

1965

H.B. 1010

CHAPTER 810

AN ACT TO PERMIT LICENSED PHYSICIANS TO RENDER NECESSARY EMERGENCY TREATMENT TO A MINOR WHERE THE PARENTS OF SAID MINOR CANNOT BE CONTACTED.

The General Assembly of North Carolina do enact:

Section 1. It shall be lawful for any physician licensed to practice medicine in North Carolina to render treatment to any minor without first obtaining the consent and approval of either the father or mother of said child, or any person acting as guardian, or any person standing in *loco parentis* to said child where:

(a) The parent or parents, the guardian, or a person standing in *loco parentis* to said child cannot be located or contacted with reasonable diligence during the time within which said minor needs to receive the treatment here authorized, or

(b) Where the identity of the child is unknown, or where the necessity for immediate treatment is so apparent that any effort to secure approval would delay the treatment so long as to endanger the life of said minor, or

(c) Where an effort to contact a parent, guardian, or person standing in *loco parentis* would result in a delay that would seriously worsen the physical condition of said minor.

Sec. 2. The word "treatment" as used in Section 1 of this Act is hereby defined to mean any medical procedure or treatment, including X-rays, the administration of drugs, blood transfusions, use of anesthetics, and laboratory or other diagnostic procedures employed by or ordered by a physician licensed to practice medicine in the State of North Carolina that is used, employed, or ordered to be used or employed commensurate with the exercise of reasonable care and equal to the standards of medical practice normally employed in the community where said physician administers treatment to said minor.

Sec. 3. The word "treatment" as defined in Section 2 of this Act shall also include any surgical procedure which, in the opinion of the attending physician, is necessary under the terms and conditions set out in Section 1 of this Act; provided, however, no surgery shall be conducted upon a minor as herein authorized unless the surgeon shall first obtain the opinion of another physician licensed to practice medicine in the State of North Carolina that said surgery is necessary under the conditions set forth in Section 1 of this Act; provided further, that in any emergency situation that shall arise in a rural community, or in a community where it is impossible for the surgeon to contact any other physician for the purpose of obtaining his opinion as to the necessity for immediate surgery, it shall not be necessary for the surgeon to obtain approval from another physician before performing such surgery as is necessary under the terms and conditions set forth in Section 1 of this Act.

Sec. 4. Any physician administering treatment to a minor under the terms, conditions, and circumstances herein authorized shall not be liable in damages for administering treatment to a minor without first having obtained permission from the minor's father or mother or guardian or from a person standing in *loco parentis* to said minor.

Sec. 5. All laws and clauses of laws in conflict with this Act are hereby repealed.

Sec. 6. This Act shall not affect pending litigation.

Sec. 7. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of June, 1965.

1971

H.B. 163

CHAPTER 35

AN ACT TO ALLOW A MINOR 18 YEARS OF AGE TO GIVE CONSENT FOR MEDICAL TREATMENT.

The General Assembly of North Carolina do enact:

Section 1. Article 1A of Chapter 90 of the General Statutes is hereby amended by rewriting the title thereof to read as follows:

"Article 1A.
Treatment of Minors."

and by adding at the end thereof a new section, G.S. 90-21.5, to read as follows:

"§ 90-21.5. *Consent of minors 18 years of age or older, etc.*—(a) Notwithstanding the provisions of G.S. 90-21.1, G.S. 90-21.2, and G.S. 90-21.3, any minor who is 18 years of age or older or is emancipated may consent to any medical treatment, dental and health services for himself or for his child.

(b) Any minor may give effective consent for medical health services to determine the presence of or to treat venereal diseases and other diseases reportable under G.S. 130-81, and the consent of no other person shall be necessary."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of March, 1971.

1977

H.B. 370

CHAPTER 582

AN ACT TO AUTHORIZE HEALTH SERVICES FOR MINORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-21.4 is hereby rewritten to read as follows:

"§ 90-21.4. *Responsibility, liability, and immunity of physicians.*— (a) Any physician licensed to practice medicine in North Carolina providing health services to a minor under the terms, conditions, and circumstances of this Article shall not be held liable in any civil or criminal action for providing such services without having obtained permission from the minor's parent, legal guardian, or person standing *in loco parentis*. The physician shall not be relieved on the basis of this Article from liability for negligence in the diagnosis and treatment of a minor.

