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**TO: Members of the Senate Committee on Mental Health, Substance Abuse Prevention, Children & Families
Members of the Assembly Committee on Mental Health and Substance Abuse Prevention**

**FROM: Matthew Stanford, General Counsel
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DATE: May 27, 2025

RE: Outstanding clarity questions regarding Minor Consent to Mental Health Treatment - SB 107/AB 112

Mental health, especially child and adolescent mental health, is often complex, presenting both clinically challenging issues and legally complex issues. That legal and policy complexity results in variation in interpretation, and in turn variation in services, access barriers and undesired outcomes for patients.

WHA appreciates the goal of the Legislative Council Study Committee on Emergency Detention and Civil Commitment of Minors to reduce barriers to mental health treatment for minors 14 years of age and older. However, some areas of potential confusion remain in SB 107/AB 112 that could create variation in interpretation, and thus result in outcomes not intended by the Study Committee.

Guided by WHA's Member Mental Health and Addiction Care Forum of over 100 individuals providing mental health services in hospitals and clinics throughout Wisconsin, WHA provided to the Legislative Council Study Committee on Emergency Detention and Civil Commitment of Minors at its December 18 meeting a list of questions seeking clarity regarding the application of LRB 0616/P3, which is now SB 107/AB 112.

Many of those questions and areas of potential confusion remain. Attached to this memo are remaining questions and issues in WHA's December 17 comments and questions to the Study Committee, updated to reflect the introduced bill numbers and some new questions resulting from changes to the bill since the Study Committee last met on December 18.

WHA looks forward to continuing engagement with the Senate and Assembly committees and partner stakeholders to address these outstanding questions and opportunities for clarity in the bills. Our intent of such work is to help reduce the likelihood of variation in interpretation of Wisconsin's mental health statutes and procedures across Wisconsin, and in turn reduce variation in services and outcomes for minor patients seeking mental health treatment.



SB 107/AB 112 – Minor Consent to Mental Health Treatment - Initial Questions

- Uniformity of interpretation of removal of requirement that no petition is required for inpatient mental health treatment with consent of older minors? It appears that an intent of SB 107/AB 112 is to allow a minor 14yo or older to be voluntarily admitted for treatment for mental illness or developmental disability based on the consent of only the minor.
 - Assuming this is correct, given the addition to 51.13(1)(c) on page 3, lines 13-15, regarding treatment for alcoholism or drug abuse, is there enough clarity to achieve a uniform interpretation/understanding throughout Wisconsin that no petition under sub. (4) is required for such treatment for mental illness or developmental disability since unlike the newly added treatment for alcoholism or drug abuse that is not similarly explicitly specified?
- Practical impacts of who may consent to admission vs. who may request discharge?
 - Based on page 4, lines 13-14 of SB 107/AB 112, is the intent that a minor 14yo or older may consent to admission without parent/guardian consent, but the minor must be discharged at the request of the parent/guardian?
 - If so, as a practical matter, if a parent/guardian objects to their minor's consent to admission for mental health treatment prior to admission, would that result in resources being expended to admit a minor knowing that under 51.13(7)(b)5. the facility must discharge the minor within 48 hours? If so, as a result, with the new ability for the 14yo minor to consent to a mental health admission, will clinicians be reluctant to admit such minors based only on the minor's consent if the minor's parent/guardian is objecting?
- Removing emergency outpatient mental health services without consent of 14yo minor?

Section 13 on page 10 of SB 107/AB 112 specifies that s. 51.138(1m) does not apply to a minor who is 14 years of age or older.

 - Is the intended practical effect of the change to s. 51.138 – outpatient mental health services – to remove the authorization for providing emergency outpatient mental health treatment without the consent of a 14 yo or older minor? Or is the intended practical effect of that change to remove requirements for parental consent to emergency outpatient treatment when consent is provided by a 14yo or older minor?
 - Is the intended practical effect of s. 51.138(1m) to change consent procedures for all outpatient mental health services for minors or only emergency outpatient mental health services for minors?
- Intended new judicial action for emergency outpatient treatment for minors?

Section 13 of SB 107/AB 112 includes a sentence not included in Section 13 LRB 0615/P3. That new sentence contained within s.51.138(1m) states "Section 51.14 applies to a minor who is 14 years of age or older." Current law in s. 51.138 – emergency outpatient treatment for minors – has a sub. (3) which reads: "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.”

- How does the addition of the new provision in s. 51.138(1m) stating “Section 51.14 applies to a minor who is 14 years of age or older,” change the application of s. 51.138 overall and s. 51.14 under current law and as amended under SB 107/AB 112?
- Changes to authority of treatment facilities to file petitions for admission/treatment review?
Section 4 of SB 107/AB 112 makes changes not included in 13 LRB 0615/P3 in which county corporation counsel rather than the treatment facility have an obligation to file a petition for review of an admission of a minor. Similar changes are made in Section 14 regarding petition for review of outpatient treatment of a minor.
 - Is it the intent of such changes from LRB 0615/P3 to SB 107/AB 112 to remove the authority under current law for a treatment facility to file such petitions. Or is it the intent of such changes to provide authority to corporation counsel to file such petitions, but not preclude a treatment facility from filing such petitions?