

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 848
Committee Substitute Favorable 5/8/95

Short Title: Discharge of Minors/Notification.

(Public)

Sponsors:

Referred to:

April 12, 1995

A BILL TO BE ENTITLED

AN ACT TO REQUIRE NOTICE TO AND CONSULTATION WITH THE MINOR'S
LEGALLY RESPONSIBLE PERSON BEFORE DISCHARGE FROM
TREATMENT OF MENTAL ILLNESS OR SUBSTANCE ABUSE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122C-57 reads as rewritten:

"§ 122C-57. Right to treatment and consent to treatment.

(a) Each client who is admitted to and is receiving services from a facility has the right to receive age-appropriate treatment for mental health, mental retardation, and substance abuse illness or disability. Each client within 30 days of admission to a facility shall have an individual written treatment or habilitation plan implemented by the facility. The client and ~~his~~ the client's legally responsible person shall be informed in advance of the potential risks and alleged benefits of the treatment choices.

(b) Each client has the right to be free from unnecessary or excessive medication. Medication shall not be used for punishment, discipline, or staff convenience.

(c) Medication shall be administered in accordance with accepted medical standards and only upon the order of a physician as documented in the client's record.

(d) Each voluntarily admitted client or ~~his~~ the client's legally responsible person has the right to consent to or refuse any treatment offered by the facility. Consent may be

1 withdrawn at any time by the person who gave the consent. If treatment is refused, the
2 qualified professional shall determine whether treatment in some other modality is
3 possible. If all appropriate treatment modalities are refused, the voluntarily admitted
4 client may be discharged. In an emergency, a voluntarily admitted client may be
5 administered treatment or medication, other than those specified in subsection (f) of this
6 section, despite the refusal of the client or ~~his~~the client's legally responsible person. The
7 Commission may adopt rules to provide a procedure to be followed when a voluntarily
8 admitted client refuses treatment.

9 (d)(1) Except as provided in G.S. 90-21.4, discharge of a voluntarily admitted minor
10 from treatment shall include notice to and consultation with the minor's legally
11 responsible person and in no event shall a minor be discharged from treatment upon the
12 minor's request alone.

13 (e) In the case of an involuntarily committed client, treatment measures other than
14 those requiring express written consent as specified in subsection (f) of this section may
15 be given despite the refusal of the client or ~~his~~the client's legally responsible person in
16 the event of an emergency or when consideration of side effects related to the specific
17 treatment measure is given and in the professional judgment, as documented in the
18 client's record, of the treating physician and a second physician, who is either the director
19 of clinical services of the facility, or ~~his~~that person's designee, either:

- 20 (1) The client, without the benefit of the specific treatment measure, is
21 incapable of participating in any available treatment plan which will
22 give ~~him~~the client a realistic opportunity of improving his condition;
- 23 (2) There is, without the benefit of the specific treatment measure, a
24 significant possibility that the client will harm himself or others before
25 improvement of ~~his~~the client's condition is realized.

26 (f) Treatment involving electroshock therapy, the use of experimental drugs or
27 procedures, or surgery other than emergency surgery may not be given without the
28 express and informed written consent of the client or ~~his~~the client's legally responsible
29 person. This consent may be withdrawn at any time by the person who gave the consent.
30 The Commission may adopt rules specifying other therapeutic and diagnostic procedures
31 that require the express and informed written consent of the client or ~~his~~the client's
32 legally responsible person prior to their initiation."

33 Sec. 2. This act becomes effective October 1, 1995, and applies to admissions
34 on or after that date.