



# PA Parent and Family Alliance

## What is Act 65 of 2020?

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# About Us

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The PA Parent and Family Alliance offers connection to resources, education and one on one support to parents of children who are struggling anywhere in the state of Pennsylvania.

We also work with providers to help design programs for families and engage parents.



[www.paparentandfamilyalliance.org](http://www.paparentandfamilyalliance.org)

# Disclaimer



All materials have been prepared for general purposes only. The information presented is not legal advice.





# Drafting and passage of Act 65 of 2020

April Dugas' daughter, Gabby, developed a severe eating disorder and became suicidal after experiencing a severe trauma in high school. Ms. Dugas was denied the right to consent for her daughter's mental health treatment, though it was clear that she could benefit from it, because she was over the age of 14 and refused.



# Act 65 of 2020 Summary

- Act 65 of 2020 was signed by Governor Wolf on July 23, 2020 and supersedes Act 147 of 2004
- Allows children age 14 and up to consent to mental health treatment without parental consent and without worrying about their consent being overridden. \*Parents may also provide consent without worrying about their consent being overridden.
- Read the full law yourself - <https://www.legis.state.pa.us/cfdocs/legis/li/uconsCheck.cfm?yr=2020&sessInd=0&act=65>





# Outpatient Treatment

## Section 1.1

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- The following shall apply to consent for outpatient treatment:
  1. A minor age 14 years or older. Parent's consent not necessary.
  2. A parent or legal guardian of a minor less than 18 years old may consent to **VOLUNTARY** outpatient mental health exam or treatment on behalf of the minor, and the minor's consent shall not be necessary.

(3) A minor OR ANOTHER PARENT OR LEGAL GUARDIAN may not **abrogate** consent provided by a parent or legal guardian on the minor's behalf to voluntary inpatient or outpatient mental health treatment, nor may a parent or legal guardian **abrogate** consent given by the minor on his or her own behalf.



What?



## Abrogate

ab·ro·gate

Verb

repeal or do away with (a law, right, or formal agreement).

*"a school district may not abrogate the state mandate to begin transition planning at age 14."*

Similar: repudiate, revoke, repeal, rescind, overturn, overrule, do away with, invalidate, countermand.



# Scenario #1

Therapist has been working with 14-year-old Abby concerning her eating disorder. They have been working together for 6 weeks – the longest Abby has stayed with any therapist. Abby is on the verge of a breakthrough and does not want to go any further because she is uncomfortable. Abby wants to “fire” the therapist. Therapist feels that Abby is exhibiting avoidance of the issue at hand. Therapist feels that if they can continue working together, a breakthrough will happen. Abby has “fired” her last 3 therapists. Abby’s parents want her to continue with this therapist.

Does Abby have the right to fire this therapist?

# Scenario #2

17-year-old Alyssa, with the help of her school guidance counselor, has sought out outpatient therapy due to her feelings of anxiety. Her father's aggressive behaviors and verbal altercations with her mother make it impossible to even think when she is home. After the first month of outpatient therapy, Dad finds out. Dad is furious and demands that Alyssa terminate treatment.

Does Alyssa have to stop outpatient therapy?

# Consent for **Inpatient** Treatment (b)

1. A minor's parent or legal guardian may consent to **VOLUNTARY** inpatient treatment on behalf of a minor less than 18 years of age on the recommendation of a physician who has examined the minor.
2. A minor 14 years or older may consent to voluntary inpatient mental health treatment on his or her own behalf.
3. Again, neither party may **ABROGATE** consent provided by the other party.



# *Voluntary treatment?*

## Involuntary Commitment (**302**)

An involuntary commitment is an application for emergency evaluation and treatment for persons who are a danger to themselves or others due to a mental illness.

## Voluntary Treatment

Necessary, inpatient admission for more intensive treatment. There are no hearings required during this admission, and no information is submitted to the state police regarding the person's psychiatric treatment.





# How Consent works for Inpatient Treatment

- (5) A parent or legal guardian who provided consent to inpatient treatment may revoke that consent. Inpatient treatment will continue if minor has provided consent.
- (6) A minor who has provided consent may revoke that consent. Treatment will continue if parent or legal guardian has provided consent.



