HB246

LDPCYAY-1

By Representative Harrison

RFD: Health

First Read: 27-Feb-24

SYNOPSIS:

Under existing law, a minor who is at least 14 years of age or a minor who has graduated from high school or is married, divorced, or pregnant may give legal consent to medical, dental, and mental health services for himself or herself.

Under existing law, a minor may receive medical, dental, or mental health treatment that would otherwise require the consent of a parent or legal guardian if a delay in treatment would increase the risk to the minor's life, health, or mental health.

Under existing law, any minor may give legal consent to participate in school counseling services, to donate bone marrow, or for services to determine the presence of, or to treat, pregnancy, venereal disease, drug dependency, and alcohol toxicity.

Also under existing law, the parent or legal guardian of a minor who is at least 14 years of age but less than 19 years of age may authorize treatment for mental health services, even upon the minor's refusal, in certain circumstances.

This bill would create the age of medical majority and provide that a minor has reached the age of medical majority if he or she is 18 years of age or older, has graduated from high school, has earned a

GED, is married, or is divorced.

This bill would provide that a minor may only consent to medical, dental, or mental health services, including school counseling services, the donation of bone marrow, and the detection or treatment of pregnancy, venereal disease, drug dependency, and alcohol toxicity, if he or she has reached the age of medical majority.

This bill would provide that a minor may only receive medical, dental, or mental health treatment that would otherwise require the consent of a parent or legal guardian if a delay in treatment would result in death or permanent injury of the minor.

This bill would also authorize the parent or legal guardian of a minor who has not reached the age of medical majority to authorize certain treatment for mental health services, even upon the minor's refusal.

A BILL

TO BE ENTITLED

AN ACT

Relating to consent to medical services; to amend Sections 16-22-16.2, 22-8-3, 22-8-4, 22-8-6, 22-8-9, and 22-8-10, Code of Alabama 1975; to provide for the medical age of majority; to raise the age and amend the circumstances for which a minor may give legal consent to medical, dental, and

mental health services for himself or herself; to provide that a minor may receive medical, dental, and mental health treatment without the consent of a parent or legal guardian if delayed treatment would result in the minor's death or permanent injury; to authorize the parent or legal guardian of a minor to authorize mental health services upon the minor's refusal in certain circumstances; and to repeal Section 22-11A-19, Code of Alabama 1975, relating to the consent of minors for treatment of sexually transmitted disease.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 16-22-16.2, 22-8-3, 22-8-4, 22-8-6, 22-8-9, and 22-8-10, Code of Alabama 1975, are amended to read as follows:

"§16-22-16.2

(a) Subject to appropriations by the Legislature, commencing with the 2023-2024 school year, each local board of education in the state shall employ a mental health service coordinator. The coordinator shall be responsible for coordinating student mental health services throughout the local school system.

(b) An individual hired as a coordinator shall possess at least one of the following qualifications:

(1) Have a bachelor's degree in social work.

(2) Satisfy State Department of Education qualifications for a school counselor.

(3) Satisfy State Department of Education qualifications for a school nurse.

(4) Have professional mental health experience, or have

been licensed in a mental health occupation including, but not limited to, licensure as a licensed professional counselor or marriage and family therapist.

(5) Other qualifications as determined by the Alabama Department of Mental Health and the State Department of Education.

(c) Within one year after being hired as a mental health service coordinator, an individual shall earn a school-based mental health certificate by successfully completing a certification program developed by the Alabama Department of Mental Health.

(d) On or before the last day of the 2021 fiscal year, and as requested thereafter, each local board of education shall complete and submit to the Alabama Department of Mental Health a needs assessment and resource map for the schools under the jurisdiction of the board. The assessment shall document the status of mental health for the entire school system and allow the local board of education to engage in a quality improvement process to improve the provision of mental health resources to students within the school system.

(e) The Alabama Department of Mental Health and the State Department of Education may adopt rules and policies as necessary for implementation of this section.

(f) The administration of this section shall be subject to appropriations made by the Legislature.

(g) As used in this section, the term "local board of education" and "school system" shall include the schools or school systems provided by Chapter 1 of Title 21; Chapters

26A, 26B, and 26D of this title; and Article 4 of Chapter 1 of Title 44.

