



New Change to the Illinois Mental Health and Developmental Disabilities Code Regarding Mental Health Services to Minors

We want to share with you important information regarding a change in the law that went into effect on January 1, 2018 regarding mental health services for minors. Prior to this change in the law, mental health practitioners were able to provide counseling services or psychotherapy to a minor 12 years of age or older without the consent of the minor's parent/guardian for a total of 5 sessions lasting not more than 45 minutes.

The Illinois Mental Health and Developmental Disabilities Code has been revised, increasing the ability of mental health practitioners to provide counseling services or psychotherapy on an outpatient basis to minors who are 12 years of age or older without the consent of the minor's parent/guardian as follows, "[o]utpatient counseling services or psychotherapy provided to a minor under the age of 17 shall be ***initially limited to not more than eight (8) 90-minute sessions.***" (Emphasis added.) See 405 ILCS 5/3-501.

Of further significance is the fact that mental health practitioners can continue to provide outpatient services to their minor clients without the consent of the parent/guardian as long as the therapist, through consultation with the minor, considers a number of factors to determine whether attempting to obtain the consent of the parent would be detrimental to the minor's well-being. The revisions to Section 3-501 now include the following language:

No later than the eighth session, the service provider shall determine and share with the minor the service provider's decision as described below:

1. *If the service provider finds that attempting to obtain consent would not be detrimental to the minor's well-being, the provider shall notify the minor*

that the consent of the parent, guardian, or person in loco parentis is required to continue counseling services or psychotherapy.

2. *If the minor does not permit the service provider to notify the parent, guardian, or person in loco parentis for the purpose of consent after the eighth session the service provider shall discontinue counseling services or psychotherapy and shall not notify the parent, guardian, or person in loco parentis about the counseling services or psychotherapy.*
3. *If the minor permits the service provider to notify the parent, guardian, or person in loco parentis for the purpose of consent, without discontinuing counseling services or psychotherapy, the service provider shall make reasonable attempts to obtain consent. The service provider shall document each attempt to obtain consent in the minor's clinical record. The service provider may continue to provide counseling services or psychotherapy without the consent of the minor's parent, guardian or person in loco parentis if:*
 - A. *The service provider has made at least 2 unsuccessful attempts to contact the minor's parent, guardian, or person in loco parentis to obtain consent; and*
 - B. *The service provider has obtained the minor's written consent.*
4. *If, after the eighth session, the service provider of counseling services or psychotherapy determines that obtaining consent would be detrimental to the minor's well-being, the service provider shall consult with his or her supervisor when possible to review and authorize the determination under subsection (a) of this Section. The service provider shall document the basis for the determination in the minor's clinical record and may then accept the minor's written consent to continue to provide counseling services or psychotherapy without also obtaining the consent of a parent, guardian, or person in loco parentis.*
5. *If the minor continues to receive counseling services or psychotherapy without the consent of a parent, guardian, or person in loco parentis beyond 8 sessions, the service provider shall evaluate, in consultation with his or her supervisor when possible, his or her determination under this subsection (a), and review the determination every 60 days until counseling services or psychotherapy ends or the minor reaches age 17. If it is determined appropriate to notify the parent, guardian, or person in loco parentis and the minor consents, the service provider shall proceed under paragraph (3) of subsection (a) of this Section.*

6. *When counseling services or psychotherapy are related to allegations of neglect, sexual abuse or mental or physical abuse by the minor's parent, guardian, or person in loco parentis, obtaining consent of that parent, guardian, or person in loco parentis shall be presumed to be detrimental to the minor's well-being.*

(Emphasis added.) 405 ILCS 5/3-501(a).

The revisions to Section 3-501 also outline the factors that must be present in order for a service provider to find that obtaining the consent of a parent/guardian would be detrimental to a minor's well-being. Specifically, Section 3-501 states,

Each of the following factors must be present . . .

1. *Requiring the consent or notification of a parent, guardian, or person in loco parentis would cause the minor to reject the counseling services or psychotherapy;*
2. *The failure to provide the counseling services or psychotherapy would be detrimental to the minor's well-being;*
3. *The minor has knowingly and voluntarily sought the counseling services or psychotherapy; and*
4. *In the opinion of the service provider, the minor is mature enough to participate in counseling services or psychotherapy productively.*

405 ILCS 5/3-501(a-1).

Please feel free to contact us in order to discuss this new law, or any other inquires you may have regarding mental health and confidentiality laws.