(b) The physician shall not notify a parent, legal guardian, or person standing *in loco parentis*, without the permission of the minor, concerning the medical health services set out in G.S. 90-21.5(a), unless the situation, in the opinion of the attending physician, indicates that notification is essential to the life or health of the minor. If a parent, legal guardian, or person standing *in loco parentis* contacts the physician concerning the treatment or medical services being provided to the minor, the physician may give information."

Sec. 2. G.S. 90-21.5 is hereby rewritten to read as follows:

"§ 90-21.5. *Minor's consent sufficient for certain medical health services.*—(a) Any minor may give effective consent to a physician licensed to practice medicine in North Carolina for medical health services for the prevention, diagnosis, and treatment of (i) venereal disease and other diseases reportable under G.S. 130-81, (ii) pregnancy, (iii) abuse of controlled substances or alcohol, and (iv) emotional disturbance. This section does not authorize the inducing of an abortion, performance of a sterilization operation, or commitment to a mental institution or hospital for confinement or treatment of a mental condition.

(b) Any minor who is emancipated may consent to any medical treatment, dental and health services for himself or for his child."

Sec. 3. This act shall become effective on July 1, 1977, and shall not apply to pending litigation.

In the General Assembly read three times and ratified, this the 16th day of June, 1977.

H.B. 1166

CHAPTER 625

AN ACT TO AMEND ARTICLE 1A OF CHAPTER 90 AND ARTICLE 8 OF CHAPTER 110 TO PROVIDE FOR EMERGENCY MEDICAL TREATMENT OF MINORS OVER PARENTAL OBJECTION.

The General Assembly of North Carolina do enact:

Section 1. G.S. 90-21.1 is hereby amended by adding a new subdivision (4) to read as follows:

"(4) Where the parents refuse to consent to a procedure, and the necessity for immediate treatment is so apparent that the delay required to obtain a court order would endanger the life or seriously worsen the physical condition of the child. No treatment shall be administered to a child over the parent's objection as herein authorized unless the physician shall first obtain the opinion of another physician licensed to practice medicine in the State of North Carolina that such procedure is necessary to prevent immediate harm to the child.

Provided, however, that the refusal of a physician to use, perform, or render treatment to a minor without the consent of the minor's parent, guardian, or person standing in the position of loco parentis, in accordance with this act, shall not constitute grounds for a civil action or criminal proceedings against such physician."

Sec. 2. G.S. 110-118(d)(1) is hereby amended by rewriting the same to read as follows:

"(1) May retain temporary physical custody of the child and may render necessary medical treatment to the child, in which events said hospital, clinic, or medical facility."

Sec. 3. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 20th day of June, 1977.

1983

S.B. 273

CHAPTER 302

AN ACT TO AUTHORIZE EMERGENCY ADMISSIONS OF JUVENILES TO TREATMENT FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122-56.5 is amended by adding the following sentences at the end of that section:

"In an emergency situation, a minor who is mentally ill or an inebriate and in need of treatment may be admitted to a treatment facility upon his own written application, and such application shall serve as the initiating document for the hearing conducted in accordance with G.S. 122-56.7. Within 24 hours of admission, the responsible parent, guardian, or person standing *in loco parentis* will be notified of the admission unless such notification is impossible due to inability to identify the responsible individual, inability to ascertain the whereabouts of the responsible individual, or inability to contact the responsible individual after all reasonable means to establish contact have been attempted."

Sec. 2. G.S. 90-21.5(a) is amended by adding the following sentence at the end of that subsection: "This section does not prohibit the admission of a minor to a treatment facility upon his own written application in an emergency situation as authorized by G.S. 122-56.5."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of May, 1983. e.g., *in loco parentis* or *in loco parentis*)

1985

S.B. 58

CHAPTER 589

AN ACT TO RECODIFY THE MENTAL HEALTH, MENTAL RETARDATION, AND SUBSTANCE ABUSE LAWS OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

[[91 pages, only including applicable Sections]]

Sec. 30. G.S. 90-21.4 is amended by deleting in all three places it appears the words "or person standing *in loco parentis*," and substituting in each place "person standing *in loco parentis*, or a legal custodian other than a parent when granted specific authority in a custody order to consent to medical or psychiatric treatment."

