

A Bill for an Act Relating to Minors.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to allow 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.

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

**“CHAPTER
PRIMARY MEDICAL CARE FOR MINORS WITHOUT SUPPORT**

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

“Licensed health care practitioner” includes dentists licensed under chapter 448, physicians licensed under chapter 453, physician assistants licensed under chapter 453, and advanced practice registered nurses licensed under chapter 457.

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

“Primary medical care and services” means health services that include screening, counseling, immunizations, medication, and treatment of illnesses and medical conditions customarily provided by licensed health care practitioners in an outpatient setting. As used in this chapter, “primary medical care and services” does not include invasive care, such as surgery, that goes beyond standard injections, laceration care, or treatment of simple abscesses.

§ -2 **Consent to primary medical care and services.** (a) A licensed health care practitioner may provide primary medical care and services to a minor who consents to the primary medical care and services if the physician reasonably believes that:

(1) The minor understands the significant benefits and risks of the proposed primary medical care and services and can communicate an informed consent;

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

(3) The minor is a “minor without support”, as defined in section -1.

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

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

(d) No consent of any other person, including a spouse, parent, custodian, or guardian, shall be necessary to authorize a licensed health care practitioner to provide primary medical care and services to a minor without support under this section.

(e) Any licensed health care practitioner who in good faith renders primary medical care and services to a minor without support in accordance with the requirements of subsection (a) shall have immunity from any civil or criminal

liability based on that determination; provided that a licensed health care practitioner whose determination under subsection (a) is the result of gross negligence or wilful or wanton acts or omissions shall be liable for damages suffered by the minor resulting from the gross negligence or wilful or wanton acts or omissions.

(f) If a minor without support consents to receive primary medical care and services, the spouse, parent, custodian, or guardian of the minor shall not be liable for the legal obligations resulting from the primary medical care and services provided by a licensed health care practitioner. A minor without support who consents to the provision of primary medical care and services under this chapter shall assume financial responsibility for the costs of the primary medical care and services. Notwithstanding any other law to the contrary, a spouse, parent, custodian, or guardian whose consent has not been obtained or who has no prior knowledge that a minor without support has consented to the provision of primary medical care and services shall not be liable for the costs incurred by virtue of the minor's consent.

(g) No licensed health care practitioner shall be held liable for treating a minor patient who has misrepresented that he or she is a minor without support.

(h) Notwithstanding any other law to the contrary, an action to recover any debt founded upon any contract, obligation, or liability made pursuant to this chapter shall not commence until the minor without support has reached the age of majority; provided that any action shall commence within two years of the date the minor reaches the age of majority.

(i) If a claim for primary medical care or services obtained under this chapter is filed with a managed care plan or health insurance plan under which a minor without support is enrolled, and the minor does not want the plan to disclose information regarding the claim to a spouse, parent, custodian, or guardian, the minor, or the licensed health care practitioner rendering the primary medical care and services on behalf of the minor, shall so notify the plan prior to submitting the claim. The plan may require that the request for confidential communication be made in writing and that it contain a statement that disclosure of all or part of the information to which the request pertains could endanger the minor. The plan shall have fourteen days to make any changes necessary to comply with the request for confidentiality. The plan may accommodate requests by the minor or the licensed health care practitioner to receive communications related to the primary medical care and services by alternative means or at alternative locations.”

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

(Approved April 23, 2007.)