(h)(1) For the purposes of this section, "mental health services" includes services, treatment, surveys, or assessments relating to mental health, and "parent" includes a student's parent or legal guardian, as applicable.

(2) No student of a public K-12 school ~~under the age of 14~~ who has not reached the age of medical majority, as defined in Section 22-8-4, may be allowed to participate in ongoing school counseling services including, but not limited to, mental health services, unless specific written instruction has been granted by the student's parent, unless there is an imminent threat to the health of the student or others. For the purposes of this section, this written permission is referred to as an opt in ~~opt-in~~.

(3) All local boards of education in this state shall adopt a policy concerning parent ~~opt-in~~ opt in for mental health services. At a minimum, each policy shall contain the following:

a. A provision for written notification, at least annually, to parents about school provided or sponsored mental health services. The notification shall include the purpose and general description of each of the mental health services, information regarding ways parents may review materials to be used in guidance and counseling programs that are available to students, and information regarding ways parents may allow, limit, or prevent their student's participation in the programs.

b. A provision requiring written permission by a parent for his or her student to participate in mental health services. This written permission shall be specific as to any treatment and not broad in nature. This permission shall also be required annually and may be rescinded at any time by providing written notice to school administration.

c. If a parent elects to ~~opt-in~~ opt in to mental health services for his or her student, the counselor providing the services shall keep the parent fully informed regarding diagnosis, recommended counseling, or treatments, and the parent shall have the authority to make final decisions regarding counseling and treatments.

d. A provision requiring all records pertaining to mental health services to be treated as health care records and kept separately from academic records."

"§22-8-3

Any legally authorized medical, dental, ~~health~~ or mental health services may be rendered to minors of any age without the consent of a parent or legal guardian when, in the physician's judgment, an attempt to secure consent would result in delay of treatment which would ~~increase the risk to the minor's life, health or mental health~~ result in the death or permanent injury of the minor."

"§22-8-4

(a) Any minor who has reached the medical age of majority may give effective consent to any legally authorized medical, dental, or mental health services for himself or herself, in which cases the consent of no other person shall

be necessary.

(b) For the purposes of this chapter, a minor has reached the age of medical majority if he or she is ~~14~~ 18 years of age or older, ~~or~~ has graduated from high school, has completed a general education development certificate (GED), ~~or~~ is married, or ~~having been married~~ is divorced ~~or is pregnant may give effective consent to any legally authorized medical, dental, health or mental health services for himself or herself, and the consent of no other person shall be necessary~~."

"§22-8-6

(a) No~~Any~~ minor may give effective consent for any legally authorized medical~~, health~~ or mental health services to determine the presence of, or to treat, pregnancy, sexually transmitted infections ~~venereal disease~~, drug dependency, alcohol toxicity, or any reportable disease, ~~and the consent of no other person shall be deemed necessary~~ unless the minor has reached the medical age of majority.

(b) A minor who has not reached the age of medical majority must have the written consent of his or her parent or legal guardian in order to receive medical or mental health services to determine the presence of, or to treat, pregnancy, venereal disease, drug dependency, alcohol toxicity, or any reportable disease."

"§22-8-9

Any minor who ~~is 14 years of age or older, or has graduated from high school, or is married, or having been married is divorced or is pregnant,~~ has reached the age of

medical majority may give effective consent to the donation of his or her bone marrow for the purpose of bone marrow transplantation. A parent or legal guardian may consent to a ~~such~~ bone marrow donation on behalf of any other minor."

"§22-8-10

The parent or legal guardian of a minor who ~~is at least 14 years of age and under 19 years of age~~ has not reached the age of medical majority may authorize medical treatment for any mental health services for the minor even if the minor has expressly refused ~~such~~ the treatment services if the parent or legal guardian and a mental health professional determine that clinical intervention is necessary and appropriate. Access to the mental health records of the minor will follow the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Public Law 104-191."

Section 2. Section 22-11A-19, relating to a minor's consent to medical treatment for sexually transmitted disease, is repealed.

Section 3. This act shall become effective on October 1, 2024.