Sec. 31. G.S. 90-21.5(a) is amended by deleting "G.S. 130-81," and substituting "G.S. 130A-135," and is further amended by deleting "G.S. 122-56.5," and substituting "G.S. 122C-222."

1986

S.B. 855

CHAPTER 863

AN ACT TO MAKE TECHNICAL CORRECTIONS TO THE MENTAL HEALTH, MENTAL RETARDATION, AND SUBSTANCE ABUSE ACT OF 1985, AND CONFORMING CHANGES TO THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

[[just corrections, so only including applicable Section]]

Sec. 4. G.S. 90-21.5(a) is amended in the second sentence by deleting "commitment to a mental institution or hospital for confinement or treatment of a mental condition," and substituting "or admission to a 24-hour facility licensed under Article 2 of Chapter 122C of the General Statutes except as provided in G.S. 122C-222".

1995

H.B. 481

CHAPTER 462

AN ACT TO REQUIRE PARENTAL OR JUDICIAL CONSENT FOR AN UNEMANCIPATED MINOR'S ABORTION.

The General Assembly of North Carolina enacts:

[[just corrections, so only including applicable Section]]

Section 1. Article 1A of Chapter 90 of the General Statutes is amended by designating all the existing language as "Part 1.", and by adding a new Part to read:

"Part 2. Parental or Judicial Consent for Abortion.

"§90-21.6. Definitions.

For the purposes of Part 2 only of this Article, unless the context clearly requires otherwise: (1) 'Unemancipated minor' or 'minor' means any person under the age of 18 who has not been married or has not been emancipated pursuant to Article 56 of Chapter 7A of the General Statutes. (2) 'Abortion' means the use or prescription of any instrument, medicine, drug, or any other substance or device with the intent to terminate the pregnancy of a woman known to be pregnant, for reasons other than to save the life or preserve the health of an unborn child, to remove a dead unborn child, or to deliver an unborn child prematurely, by accepted medical procedures in order to preserve the health of both the mother and the unborn child.

§90-21.7. Parental consent required. (a) No physician licensed to practice medicine in North Carolina shall perform an abortion upon an unemancipated minor unless the physician or agent thereof or another physician or agent thereof first obtains the written consent of the minor and of: (1) A parent with custody of the minor; or

(2) The legal guardian or legal custodian of the minor; or (3) A parent with whom the minor is living; or (4) A grandparent with whom the minor has been living for at least six months immediately preceding the date of the minor's written consent.

(b) The pregnant minor may petition, on her own behalf or by guardian ad litem, to the district court judge assigned to the juvenile proceedings in the district court where the minor resides or where she is physically present for a waiver of the parental consent requirement: (i) None of the persons from whom consent must be obtained pursuant to this section is available to the physician performing the abortion or the physician's agent or the referring physician or the agent thereof within a reasonable time or manner; or (ii) All of the persons from whom consent must be obtained pursuant to this section refuse to consent to the performance of an abortion or (iii) The minor elects not to seek consent of the person from whom consent is required.

§90-21.8. Procedure for waiver of parental consent. (a) The requirements and procedures under Part 2 of this Article are available and apply to unemancipated minors seeking treatment in this State. (b) The court shall ensure that the minor or her guardian ad litem is given assistance in preparing and filing the petition and shall ensure that the minor's identity is kept confidential. (c) The minor may participate in proceedings in the court on her own behalf or through a guardian ad litem. The court shall advise her that she has a right to court-appointed counsel and shall provide her with guidance upon her request. (d) Court proceedings under this section shall be confidential and shall be given precedence over other pending matters necessary to ensure that the court may reach a decision promptly. In no case shall the court fail to rule within seven days of the time of filing the application. This time limitation may be extended at the request of the minor. At the hearing, the court shall hear evidence relating to the emotional development, maturity, intellect, and understanding of the minor; the nature, possible consequences, and alternatives to the abortion; and any other evidence that the court may find useful in determining whether the parental consent requirement shall be waived.

(e) The parental consent requirement shall be waived if the court finds: (1) That the minor is mature and well-informed enough to make the abortion decision on her own; or (2) That it would be in the minor's best interests that parental consent not be required; or (3) That the minor is a victim of rape or felonious incest under G.S. 14-178.

(f) The court shall make written findings of fact and conclusions of law supporting its decision and shall order that a confidential record of the evidence be maintained. If the court finds that the minor has been a victim of incest, whether felonious or misdemeanor, it shall advise the Director of the Department of Social Services of its findings for further action pursuant to Article 44 of Chapter 7A of the General Statutes.