## Inpatient Treatment – Request for Modification or Withdrawal



(7) At the time of admission in an inpatient treatment facility, a representative from that agency will talk with the minor and explain the nature of the program. A statement of the minor's right to object will be explained along with a written copy. If the minor wants to exercise this right, the director of the facility will provide the minor with a Notice of the Request for Modification or Withdrawal from Treatment form. A representative from the agency will file the signed petition with the court.

(8) After filed, the court will promptly appoint an attorney for the minor. A hearing will be scheduled to be held within 72 hours following the filing of the petition.



Where is the minor  
during proceedings?

The minor remains in the  
treatment facility until a judge or  
mental health review officer  
determines if the mental health  
treatment is in the best interest of  
the minor or not.

# How long?

- (9) A minor ordered to undergo treatment will remain and receive inpatient treatment for up to 20 days. A patient may be discharged when the attending physician determines that the minor no longer needs treatment, or at the end of the 20 days whichever comes first.
- If, at the end of the 20 days, the attending physician determines continued inpatient treatment will be necessary and the minor does not consent, the court shall conduct a review hearing to determine whether to:
    - (i) release the minor, or
    - (ii) make a subsequent order for inpatient treatment for a period not to exceed 60 days.





# Scenario #3

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16-year-old Jacob is in need of a Residential Treatment Facility due to his sexually problematic behaviors against his 10-year-old sister. Jacob does not want to go to a Residential Treatment program and has agreed to remain in outpatient therapy. After speaking with Jacob's therapist Mom agrees that a higher level of care is needed in order for Jacob to make progress. While searching for the proper RTF, Mom is told over and over that because Jacob is 16 years old, he will have to agree voluntarily to going to a RTF.

Does Mom have the right to sign for a voluntary placement for Jacob?



## Nonconsenting Parent

(10) Nothing in this subsection shall prevent a nonconsenting parent who has legal custody rights to the minor may object to the consent given by the other parent to inpatient treatment by filing a petition in a Court of Common Pleas in the county where the minor resides. The Court must hold a hearing within 72 hours of filing the petition.



# Section 1.2 Release of Medical Records

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A minor **MAY** consent to the release of minor's medical records and information to the minor's current mental health treatment provider.

A parent or legal guardian **MAY** consent to a minor's medical records and information be released to the minor's primary care provider if such release would not be detrimental to the minor.

Information release will be from one professional directly to another professional.

The parent or legal guardian who is providing consent for the minor to receive mental health treatment, shall have the right to information necessary for providing consent to the minor's mental health treatment, including symptoms and conditions to be treated, medications and other treatment to be provided, risks and benefits and expected results.







# Summary

- Act 65 of 2020 allows a minor, age 14 and older, the right to consent to mental health treatment.
- Parents, as always, have the right to consent to mental health treatment for their children until they turn 18.
- No party may abrogate the consent of another.
- Nonconsenting parent/legal guardian of the minor may object to inpatient treatment through court.
- Release of medical records and information can be requested by either parent/legal guardian or by minor. Basic information may be released to parent/legal guardian.



# Family Support Partners

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- One on One Support
- Help parents find resources
- Listen to their concerns and worried



# Taking Calls from Parents

ACT 65 of 2020

IEP/504

Behavioral  
Challenges

Truancy

Recently  
Diagnosed

Transitioning  
Young Adults

Inpatient &  
RTF Admission



- HIPPA
- Drug & Alcohol
- Sexuality
  - Orientation
  - Activities







# Information Families Need

What information NEEDS to be provided to families.



Being Admitted  
to the Hospital



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# Hospital Admission

- How can parents be a part of the team if they are not told that their child is in the hospital?
- 302 is being required even when a parent is with the child and has given their consent to admit.
- School Supports needed



# Information Families Need

Information families **NEED** to help their children



Admission



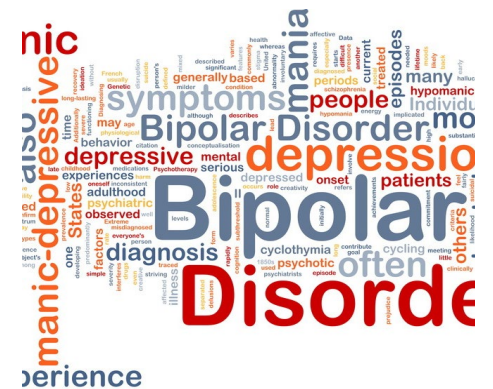
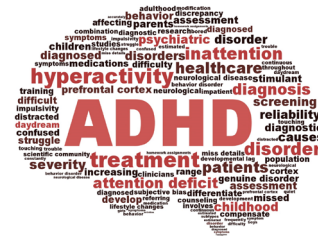
Diagnosis



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# Diagnosis

- Parents need to know when a diagnosis is given or changed to be able to parent their child properly.
- Parents can work with the school to implement a 504/IEP plan
- Obtaining services for their child





# Information families need

What information **should** providers share with families.



