

# Overview of Act 65 of 2020

# What is Act 65 of 2020?



- Act 65 replaces Act 147 of 2004.
- Act 65 determines who can provide consent for voluntary mental health treatment of minors, in both inpatient and outpatient settings.
- Act 65 also determines who can consent to the release of a minor's medical and mental health records.

# Who Can Consent ?



- Minors who are **14 years or older** can consent to voluntary **inpatient or outpatient** mental health treatment for themselves, without consent from parent or legal guardian.
  - Upon the acceptance of an **application for examination and treatment** by a minor, the director of the facility or designee **must promptly notify the minor's parents, guardian, or person standing in loco parentis**, and shall **inform them of the right to be heard upon the filing of an objection** (See the Mental Health Procedures Act, 50 P. S. § 7204)
- A parent or legal guardian of a minor **under the age of 18** can consent to **inpatient or outpatient** mental health treatment of their minor, without the minor's consent.
  - A parent or legal guardian **can consent** to voluntary **outpatient** mental health treatment of their minor **without the recommendation of a physician**.
  - A parent or legal guardian **can consent** to voluntary **inpatient** mental health treatment **with the recommendation of a physician, licensed clinical psychologist or other mental health professional who has examined the minor**.

# Revoking Consent



- **A minor or parent/legal guardian** can revoke their consent to inpatient or outpatient treatment at anytime
- If a minor **provides consent, then later revokes it**, the parent or legal guardian **can provide consent for the treatment to continue, and vice versa.**
- However, if no additional consent is provided, **the facility must discharge the minor unless the facility director or designee files a petition for involuntary commitment.**

- **A parent or legal guardian cannot abrogate** consent given by a minor.
- **A minor cannot abrogate** consent given by a parent or legal guardian.

# Who Can Object?



- A **minor or parent/ legal guardian can object** to voluntary **inpatient treatment**.
- A **nonconsenting parent or legal guardian can object** to the consent given by another parent or legal guardian for inpatient mental health treatment, as long as the nonconsenting parent or legal guardian **has legal custody rights** of the minor.
- Act 65 **is silent** on whether a minor or parent/legal guardian can object to voluntary **outpatient treatment** to which either has consented.

# How Can A Minor Object?



- At the time of admission to an inpatient facility, the facility director or designee must explain to the minor the nature of the mental health treatment he or she will receive and the right to object to the treatment.
- A minor can object to inpatient treatment by requesting for **modification of or withdrawal from** inpatient mental health treatment.
- The **director of the facility or their designee shall provide a form** for the minor to request for the modification of or withdrawal from treatment.
- The **director of the facility or their designee shall file** the petition for modification or withdrawal with the court.
- The minor must be **assigned an attorney** and a **hearing must be held within 72 hours** of filing the petition.

- For inpatient treatment to continue against a minor's wishes, the court must find the following:
  - The minor has a **diagnosed mental disorder**
  - The disorder is **treatable**
  - The disorder **can be treated in the particular facility** where the treatment is taking place
  - The proposed inpatient treatment setting represents the **least restrictive alternative** that is medically appropriate
- The initial court order can be for up to **20 days** of inpatient mental health treatment. Subsequent orders can be for **60 day periods** until the minor is determined to no longer need inpatient mental health treatment.



# How Can a Parent/ Legal Guardian Object?



- A parent or legal guardian can object by **filing a petition with the court of common pleas** in the **county where the child resides** to object to the voluntary **inpatient** mental health treatment for a minor.
- A hearing must be held within **72 hours** of filing the petition.

- Parents or legal guardians **have the right to be provided with information necessary to inform their consent for the minor's mental health treatment.**
- When a parent or legal guardian has consented to the mental health treatment of a minor, **the parent or legal guardian can also consent to the release of the minor's :**
  - **Medical records** to the minor's current mental health provider
  - **Prior mental health records** to the minor's current mental health treatment provider, if the information is **deemed pertinent by the current mental health provider.**
  - **Mental health records** to the primary care provider, if the current mental health treatment provider determines that the release **will not be detrimental to the minor**
- Release of records **with the consent of a parent or legal guardian** are **limited to direct release** from one mental health treatment provider to another or to a primary care provider.

- In all other situations, **minors control** the release of their mental health treatment records.

Questions regarding Act 65 can be directed to:  
[ra-pwAct65of2020@pa.gov](mailto:ra-pwAct65of2020@pa.gov)