

State of Wisconsin



2017 Assembly Bill 848

Date of enactment: April 3, 2018
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2017 WISCONSIN ACT 204

AN ACT to amend 46.03 (18) (b), 51.14 (3) (a) and 51.61 (6); and to create 51.138 of the statutes; relating to: emergency outpatient mental health treatment for minors.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 46.03 (18) (b) of the statutes is amended to read:

46.03 (18) (b) Except as provided in s. 46.10 (14) (b) and (c), any person receiving services provided or purchased under par. (a) or the spouse of the person and, in the case of a minor, the parents of the person, and, in the case of a foreign child described in s. 48.839 (1) who became dependent on public funds for his or her primary support before an order granting his or her adoption, the resident of this state appointed guardian of the child by a foreign court who brought the child into this state for the purpose of adoption, shall be liable for the services in the amount of the fee established under par. (a). If a minor receives services without consent of a parent or guardian under s. 51.138 or 51.47, the department or, if applicable, the county department shall base the fee solely on the minor's ability to pay.

SECTION 2. 51.138 of the statutes is created to read:

51.138 Emergency outpatient treatment for minors. (1) In this section, "outpatient mental health treatment" has the meaning given in s. 51.14 (1).

(2) Subject to sub. (4), a treatment director of an outpatient mental health treatment provider may provide outpatient mental health treatment to a minor for 30 days

without first obtaining informed consent if all of the following criteria are satisfied:

(a) An emergency situation exists, as determined by the treatment director of an outpatient mental health treatment provider, or time and distance requirements preclude obtaining written consent before beginning outpatient mental health treatment, and potential harm will come to the minor or others if treatment is not initiated before written consent is obtained.

(b) A reasonable effort has been made to obtain consent from a parent or guardian of the minor before initiating treatment.

(3) During the 30-day treatment period under sub. (2), the treatment director of the outpatient mental health treatment provider shall either obtain informed, written consent of a parent or guardian of the minor or, if consent is not obtained, file a petition to initiate a review of outpatient mental health treatment of a minor under s. 51.14.

(4) No person may, under the treatment period under sub (2), without the consent of a parent or guardian of the minor, prescribe medications to the minor who is seeking treatment for a mental health condition or admit a minor to an inpatient facility or an inpatient treatment facility without the consent of a parent or guardian.

(5) For services provided under this section when consent of a parent or guardian has not been obtained, the

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

treatment director of an outpatient mental health treatment provider shall obtain the minor's consent before billing a 3rd party for the services. If the minor does not consent to billing a 3rd party, the minor shall be responsible for paying for the services, which the department shall bill to the minor under s. 46.03 (18) (b).

SECTION 2m. 51.14 (3) (a) of the statutes is amended to read:

51.14 (3) (a) A minor 14 years of age or older or a person acting on behalf of the minor may petition the mental health review officer in the county in which the minor's parent or guardian has residence for a review of a refusal or inability of the minor's parent or guardian to provide the informed consent for outpatient mental health treatment required under s. 51.61 (6). For a minor on whose behalf consent for outpatient treatment was provided by the minor's parent or guardian despite the minor's refusal, the treatment director of the outpatient facility shall file a petition for review of the informed consent on behalf of the minor. If consent of a parent or guardian of the minor is not obtained during the 30-day treatment period as described in s. 51.138 (3), the treatment director of the outpatient mental health treatment provider shall file a petition to initiate review of outpatient mental health treatment of a minor receiving treatment under s. 51.138.

SECTION 3. 51.61 (6) of the statutes is amended to read:

51.61 (6) Subject to the rights of patients provided under this chapter, the department, county departments under s. 51.42 or 51.437, and any agency providing ser-

vices under an agreement with the department or those county departments have the right to use customary and usual treatment techniques and procedures in a reasonable and appropriate manner in the treatment of patients who are receiving services under the mental health system, for the purpose of ameliorating the conditions for which the patients were admitted to the system. The written, informed consent of any patient shall first be obtained, unless the person has been found not competent to refuse medication and treatment under s. 51.61 (1) (g) or the person is a minor 14 years of age or older who is receiving services for alcoholism or drug abuse or a minor under 14 years of age who is receiving services for mental illness, developmental disability, alcoholism, or drug abuse. In the case of such a minor, the written, informed consent of the parent or guardian is required, except as provided under an order issued under s. 51.13 (1) (c) or 51.14 (3) (h) or (4) (g), or as provided in s. 51.138 or 51.47. ~~If Except as provided in s. 51.138,~~ if the minor is 14 years of age or older and is receiving services for mental illness or developmental disability, the written, informed consent of the minor and the minor's parent or guardian is required, except that a refusal of either such a minor 14 years of age or older or the minor's parent or guardian to provide written, informed consent for admission or transfer to an approved inpatient treatment facility is reviewable under s. 51.13 (1) (c), (3), or (4), or 51.35 (3) (b), and a refusal of either a minor 14 years of age or older or the minor's parent or guardian to provide written, informed consent for outpatient mental health treatment is reviewable under s. 51.14.