

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION

CHAPTER 336
HOUSE BILL 848

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 Consent may be withdrawn at any time by the person who gave the consent.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

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

(e) In the case of an involuntarily committed client, treatment measures other than those requiring express written consent as specified in subsection (f) of this section may be given despite the refusal of the client or ~~his~~the client's legally responsible person in the event of an emergency or when consideration of side effects related to the specific treatment measure is given and in the professional judgment, as documented in

the client's record, of the treating physician and a second physician, who is either the director of clinical services of the facility, or ~~his-that person's~~ designee, either:

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

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 This consent may be withdrawn at any time by the person who gave the consent.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

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

In the General Assembly read three times and ratified this the 27th day of June, 1995.

Dennis A. Wicker
President of the Senate

Harold J. Brubaker
Speaker of the House of Representatives