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AB-665 Minors: consent to mental health services. (2023-2024)

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Assembly Bill No. 665

CHAPTER 338

An act to amend, repeal, and add Section 6924 of the Family Code, relating to minors.

[Approved by Governor October 07, 2023. Filed with Secretary of State October 07, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 665, Wendy Carrillo. Minors: consent to mental health services.

Existing law, for some purposes, authorizes a minor who is 12 years of age or older to consent to mental health treatment or counseling on an outpatient basis, or to residential shelter services, if the minor is mature enough to participate intelligently in the outpatient services or residential shelter services, as specified, and either the minor would present a danger of serious physical or mental harm to themselves or to others or if the minor is the alleged victim of incest or child abuse. For other purposes, existing law authorizes a minor who is 12 years of age or older to consent to mental health treatment or counseling services if the minor is mature enough to participate intelligently in the outpatient services or counseling services.

This bill would align the existing laws by removing the additional requirement that, in order to consent to mental health treatment or counseling on an outpatient basis, or to residential shelter services, the minor must present a danger of serious physical or mental harm to themselves or to others, or be the alleged victim of incest or child abuse.

Existing law, for some purposes, requires that the mental health treatment or counseling include involvement of the minor's parent or guardian unless the professional person treating or counseling the minor determines that the involvement would be inappropriate. For other purposes, existing law requires the involvement of the parent or guardian unless the professional person who is treating or counseling the minor, after consulting with the minor, determines that the involvement would be inappropriate.

This bill would also align the existing laws by requiring the professional person treating or counseling the minor to consult with the minor before determining whether involvement of the minor's parent or guardian would be inappropriate.

Existing law defines professional person for these purposes to include, among other things, a mental health professional, a marriage and family therapist, a licensed educational psychologist, a clinical psychologist, the chief administrator of an agency, and a licensed professional clinical counselor, as defined.

This bill would add a registered psychologist, a registered psychological assistant, a psychological trainee, an associate clinical social worker, a social work intern, a clinical counselor trainee working under the supervision of a licensed professional, and a board-certified psychiatrist to the definition of professional person for these purposes.

This bill would make all of the above changes operative on July 1, 2024.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) California is failing on children's mental health and preventive care. According to the most recent Commonwealth Fund Scorecard on State Health System Performance, our state ranks 48th in the nation for providing children with needed mental health care.

(b) Roughly one-half of California's children are covered by Medi-Cal, the vast majority of whom are Black and children of color.

(c) Less than 19 percent of low-income teenagers on Medi-Cal received screenings for depression and a followup plan in 2020. This is despite the reality that nearly one in three adolescents in California reported symptoms that meet the criteria for serious psychological distress.

(d) Less than 9 percent of Indigenous youth on Medi-Cal received a screening and plan, the lowest of any racial or ethnic group.

(e) Despite an overall decrease in the suicide rate in California, in 2020, youth, particularly Black and Latinx youth, and girls all showed disproportionate increases in suicide. A shocking 78 percent of LGBTQ+ youth who were surveyed shared they had considered suicide, with the vast majority of those who had considered suicide sharing they had done so in the last year, and nearly one-third had made an attempt in the past year.

(f) Seeking care for mental health issues is complicated by pervasive social stigma and centuries of systemic oppression by government programs that create legitimate fears for families to engage in services.

(g) Youth, especially youth of color, express significant trepidation about needing to disclose to parents their mental health concerns and their need to access services. Without access to a trained professional, youth report they turn to mostly free resources of mixed quality that they access without parental intervention or adult assistance, such as social media accounts and online videos.

(h) For LGBTQ+ youth, the rejection from parents, harassment in school, and the overall LGBTQ+ negativity present in society can lead to depression, anxiety, drug and alcohol use, and other negative outcomes. Over one-half of surveyed LGBTQ+ youth reported that not being able to get permission from their parents or guardians was sometimes or always a barrier to accessing mental health services.