(g) If the female petitioner so requests in her petition, no summons or other notice may be served upon the parents, guardian, or custodian of the minor female. (h) The minor may appeal an order issued in accordance with this section. The appeal shall be a de novo hearing in superior court. The notice of appeal shall be filed within 24 hours from the date of issuance of the district court order. The de novo hearing may be held out of district and out of session and shall be held as soon as possible within seven days of the filing of the notice of appeal. The record of the de novo hearing is a confidential record and shall not be open for general public inspection. The Chief Justice of the North Carolina Supreme Court shall adopt rules necessary to implement this subsection.

(i) No court costs shall be required of any minor who avails herself of the procedures provided by this section.

§90-21.9. Medical emergency exception. The requirements of parental consent prescribed by G.S. 90-21.7(a) shall not apply when, in the best medical judgment of the physician based on the facts of the case before the physician, a medical emergency exists that so complicates the pregnancy as to require an immediate abortion, or when the conditions prescribed by G.S. 90-21.1(4) are met.

§90-21.10. Penalty. Any person who intentionally performs an abortion with knowledge that, or with reckless disregard as to whether, the person upon whom the abortion is to be performed is an unemancipated minor, and who intentionally or knowingly fails to conform to any requirement of Part 2 of this Article shall be guilty of a Class I misdemeanor."

Sec. 2. G.S. 7A-523(a) is amended by adding a subdivision to read:

"(8) Proceedings involving consent for an abortion on an unemancipated minor pursuant to Article 1A, Part 2 of Chapter 90 of the General Statutes."

Sec. 3. G.S. 7A-451(a) is amended by adding a subdivision to read:

"(16) A proceeding involving consent for an abortion on an unemancipated minor pursuant to Article 1A, Part 2 of Chapter 90 of the General Statutes. G.S. 7A-450.1, 7A-450.2, and 7A-450.3 shall not apply to this proceeding."

Sec. 4. G.S. 7A-675 is amended by adding a subsection to read:

"(j) Notwithstanding subsection (a) of this section, the court's entire record of a proceeding involving consent for an abortion on an unemancipated minor under Article 1A, Part 2 of Chapter 90 of the General Statutes is not a matter of public record, shall be maintained separately from any juvenile record, shall be withheld from public inspection, and may be examined only by order of the court, by the unemancipated minor, or by the unemancipated minor's attorney or guardian ad litem."

Sec. 5. Notwithstanding any other State or local law to the contrary, no state or local government agency or entity shall deny eligibility for financial assistance under Aid to Families with Dependent Children to any infant or child on the basis that the mother of the infant or child was an unemancipated minor when the infant or child was born.

Sec. 6. This act becomes effective October 1, 1995.

In the General Assembly read three times and ratified this the 20th day of July, 1995.

1998

S.B. 1260

1998-202

AN ACT TO DEVELOP A PLAN OF REORGANIZATION FOR THE TRANSFER OF THE DIVISION OF YOUTH SERVICES OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES AND THE DIVISION OF JUVENILE SERVICES OF THE ADMINISTRATIVE OFFICE OF THE COURTS, TO ESTABLISH THE OFFICE OF JUVENILE JUSTICE, TO AMEND AND RECODIFY THE NORTH CAROLINA JUVENILE CODE, AND TO CONFORM THE GENERAL STATUTES TO THE RECODIFICATION OF THE JUVENILE CODE, AS RECOMMENDED BY THE COMMISSION ON JUVENILE CRIME AND JUSTICE.

The General Assembly of North Carolina enacts:

[[Over 200 pgs, so only including applicable Sections]]

PART X. CONFORMING STATUTORY CHANGES

Section 13.

(t) G.S. 90-21.6(1) reads as rewritten:

"(1) 'Unemancipated minor' or 'minor' means any person under the age of 18 who has not been married or has not been emancipated pursuant to Article ~~56 of Chapter 7A~~ 35 of Chapter 7B of the General Statutes."

