best decisions for their children. Children raised in an environment of neglect, child abuse, or sexual abuse are more likely to lack the proper skills to make appropriate decisions for themselves. These children are also the most likely to need to make decisions of consent, as their guardians will most likely not protect the child's best interest and may try to influence their child's decisions for their own benefit (Fergert and Tan 2004).

One study found that children have a harder time understanding consent forms when questions are open-ended. Children tend to best understand what they are consenting to when questions regarding consent are more detailed (Miller *et al.* 2004).

Another study established a "small but statistically significant" difference between consent in adults and 14 year-olds. This difference was seen in treatments involving side effects leading to changes in body image and physical attractiveness. In these examples, 12.5% of 14 year-olds rejected the treatments, significantly more than the adult sample (Weithorn 1982).

Relevant Clinical Standards

According to age-related studies on children's ability to make their own medical decisions, "[f]ourteen year olds did not significantly differ from 18-year-olds (Weithorn & Campbell, 1982), and 15-year-olds were no less competent than adults (Grisso & Vierling, 1978). In contrast, children below the age of 14 years have been found to have varying and less reliable levels of competence for making informed decisions about treatment (Weithorn & Campbell, 1982; Grisso & Vierling, 1978; Mann, Harmoni, & Power, 1989)" (Fundidis 2003). It is important to note that these situations were conducted under research auspices, and did not include situations of reality and actual consequences (Fundidis 2003).

Advocacy Group Positions

The Vermont Association of Hospitals and Health Systems (VAHHS) write that they desire that parents are able to consent for their children under the age of fourteen to psychiatric hospitalization, without the need of their child's consent.

United Nations Convention of the Rights of the Child (UNICEF) advocates that children should have the right to express their opinion and have it be heard, when adults are making decisions which affect them. According to UNICEF children should have some participation and autonomy when it comes to their own treatment.

References

- 50 Pennsylvania Code, “§ 7101-7110”. Retrieved April 12, 2007, from <http://www.psychlaws.org/LegalResources/StateLaws/Pennsylvaniastatute.htm>
- 62A-15-705, “Commitment proceedings in juvenile court -- Criteria -- Custody.” Retrieved April 5, 2007, from <http://le.utah.gov/~code/TITLE62A/htm/62A0C073.htm>
- 405 ILCS 5/3-501, “ICAH's 2004 Consent and Confidentiality Fact Sheet: Mental Health Treatment – Involuntary Inpatient.” Retrieved April 5, 2007, from <http://www.icaah.org/resources.html>
- § 12-15-90, “Involuntary Mental Commitment of Children.” Retrieved April 5, 2007 from <http://familycourt.alacourt.gov/statutes/Art%204%20pp%2088-94.pdf>.
- § [16.1-339](#). “Parental admission of an objecting minor 14 years of age or older.” Retrieved April 5, 2007, from <http://leg1.state.va.us/cgi-bin/legp504.exe?071+ful+SB738ER2>.
- Arizona Revised Code §8-273, "Residential treatment services". Retrieved April 5, 2007, from <http://law.justia.com/arizona/codes/title8/00273.html>.
- Boonstra, H. and Nash, E. (2000). “Minors and the Right to Consent to Health Care. The Guttmacher Report on Public Policy.” http://www.guttmacher.org/graphics/gr030406_fl.html, accessed February 13, 2007.
- Fegert, J. M. & Tan, J.O.A. (2004). ”Capacity and Competence in Child and Adolescent Psychiatry.” *Health Care Analysis*, Vol.12, No.4, 285-94.
- Fundidis, Trian (2003) “Consent Issues in Medico-Legal Procedures: How Competent Are Children to Make Their Own Decisions?” *Child and Adolescent Mental Health*, February 2003, Vol. 8, No.1, 18-22.
- Maryland Code § 10-610. "Search: Application by parent or guardian." Retrieved April 12, 2007 from <http://michie.lexisnexis.com/>
- M.G.L. c. 231, § 85P. Retrieved April 5, 2007 from http://209.85.165.104/search?q=cache:Lw_LEWJpkIJ:www.bc.edu/schools/law/jrap/met/elements/pdf/jrap_medical_consent.pdf+May+minors+consent+to+mental+health+treatment%3F&hl=en&ct=clnk&cd=9&gl=us.
- Miller, V.A., Drotar, D., Kodish, E. (2004). Children’s Competence for Asset and Consent: A Review of Empirical Findings. *Ethics & Behavior*, Vol.14, No.3, p. 255-95.
- Minnesota Statutes 253B.04. "Voluntary Treatment and Admissions Procedures." Retrieved on April 12, 2007 from

http://www.revisor.leg.state.mn.us/bin/getpub.php?pubtype=STAT_CHAP_SEC&year=2006§ion=253B.04

Revised Code of Washington 71.34, "Parent Initiated Treatment." Retrieved April 12, 2007 from <http://apps.leg.wa.gov/RCW/default.aspx?cite=71.34>

Sec. 47.30.775, "Commitment of minors." Retrieved April 5, 2007, from <http://www.psychlaws.org/LegalResources/StateLaws/Alaskastatute.htm>

United Nations Convention of the Rights of the Child. "The Convention on the Rights of the Child. Participation Rights: Having an Active Voice." <http://www.unicef.org/crc/files/Participation.pdf>, accessed February 20, 2007.

Vermont Association of Hospitals and Health Systems. "The Future of Vermont's Mental Health Systems: A Statement of Vision." <http://www.vahhs.org/download/FINAL%20MH%20Document.pdf>, accessed February 20, 2007.

Weithorn, L.A. and Campbell, S.B. (1982) The Competency of Children and Adolescents to Make Informed Treatment Decisions. *Child Development* Vol. 53, No. 6, 1596.

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Disclaimer: This report has been compiled by undergraduate students at the University of Vermont under the supervision of Professor Anthony Gierzynski. The material contained in the report does not reflect the official policy of the University of Vermont.