



Consent to Mental Health Treatment and Access to Mental Health Records for Children and Youth Under Age 18

Sometimes there is a difference of opinion between children and youth with mental health disabilities and their families about whether to seek mental health treatment. This Fact Sheet will provide a brief overview of the relevant law on who can determine whether a child or youth under age 18 will receive mental health treatment as well as who can control access to their mental health records.

What laws govern consent for mental health treatment of children and youth younger than 18?

The Mental Health Procedures Act, 50 P.S. §§ 7101-7503, and Act 65 of 2020, 35 P.S. §§ 10101.1 -10101.2, govern consent to mental health treatment for children and youth under age 18. Those laws also address who can release the mental health records of children and youth under age 18.

Can children and youth under age 18 provide consent to inpatient or outpatient mental health treatment for themselves?

It depends on their age. Children under age 14 cannot consent to inpatient or outpatient mental health treatment. Youths who are 14 through 17, inclusive, can consent to mental health treatment.

Can a parent or legal guardian consent to inpatient or outpatient mental health treatment for their children under age 18?

Yes. A parent or legal guardian can consent to inpatient or outpatient mental health treatment for a child under age 18. Inpatient treatment of a child under 18 will be permitted based on the parent's or legal guardian's consent only if a physician, licensed clinical psychologist, or other mental health professional determines that treatment is necessary. The parent or legal guardian can consent to outpatient treatment from a willing provider without any determination by a professional that such treatment is necessary.

Can a youth aged 14 or older who consented to mental health treatment subsequently withdraw that consent and terminate treatment?

Yes. However, if the youth withdraws consent, they may be required to remain in treatment if either (1) their parent or legal guardian provides consent, or (2) involuntary commitment is ordered.

Can a parent or legal guardian who consented to mental health treatment for a child under age 18 withdraw that consent and terminate treatment for the youth?

Yes. However, if a parent or legal guardian withdraws consent, the youth may remain in treatment if either (1) the youth is age 14 and older and consents to remain in treatment, or (2) involuntary commitment is ordered.

Can a youth object to outpatient mental health treatment authorized by their parent/guardian and can a parent/guardian object to outpatient treatment authorized by the youth?

Pennsylvania law does not address whether a youth or their parent/legal guardian can object to outpatient treatment to which the other party consented, so presumably they cannot.



Can a youth under age 18 object to inpatient mental health treatment to which their parent or legal guardian consented?

Yes, if the youth is age 14 or older. When a youth is admitted to an inpatient facility, the facility director or designee must provide them with an explanation of the nature of the treatment and a statement of their rights, including the right to object to treatment by filing a petition with the Court of Common Pleas. If the youth wants to exercise their right to object, the facility director or designee must provide them with a form they can complete to request modification or withdrawal from treatment. If the youth completes and signs that form, the director or designee must file a petition with the Court of Common Pleas.

What happens after a youth objects to inpatient mental health treatment to which their parent or legal guardian consented and a petition is filed with the court?

After the youth's petition objecting to inpatient mental health treatment is filed with the court, the court must (1) promptly appoint an attorney for the youth, and (2) hold a hearing within 72 hours after the petition was filed, unless a request for a continuance is filed by the youth's attorney.

At the hearing, the court must determine whether mental health treatment is in

the best interest of the youth based on clear and convincing evidence that: (1) the youth has a diagnosed mental health disorder; (2) the disorder is treatable; (3) the disorder can be treated at the facility where youth is placed; and (4) the inpatient treatment setting represents the least restrictive alternative that is medically appropriate.

If the court finds that it is in the youth's best interest to continue to receive inpatient mental health treatment based on their parent or legal guardian's consent and over the youth's objection, how long can the youth be compelled to remain in inpatient treatment?

The initial court order can be for up to 20 days of inpatient mental health treatment. If the attending physician determines that continued inpatient treatment will be necessary at the end of the 20-day period and the youth does not consent, the court must hold a review hearing and may order treatment extended for a period of up to 60 days. The court can continue to hold review hearings and extend treatment for 60-day periods until the youth is determined to no longer need mental health treatment.

However, the youth can be discharged at any time during these periods of court-ordered treatment if either: (1) the attending physician determines that they no longer need treatment, or (2) the parent or legal guardian withdraws their consent to treatment.

Can a parent or legal guardian object to inpatient treatment to which a youth under age 18 consented?

