

JAN 19 2007

A BILL FOR AN ACT

RELATING TO MINORS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The purpose of this Act is to allow a minor who
2 is not under the care, supervision, or control of a parent,
3 custodian, or legal guardian, to consent to the provision of
4 primary medical care and services.

5 SECTION 2. The Hawaii Revised Statutes is amended by
6 adding a new chapter to be appropriately designated and to read
7 as follows:

8 **"CHAPTER**

9 **PRIMARY MEDICAL CARE FOR MINORS WITHOUT SUPPORT**

10 **§ -1 Definitions.** For the purposes of this chapter, the
11 following terms shall be defined as follows:

12 "Licensed health care practitioner" includes a dentist
13 licensed under chapter 448, a physician licensed under chapter
14 453, a physician assistant certified under chapter 453, and an
15 advanced practice registered nurse licensed under chapter 457.

16 "Primary medical care and services" means health services
17 that include screening, counseling, immunizations, medication,



1 and treatment of illnesses and medical conditions provided by
2 licensed health care practitioners usually in an outpatient
3 setting. As used in this chapter, "primary medical care and
4 services" does not include invasive care, such as surgery, that
5 goes beyond standard injections, laceration care, or treatment
6 of simple abscesses.

7 "Minor without support" means a person who is at least
8 fourteen years of age but less than eighteen years of age who is
9 not under the care, supervision, or control of a parent,
10 custodian, or legal guardian.

11 **§ -2 Consent to primary medical care and services. (a)**

12 A licensed health care practitioner may provide primary medical
13 care and services to a minor who consents to the primary medical
14 care and services if the physician reasonably believes that:

15 (1) The minor understands the significant benefits and
16 risks of the proposed primary medical care and
17 services and can communicate a decision;

18 (2) The primary medical care and services are for the
19 minor's benefit; and

20 (3) The minor is a "minor without support", as defined in
21 section -1.



1 (b) Any consent given under this section shall be valid
2 and binding as if the minor had reached the age of majority and
3 the minor shall be deemed to have, and shall have the same legal
4 capacity to act, and the same legal obligations with regard to
5 the giving of consent as a person of full legal age and
6 capacity, the infancy of the minor and any contrary provisions
7 of law notwithstanding.

8 (c) The consent given under this section shall not be
9 subject to later disaffirmance by reason of the patient's
10 minority.

11 (d) No consent of any other person, including a spouse,
12 parent, custodian, or guardian, shall be necessary in order to
13 authorize a licensed health care practitioner to provide primary
14 medical care and services to a minor under this section.

15 (e) Any licensed health care practitioner who in good
16 faith renders primary medical care and services to a minor in
17 accordance with the requirements of subsection (a) shall have
18 immunity from any civil or criminal liability based on that
19 determination; provided that a licensed health care practitioner
20 whose determination under subsection (a) is the result of gross
21 negligence or wilful or wanton acts or omissions shall be liable



1 for damages resulting from the gross negligence or wilful or
2 wanton acts or omissions.

3 (f) If a minor consents to receive primary medical care
4 and services, the spouse, parent, custodian, or guardian or the
5 minor shall not be liable for the legal obligations resulting
6 from the primary medical care and services provided by a
7 licensed health care practitioner. A minor who consents to the
8 provision of primary medical care and services under this
9 chapter shall assume financial responsibility for the costs of
10 the primary medical care and services. Notwithstanding any
11 other law to the contrary, a spouse, parent, custodian, or
12 guardian of the minor, whose consent has not been obtained or
13 who has no prior knowledge that the minor has consented to the
14 provision of primary medical care and services shall not be
15 liable for the costs incurred by virtue of the minor's consent.

16 (g) Notwithstanding any other law to the contrary, an
17 action to recover any debt founded upon any contract,
18 obligation, or liability made pursuant to this chapter shall not
19 commence until the minor has reached the age of majority, or
20 provided that any action shall commence within two years of the
21 date the minor reaches the age of majority."



1 SECTION 3. This Act shall take effect upon its approval.

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Report Title:

Minor; Consent; Primary Medical Care and Services

Description:

Allows a minor who is not under the care, supervision, or control of a parent, custodian, or legal guardian to consent to the provision of primary medical care and services.