(u) G.S. 90-21.8(f) reads as rewritten:

"(f) The court shall make written findings of fact and conclusions of law supporting its decision and shall order that a confidential record of the evidence be maintained. If the court finds that the minor has been a victim of incest, whether felonious or misdemeanor, it shall advise the Director of the Department of Social Services of its findings for further action pursuant to ~~Article 44 of Chapter 7A~~ 3 of Chapter 7B of the General Statutes." Article 1A of Chapter 90 of the General Statutes is amended by designating all the existing language as "Part 1.", and by adding a new Part to read:

2000

S.B. 1323

2000-144

AN ACT TO IMPLEMENT THE RECOMMENDATION OF THE INDIGENT DEFENSE STUDY COMMISSION TO ESTABLISH AN OFFICE OF INDIGENT DEFENSE SERVICES.

The General Assembly of North Carolina enacts:

[[30 pgs, so only including applicable Section]]

Section 35. G.S. 90-21.8(c) reads as rewritten:

"(c) The minor may participate in proceedings in the court on her own behalf or through a guardian ad litem. The court shall advise her that she has a right to ~~court appointed counsel~~ counsel, and ~~shall provide her with counsel~~ shall be provided upon her ~~request~~. request in accordance with rules adopted by the Office of Indigent Defense Services."

2009

S.B. 220

2009-570

AN ACT TO MAKE TECHNICAL CORRECTIONS IN THE GENERAL STATUTES AS REQUESTED BY THE GENERAL STATUTES COMMISSION AND TO MAKE VARIOUS OTHER TECHNICAL CHANGES TO THE GENERAL STATUTES AND SESSION LAWS.

The General Assembly of North Carolina enacts:

[[just corrections, so only including applicable Section]]

Section 10. G.S. 90-21.5(a) reads as rewritten:

"(a) Any minor may give effective consent to a physician licensed to practice medicine in North Carolina for medical health services for the prevention, diagnosis and treatment of (i) venereal disease and other diseases reportable under G.S. 130A-135, (ii) pregnancy, (iii) abuse of controlled substances or alcohol, and (iv) emotional disturbance. This section does not authorize the inducing of an abortion, performance of a sterilization operation, or admission to a 24-hour facility licensed under Article 2 of Chapter 122C of the General Statutes except as provided in ~~G.S. 122C-222~~. G.S. 122C-223. This section does not prohibit the admission of a minor to a treatment facility upon his own written application in an emergency situation as authorized by ~~G.S. 122C-222~~. G.S. 122C-223."

2021

H.B. 96

2021-110

AN ACT TO AUTHORIZE IMMUNIZING PHARMACISTS TO DISPENSE, DELIVER, AND ADMINISTER CERTAIN TREATMENT AND MEDICATIONS AND TO REQUIRE PARENTAL CONSENT FOR ADMINISTRATION OF VACCINES UNDER AN EMERGENCY USE AUTHORIZATION TO A MINOR.

Whereas, it is the intention of the North Carolina General Assembly to improve access to care and health outcomes for its citizens; and

Whereas, North Carolina's public health ranking is in the bottom one-half to one-third of the nation; and

Whereas, one-third of our nation's states have authorized pharmacists to help with access to care related to public health needs beyond immunizations; and

Whereas, North Carolinians need and deserve better accessibility to care; Now, therefore,

The General Assembly of North Carolina enacts:

[[4 pgs, so only including applicable Section]]

Section 9. G.S. 90-21.5 reads as rewritten:

"§ 90-21.5. Minor's consent sufficient for certain medical health services.

(a) ~~Any Subject to subsection (a1) of this section, any minor may give effective consent to a physician licensed to practice medicine in North Carolina for medical health services for the prevention, diagnosis and treatment of (i) venereal disease and other diseases reportable under G.S. 130A-135, (ii) pregnancy, (iii) abuse of controlled substances or alcohol, and (iv) emotional disturbance. This section does not authorize the inducing of an abortion, performance of a sterilization operation, or admission to a 24-hour facility licensed under Article 2 of Chapter 122C of the General Statutes except as provided in G.S. 122C-223. This section does not prohibit the admission of a minor to a treatment facility upon his own written application in an emergency situation as authorized by G.S. 122C-223.~~

~~(a1) Notwithstanding any other provision of law to the contrary, a health care provider shall obtain written consent from a parent or legal guardian prior to administering any vaccine that has been granted emergency use authorization and is not yet fully approved by the United States Food and Drug Administration to an individual under 18 years of age.~~

(b) Any minor who is emancipated may consent to any medical treatment, dental and health services for himself or for his child."