§1508. Consent for gender-affirming hormone therapy

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Gender-affirming hormone therapy" means nonsurgical, medically necessary health care that respects the gender identity of the patient, as experienced and defined by the patient, that includes, but is not limited to, the following health care:

(1) Interventions to suppress the development of endogenous secondary sex characteristics;

(2) Interventions to align the patient's appearance or physical body with the patient's gender identity; or

(3) Interventions to alleviate symptoms of clinically significant distress resulting from gender dysphoria. [PL 2023, c. 413, §1 (NEW).]

B. "Gender dysphoria" means a clinical diagnosis of gender dysphoria as defined either in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association or in the Standards of Care for the Health of Transgender and Gender Diverse People, Version 8 or subsequent version, published by the World Professional Association for Transgender Health. [PL 2023, c. 413, §1 (NEW).]

C. "Health care professional" means a person qualified by training and experience to provide and monitor the provision of gender-affirming hormone therapy who is authorized by law to prescribe medication and who is:

(1) Licensed by the Board of Licensure in Medicine under Title 32, chapter 48;

(2) Licensed by the Board of Osteopathic Licensure under Title 32, chapter 36; or

(3) Licensed by the State Board of Nursing as an advanced practice registered nurse under Title 32, chapter 31. [PL 2023, c. 413, §1 (NEW).]

[PL 2023, c. 413, §1 (NEW).]

2. Authority of minor to consent. A health care professional may provide gender-affirming hormone therapy and follow-up care to a minor without obtaining the consent of the parent or guardian of the minor only if:

A. The minor is at least 16 years of age; [PL 2023, c. 413, §1 (NEW).]

B. The minor has been diagnosed with gender dysphoria by a health care professional; [PL 2023, c. 413, §1 (NEW).]

C. In the judgment of the health care professional, the minor is experiencing harm from or is expected to experience harm from not receiving gender-affirming hormone therapy; [PL 2023, c. 413, §1 (NEW).]

D. The minor informs the health care professional that the minor has discussed the minor's gender dysphoria with a parent or guardian of the minor and that parent or guardian refused to support treatment of the minor's gender dysphoria; and [PL 2023, c. 413, §1 (NEW).]

E. The minor provides informed written consent to the receipt of gender-affirming hormone therapy in accordance with the requirements of subsection 3; the health care professional makes the written consent that is set forth in a writing containing the information and statements required by subsection 3, paragraph B and that is signed by the minor a part of the minor's health record; and the minor, under all the surrounding circumstances, is mentally and physically competent to give consent. [PL 2023, c. 413, §1 (NEW).]

[PL 2023, c. 413, §1 (NEW).]

3. Informed consent. A minor who meets the requirements of subsection 2, paragraphs A to D may provide informed written consent to gender-affirming hormone therapy and follow-up care only in accordance with the requirements of this subsection.

A. A health care professional shall, in a manner that the health care professional believes is not misleading and will be understood by the minor:

(1) Explain that the information being given to the minor is not intended to coerce, persuade or induce the minor to consent to gender-affirming hormone therapy;

(2) Explain that the minor may withdraw the decision to commence or to continue to receive gender-affirming hormone therapy at any time either before the therapy begins or during the course of the therapy;

(3) Clearly and fully explore with the minor the alternative choices available for managing and treating gender dysphoria;

(4) Explain the physiological effects, benefits and possible consequences of gender-affirming hormone therapy and follow-up care, including the physiological effects, benefits and possible consequences of discontinuing the therapy;

(5) Discuss the possibility of involving the minor's parents or guardians in the minor's decision making about gender-affirming hormone therapy and follow-up care and explore whether the minor believes that parent or guardian involvement would be in the minor's best interests; and

(6) Provide an adequate opportunity for the minor to ask any questions concerning gender dysphoria, gender-affirming hormone therapy and follow-up care and provide the information the minor seeks or, if the health care professional cannot provide the information, explain where the minor can obtain the information. [PL 2023, c. 413, §1 (NEW).]

B. After providing the information and counseling required by paragraph A, the health care professional shall have the minor sign and date a form stating:

(1) The business address and telephone number of the health care professional who provided the information and counseling required by paragraph A;

(2) The minor has received information on gender-affirming hormone therapy and follow-up care, including the benefits and possible consequences of and alternatives to gender-affirming hormone therapy;

(3) The minor has received an explanation that the minor may withdraw consent to gender-affirming hormone therapy at any time, including after therapy begins;

(4) The alternatives for managing gender dysphoria have been clearly and fully explored with the minor;

(5) The minor has discussed with the health care professional the possibility of involving the minor's parents or guardians in the minor's decision making about gender-affirming hormone therapy and follow-up care. If the minor has chosen not to involve the minor's parents or guardians, the reasons for making that choice must be stated in writing on the form; and

(6) The minor has been given an adequate opportunity to ask questions and receive answers about gender dysphoria, gender-affirming hormone therapy and follow-up care. [PL 2023, c. 413, §1 (NEW).]

C. The health care professional who provided the information and counseling required by paragraph A shall also sign and date the form signed by the minor under paragraph B. The health care professional shall retain a copy of the form in that health care professional's files and shall give the form to the minor. If the health care professional who provided the information and counseling required by paragraph A is not the health care professional who will provide gender-

affirming hormone therapy to the minor, at the minor's request the health care professional shall transmit the form to the health care professional who will provide gender-affirming hormone therapy to the minor. [PL 2023, c. 413, §1 (NEW).]

[PL 2023, c. 413, §1 (NEW).]

4. Rebuttable presumption of validity. A written consent of a minor who meets the requirements of subsection 2 that is set forth in a writing containing the information and statements required by subsection 3, paragraph B and that is signed by the minor is presumed to be a valid, informed consent to treatment for gender-affirming hormone therapy and bars an action by a parent or guardian of the minor on the grounds of battery, malpractice or any other claim for providing gender-affirming hormone therapy without consent from a parent or guardian. The presumption of validity established in this subsection may be rebutted only by evidence that the minor's consent was obtained through fraud, deception or misrepresentation of material fact.

[PL 2023, c. 413, §1 (NEW).]

5. Disallowance of recovery. Recovery is not allowed against a health care professional upon the grounds that gender-affirming hormone therapy of a minor who meets the requirements of subsection 2 was rendered without the informed consent of the minor when:

A. The health care professional, in obtaining the minor's consent, complied with the terms of this section and the standards of care among members of the same health care profession with similar training and experience situated in the same or similar communities; or [PL 2023, c. 413, §1 (NEW).]

B. The health care professional received and acted in good faith on the informed written consent to gender-affirming hormone therapy given by the minor to another health care professional that contains the information and statements required by subsection 3, paragraph B. [PL 2023, c. 413, §1 (NEW).]

[PL 2023, c. 413, §1 (NEW).]

6. Nonseverability. In the event that any portion of subsections 1 to 5 is held invalid, it is the intent of the Legislature that this entire section, other than subsection 7, is invalid.

[PL 2023, c. 413, §1 (NEW).]

7. Authority of parent to consent unaffected. This section does not affect the legal authority of a parent or guardian to consent to gender-affirming hormone therapy for a minor in accordance with established standards of care.

[PL 2023, c. 413, §1 (NEW).]

SECTION HISTORY

PL 2023, c. 413, §1 (NEW).

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