

Memorandum

To: Licensed OHA behavioral health providers

From: Ebony Clarke, Director of Behavioral Health Services

Date: December 11, 2024

Subject: Minor consent for behavioral health services

Purpose

The purpose of this memo is to provide clarity for Oregon Health Authority (OHA) licensed and certified behavioral health providers regarding Oregon's current statutes and rules related to minor rights to consent to behavioral health services, as well as to outline OHA's planned next steps regarding these rules.

Current Oregon law

Youth Suicide Risk: HB 3139 (2021) amended Oregon Revised Statute (ORS) 109.680(2)(c)(A) to clarify that a mental health provider who believes a youth is at serious and imminent risk of a suicide attempt, and inpatient treatment is not "necessary or practicable", must disclose information to a parent, guardian, or other individual the provider believes can lessen the risk of a suicide attempt. This is true whether or not the youth has consented to their own diagnosis or treatment.

Parental consent to treat: Current language in [Oregon Revised Statute \(ORS\) 109.675](#) permits youth age 14 and above to consent to their own outpatient behavioral health treatment. Three [Oregon Administrative Rule](#) sets (Division 309, Chapters 18, 19, and 22) include similar wording related to youth consent to outpatient behavioral health treatment. However, there are no Oregon rules or statutes that permit youth to consent to their own behavioral health treatment at levels of care other than outpatient. The right to consent is not meant to correspond to a right to refuse. A parent or legal

guardian can consent to health care, including behavioral health care, on behalf of a youth. OHA's informed consent provisions in rule are not intended to be a barrier to treatment for a youth, even if the youth is refusing, as long as a parent or guardian consents and the treatment is medically necessary.

Parental involvement in care: In situations in which a youth aged 14 or older initiates and consents to their own outpatient treatment, Oregon law requires that the youth's parents/guardians be involved "before the end of treatment" unless parents refuse, or there are clear and documented clinical reasons why they should not be involved (ORS 109.675(2)). However, providers should also be aware that federal law governing the confidentiality of drug and alcohol records clearly indicates that if a youth has consented to their own treatment under applicable state law, a youth must consent to disclosure (42 CFR 2.14(a)) of those records. Providers should consult their own legal counsel about the intersection of federal and state law in this area.

[Next Steps](#)

We have heard from funders, providers, and parents that Oregon's current laws are confusing and that greater clarity is needed.

To meet this need, OHA is planning the following next steps:

- Virtual webinars for providers on current laws, including common situations and frequently asked questions (Winter 2025).
- Feedback sessions with youth, family members, and providers (Spring – Summer 2025).
- Revised OARs clarifying minor and parental consent rights, including the overlap with other Oregon rules, such as records release and minor consent to medical care (Summer - Fall 2025).