If the Child has  
been Admitted



Diagnosis



Medications



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The background image is a photograph of a hand pouring yellow capsules from a white pill bottle onto a clipboard. The clipboard has a pen and some papers on it. The image is slightly blurred and has a dark overlay. The text 'Medication:' is written in white on the left side of the image.

## Medication:

- Medication Interactions
- Medication Adherence- Notes to school for daytime medication
- Side effects
- School Support





# Information Families Need

What information NEEDS to be provided to Families



If the Child has  
been Admitted



Diagnosis



Medications



Follow up  
Treatment



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# Follow up Treatment

- How will a child get to their appointment?
- Parents need to write their child notes to leave and return to school.
- Parents need to coordinate services and appointments.



# Why Providing Information is Important



- Treatment Plans and Diagnosis
  - Information can be used to support their child
  - Continued Treatment
  - Diagnoses can help parents understand better
- School Support
  - IEP or a 504 Plan
  - SAP Team
- Medication Interactions
  - Side Effects
  - Notes for school to follow and watch out for



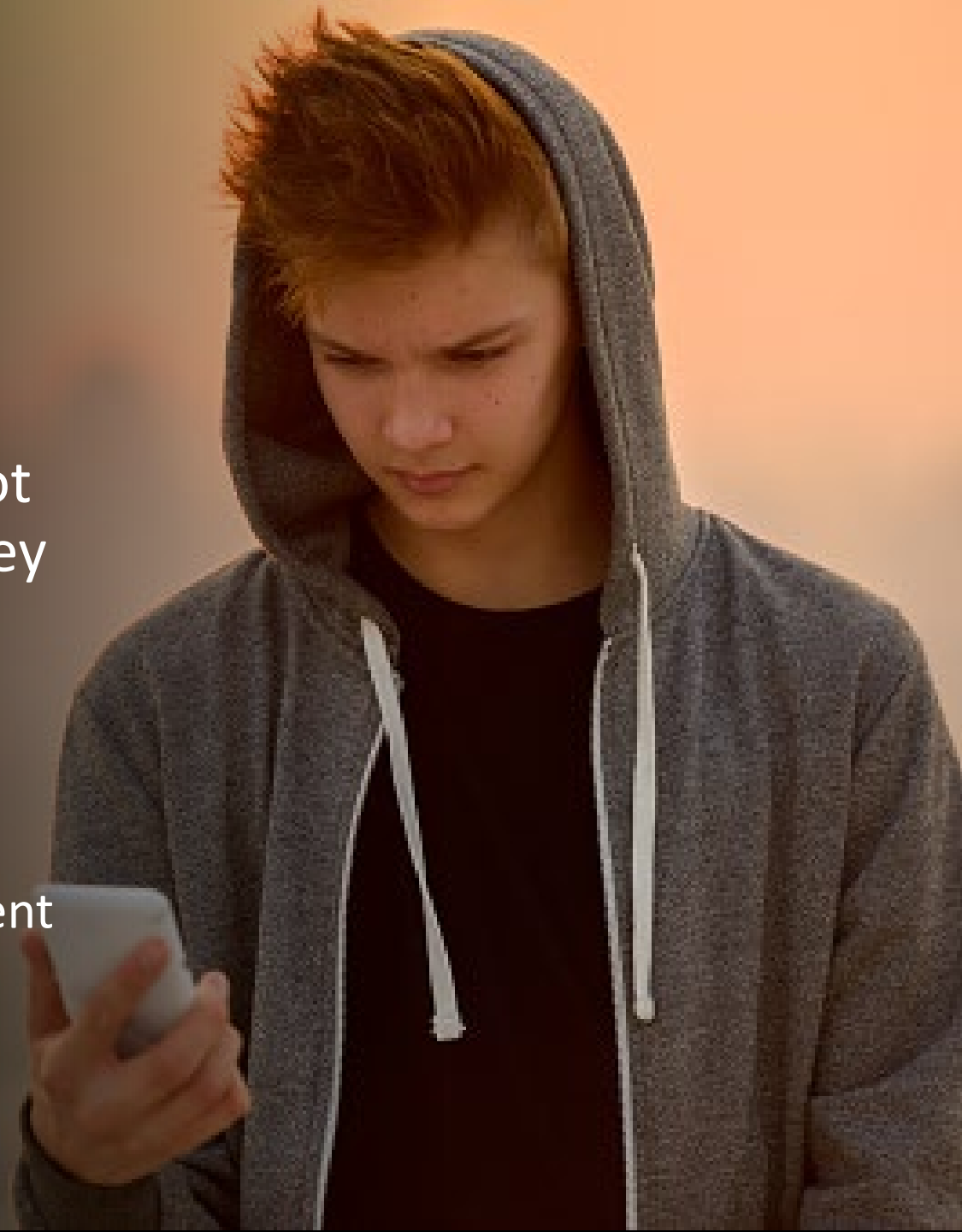
# — Jason's Story

Jason was brought to the hospital by his Mother after he had suicidal thoughts.

Despite being there with her son, she was not given the option to give her consent after they told her, Jason had to be 302'd because he didn't give consent to being admitted.

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Nothing in ACT 65 of 2020 indicates a parent's consent is not valid.



# Amari's Story

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14-year-old Amari was admitted to the hospital for extreme behaviors. The hospital was looking for an RTF with the consent of Amari and his parents.

Once the referral process to the RTF was started, Amari removed his consent, and the hospital completely stopped the RTF referral process.

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Why did the referral process stop if the parent's consent was given, and Amari has been in treatment for many years?






# Resources and Support Provided about ACT 65 of 2020

Consent=

Yes



PA Parent and  
Family Alliance  
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PA Mental Health Consent Law FAQ

**What is inpatient treatment?**  
Mental health treatment that involves full-time overnight care inside a mental health facility.