(i) Providers, particularly school-based providers, find that obtaining parental consent for a youth who needs support is complicated by the parent or caretakers' beliefs and stigma about mental health care.

(j) Most states allow youth under 18 years of age to consent to receiving mental health care on their own.

(k) In California, existing law in both Section 124260 of the Health and Safety Code and Section 6924 of the Family Code establish that a minor who is 12 years of age or older may consent to mental health treatment or counseling on an outpatient basis, or to residential shelter services, if the minor is mature enough to participate intelligently in the outpatient services or residential shelter services; however, such services cannot be billed to Medi-Cal.

(l) Existing law in the Family Code authorizes providers to bill Medi-Cal if the above requirements are met and either the minor would present a danger of serious physical or mental harm to themselves or to others, or the minor is the alleged victim of incest or child abuse.

(m) Two laws with different standards are challenging for providers to implement and challenging for youth and families to understand, creating a chilling effect on their willingness to seek out care.

(n) This fundamentally inequitable policy is ultimately at odds with the state's commitment to racial, ethnic, and health equity as demonstrated through ongoing efforts of the Children and Youth Behavioral Health Initiative and CalAIM, which are state efforts to advance the goal of greater early intervention to address the mental health needs of youth.

(o) Requiring young people from low-income families to delay sensitive treatment until they are in serious distress places youth at unnecessary risk of not seeking care, increasing the likelihood of suicide, self-harm, or substance overdose, and contributing to the alarming disparities in mental health outcomes for youth from marginalized communities.

SEC. 2. Section 6924 of the Family Code is amended to read:

6924. (a) As used in this section:

(1) "Mental health treatment or counseling services" means the provision of mental health treatment or counseling on an outpatient basis by any of the following:

- (A) A governmental agency.
- (B) A person or agency having a contract with a governmental agency to provide the services.
- (C) An agency that receives funding from community united funds.
- (D) A runaway house or crisis resolution center.
- (E) A professional person, as defined in paragraph (2).

(2) "Professional person" means any of the following:

- (A) A person designated as a mental health professional in Sections 622 to 626, inclusive, of Article 8 of Subchapter 3 of Chapter 1 of Title 9 of the California Code of Regulations.
- (B) A marriage and family therapist as defined in Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code.
- (C) A licensed educational psychologist as defined in Chapter 13.5 (commencing with Section 4989.10) of Division 2 of the Business and Professions Code.
- (D) A credentialed school psychologist as described in Section 49424 of the Education Code.
- (E) A clinical psychologist as defined in Section 1316.5 of the Health and Safety Code.
- (F) The chief administrator of an agency referred to in paragraph (1) or (3).
- (G) A person registered as an associate marriage and family therapist, as defined in Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code, while working under the supervision of a licensed professional specified in subdivision (g) of Section 4980.03 of the Business and Professions Code.
- (H) A licensed professional clinical counselor, as defined in Chapter 16 (commencing with Section 4999.10) of Division 2 of the Business and Professions Code.
- (I) A person registered as an associate professional clinical counselor, as defined in Chapter 16 (commencing with Section 4999.10) of Division 2 of the Business and Professions Code, while working under the supervision of a licensed professional specified in subdivision (h) of Section 4999.12 of the Business and Professions Code.

(3) "Residential shelter services" means any of the following:

- (A) The provision of residential and other support services to minors on a temporary or emergency basis in a facility that services only minors by a governmental agency, a person or agency having a contract with a governmental agency to provide these services, an agency that receives funding from community funds, or a licensed community care facility or crisis resolution center.
- (B) The provision of other support services on a temporary or emergency basis by any professional person as defined in paragraph (2).

(b) A minor who is 12 years of age or older may consent to mental health treatment or counseling on an outpatient basis, or to residential shelter services, if both of the following requirements are satisfied:

- (1) The minor, in the opinion of the attending professional person, is mature enough to participate intelligently in the outpatient services or residential shelter services.
- (2) The minor (A) would present a danger of serious physical or mental harm to self or to others without the mental health treatment or counseling or residential shelter services, or (B) is the alleged victim of incest or child abuse.