Yes. Under the Mental Health Procedures Act, a provider must notify a parent or legal guardian when a youth under age 18 consents to inpatient treatment. The notice must include information that they can file an objection and have the right to be heard. The parent or legal guardian can file an objection in writing with the director of the facility, who then must arrange for a hearing in the Court of Common Pleas. The court must hold a hearing within 72 hours after an objection is filed. At the hearing, the court will determine if the inpatient treatment is in the youth's best interests.

Can a nonconsenting parent or legal guardian object to inpatient treatment of a youth under age 18 to which another parent or legal guardian consented?

If the nonconsenting parent or legal guardian has legal custody rights over the youth, they can file a petition in the Court of Common Pleas in the county where the youth resides and the court must hold a hearing within 72 hours after the petition is filed.

Can a child or youth under age 18 be compelled to receive outpatient or inpatient mental health treatment when neither they nor their parents or legal guardians consent to such treatment?

The standards and procedures of the Mental Health Procedures Act govern whether anyone – including someone under 18 – can be compelled to receive outpatient or inpatient mental health treatment without consent. In brief, the law permits involuntary mental health treatment only if the person is determined to be a danger to themselves or others. While an emergency commitment lasting no longer than 120 hours (five days) can be instituted without any judicial authorization, any involuntary commitment beyond that time must be ordered by a judicial officer following a hearing at which counsel represents the individual. Additional information about this process can be found in [*A Guide to the Mental Health Procedures Act for Adults Who are Not Involved in the Criminal Justice System.*](#)



What information can a parent or legal guardian receive about their child's mental health treatment?

If a parent or guardian provided consent to the outpatient or inpatient treatment of a youth under age 18, they have the right to receive information that is necessary for providing consent. This would include information about symptoms and conditions to be treated, medications and other treatments to be provided, and the risks, benefits, and expected results of treatment.

If a youth, rather than the parent or guardian, provided the consent to outpatient or inpatient treatment, the youth (who would have to be 14 or older) would determine what, if any, information the parents could receive.

Can a parent or legal guardian consent to release their minor's mental health records to others?

In limited circumstances, yes. If the parent or legal guardian provided consent to the outpatient or inpatient treatment, the parent or legal guardian can authorize: (1) the release of the youth's medical records and information to the youth's current mental health treatment provider; (2) the release of any records or information of prior mental health treatment for which the parent or legal guardian provided consent to the youth's current mental health treatment provider; (3) the release of records and information of prior mental health treatment for which the youth had provided consent if the youth's current mental health treatment provider determines that it is pertinent; and (4) the release of mental health records and information to the youth's primary care provider if the youth's current mental health treatment provider determines that the release will not be detrimental to the youth. It is important to note, however, that the release of records in each of these circumstances is limited to direct release from one mental health treatment provider to another mental health treatment provider or a primary care provider; the records are not released to the parents or legal guardians.

If a youth, rather than the parent or guardian, provided the consent to outpatient or inpatient treatment, the youth (who would have to be 14 or older) would determine what, if any, information the parents could receive.

How do I file complaints related to issues at mental health facilities?

First, call our live intake line. We would be happy to discuss what happened and provide you with additional information about how you can file complaints. Second, you could file a complaint with Pennsylvania's Department of State against any medical professionals who you believe engaged in rights violations. You can file complaints against hospitals with the Department of Health and/or the Joint Commission on Hospital Accreditation. Finally, if you want to correct records and a medical provider will not let you make corrections or add a statement disputing the records, you can file a HIPPA complaint with the United States Department of Health and Human Services if you are not able to access or correct your records.

You can file complaints with the organizations online using these links:

Department of State:

<https://www.dos.pa.gov/ProfessionalLicensing/FileaComplaint/Pages/default.aspx>

Department of Health:

<http://apps.health.pa.gov/dohforms/FacilityComplaint.aspx>

Joint Commission:

<https://apps.jointcommission.org/QMSInternet/IncidentEntry.aspx>

United States Department of Health and Human Services:

<https://www.hhs.gov/hipaa/filing-a-complaint/index.html>

Stay Connected

If you need more information or need help, please contact Disability Rights Pennsylvania (DRP) at 800-692-7443 (voice) or 877-375-7139 (TDD). Our email address is: intake@disabilityrightspa.org. DRP's live intake line is open Monday - Friday from 9:00 a.m. to 3:00 p.m.

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