**What is outpatient treatment?**  
Treatment that is NOT overnight in a mental health facility; the patient goes home in between treatments, like a typical doctor appointment.

**What makes inpatient treatment consent different?**  
If either the minor or the legal guardian rejects inpatient treatment they can file an objection with the facility and there will be a hearing scheduled. The court would hear the case and then decide whether or not the care is in the best interest of the minor.

**What about parental disagreement to inpatient treatment?**  
If a parent who has legal custody rights disagrees with the other parent about consent to a child's inpatient treatment, they can file a petition in the court of common pleas and a hearing will take place within 72 hours of the filing.

**Who can consent to a minor receiving mental health treatment?**

- Parents or legal guardians
- A minor between the ages of 14-17



I Agree ☐


Can a parent refuse to allow treatment once a child (age 14-17) has consented?

no

Can a child (age 14-17) refuse treatment once a parent has consented?

no

**What happens if a child (age 14-17) takes away their consent?**  
The treatment will be stopped UNLESS a parent or legal guardian gives their consent; in that case the treatment will continue.



**What about children under the age of 14?**  
Parental consent is required for children under age 14 to receive mental health treatment

This document updated July 2020

PA Parent and Family Alliance is here when you need support or have concerns about your child (to age 26).  
Contact us at 888-273-2361

Read 2020 Act 65  
ALLOWING MINORS TO CONSENT TO MEDICAL CARE - MENTAL HEALTH TREATMENT AND RELEASE OF MEDICAL RECORDS Act of Jul. 23, 2020, P.L. , No. 65CI. 35Session of 2020No. 2020-65  
HB 672  
<https://www.legis.state.pa.us/cfdocs/legis/li/uc/onsCheck.cfm?yr=2020&sessInd=0&act=65>

## Learn About the New Law

We offer a variety of ways to learn about the new law. Check out our recorded webinar, our on-demand course or our 1-page tip sheet available in English and Spanish (front and back).

Sign up for this on-demand 30-minute training on Gabby's Law including a final assessment allowing you to demonstrate your understanding of the new law. Once you satisfactorily complete the course you will receive a certification of completion. To register click the button below.

[Register for the online course here](#)

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## PA Parent and Family Alliance

### CONTACT INFO

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