(c) A professional person offering residential shelter services, whether as an individual or as a representative of an entity specified in paragraph (3) of subdivision (a), shall make their best efforts to notify the parent or guardian of the provision of services.

(d) The mental health treatment or counseling of a minor authorized by this section shall include involvement of the minor's parent or guardian unless, in the opinion of the professional person who is treating or counseling the minor, the involvement would be inappropriate. The professional person who is treating or counseling the minor shall state in the client record whether and when the person attempted to contact the minor's parent or guardian, and whether the attempt to contact was successful or

unsuccessful, or the reason why, in the professional person's opinion, it would be inappropriate to contact the minor's parent or guardian.

(e) The minor's parents or guardian are not liable for payment for mental health treatment or counseling services provided pursuant to this section unless the parent or guardian participates in the mental health treatment or counseling, and then only for services rendered with the participation of the parent or guardian. The minor's parents or guardian are not liable for payment for any residential shelter services provided pursuant to this section unless the parent or guardian consented to the provision of those services.

(f) This section does not authorize a minor to receive convulsive therapy or psychosurgery as defined in subdivisions (f) and (g) of Section 5325 of the Welfare and Institutions Code, or psychotropic drugs without the consent of the minor's parent or guardian.

(g) This section shall become inoperative on July 1, 2024, and, as of January 1, 2025, is repealed.

SEC. 3. Section 6924 is added to the Family Code, to read:

6924. (a) As used in this section:

(1) "Mental health treatment or counseling services" means the provision of mental health treatment or counseling on an outpatient basis by any of the following:

(A) A governmental agency.

(B) A person or agency having a contract with a governmental agency to provide the services.

(C) An agency that receives funding from community united funds.

(D) A runaway house or crisis resolution center.

(E) A professional person, as defined in paragraph (2).

(2) "Professional person" means either of the following:

(A) A professional person as defined in Section 124260 of the Health and Safety Code.

(B) The chief administrator of an agency referred to in paragraph (1) or (3).

(3) "Residential shelter services" means any of the following:

(A) The provision of residential and other support services to minors on a temporary or emergency basis in a facility that services only minors by a governmental agency, a person or agency having a contract with a governmental agency to provide these services, an agency that receives funding from community funds, or a licensed community care facility or crisis resolution center.

(B) The provision of other support services on a temporary or emergency basis by any professional person as defined in paragraph (2).

(b) A minor who is 12 years of age or older may consent to mental health treatment or counseling on an outpatient basis, or to residential shelter services, if the minor, in the opinion of the attending professional person, is mature enough to participate intelligently in the outpatient services or residential shelter services.

(c) A professional person offering residential shelter services, whether as an individual or as a representative of an entity specified in paragraph (3) of subdivision (a), shall make their best efforts to notify the parent or guardian of the provision of services.

(d) The mental health treatment or counseling of a minor authorized by this section shall include involvement of the minor's parent or guardian unless the professional person who is treating or counseling the minor, after consulting with the minor, determines that the involvement would be inappropriate. The professional person who is treating or counseling the minor shall state in the client record whether and when the person attempted to contact the minor's parent or guardian, and whether the attempt to contact was successful or unsuccessful, or the reason why, in the professional person's opinion, it would be inappropriate to contact the minor's parent or guardian.

(e) The minor's parents or guardian are not liable for payment for mental health treatment or counseling services provided pursuant to this section unless the parent or guardian participates in the mental health treatment or counseling, and then only for services rendered with the participation of the parent or guardian. The minor's parents or guardian are not liable for payment for

any residential shelter services provided pursuant to this section unless the parent or guardian consented to the provision of those services.

(f) This section does not authorize a minor to receive convulsive therapy or psychosurgery as defined in subdivisions (f) and (g) of Section 5325 of the Welfare and Institutions Code, or psychotropic drugs without the consent of the minor's parent or guardian.

(g) This section shall become operative on July 1, 2024.