

Washington state law on behavioral care balances parental rights, teens' autonomy

October 30 2019, by Michelle Andrews



Credit: CC0 Public Domain

When Ben Packard met with the 16-year-old girl a little over a year ago, she was a patient at Seattle Children's Hospital, where she'd been admitted after trying to kill herself. Her parents were distraught.

"They wanted to know what was going on, and why their kid wanted to die," said Packard, a [mental health](#) therapist on the psychiatric unit who worked with her and her family.

But Washington is one of many states that carved out exceptions to the rights of parents to know about or consent to certain types of care their minor children receive, including mental health and drug and [alcohol treatment](#) as well as reproductive health services such as birth control and abortion.

Adolescents age 13 and older were generally entitled to make their own decisions about their need for [mental health services](#) and to decide whether to allow their parents to be given any details about their condition, diagnosis or treatment.

This teen didn't want her parents to know, and she refused to see them or talk with them.

"All I could tell them was that your kid is safe and we're doing everything we can," he said. "That didn't help them feel calmer or build the therapeutic alliance that's necessary to help the family system change."

A [state law](#) that took effect in July makes it easier for parents to intervene. Whether that's a good thing depends on whom you ask.

Under the new law, teenagers can still decide on their own to see a mental health therapist or a substance use disorder counselor on an outpatient or inpatient basis.

But now parents have more say about outpatient care. They can take their teen to be evaluated and treated for a range of outpatient behavioral health care services, even if the child doesn't consent, as long as it's

medically necessary care—the kind a qualified clinician might reasonably expect would diagnose or alleviate a behavioral health problem, such as depression or drug addiction. Parents can also decide that their child must participate in up to 12 routine outpatient therapy sessions, provided a therapist thinks the sessions are necessary.

Another change: Parents can learn details about their adolescent's diagnosis and treatment for mental health problems, without the teenager's consent, if the behavioral health care provider believes that sharing information will benefit treatment and not be detrimental to the teen.

The law's provisions were shaped by recommendations from a work group established by the state legislature that included behavioral health care providers, advocates for children and parents.

The work group sought to balance the rights of young people and parents' need to access care for their kids, said Jaclyn Greenberg, policy director for legal affairs at the Washington State Hospital Association.

The result is a "really strong" compromise, said Peggy Dolane, who helped push for this change after running into roadblocks trying to get behavioral health care for her two kids.

"At first, adversaries didn't understand that by (focusing on) protecting children's rights, it meant that parents couldn't protect their children," Dolane said.

But some behavioral health advocates are concerned that forcing anyone into treatment might be a losing strategy.

"I'm not sure the solution is more compelled treatment," said Jennifer Mathis, director of policy and legal advocacy at the Bazelon Center for

Mental Health Law in Washington, D.C. If people don't choose treatment themselves, it's hard to get them to engage, she said. And compelling adolescents to get treatment carries an added risk.

"With younger people, that is their first experience with (mental health) services, and if it's a bad one, that defines their experience for the rest of their lives," said Mathis.

However, Kathy Brewer, a mental health counselor and administrator at Seattle Children's Psychiatry and Behavioral Medicine Clinic who was part of the work group, said once adolescents start counseling and begin to see benefits, they generally engage.

She defended the new law.

"I'm OK with taking away a little bit of civil rights on a short-term basis if it keeps someone alive," Brewer said. "I'd much rather have a resistant, alive youth than a dead one."

Eight years ago, Mary Hart decided she had to take action to get help for her daughter, Olivia Klco. When her mom picked up 15-year-old Olivia from their suburban Seattle home, Olivia thought she was going to the orthodontist. Instead, her mom headed four hours south to Portland, Ore., and checked her into a psychiatric rehabilitation facility.

Olivia had stopped going to school and was severely depressed, regularly cutting herself, drinking and smoking pot. She'd been in therapy but it wasn't helping, and she was contemplating suicide.

She's not sure why she didn't fight her mom's decision but suggested that "the part of me that wanted to get help won that day."

Hart said, "As a parent, you have to step in and say, 'I'm not going to let

you hurt yourself."

The movement among states to curb parental control of teens' care stems from concerns that requiring parental permission for care related to behaviors—like having sex or doing drugs—of which parents likely wouldn't approve might keep young people from seeking help.

In addition, abused teenagers or those estranged from their parents may fear for their safety if they have to contact them before getting medical care.

"The underlying incentive is always to encourage young people who need help to get it," said Abigail English, director of the Center for Adolescent Health & the Law, who has researched adolescent consent laws.

English said she's unaware of whether other states are trying to pass laws similar to Washington's.

However, "these kinds of things tend to spawn offspring in other states," she said.

The age at which adolescents can consent to different types of care on their own varies in state laws, but 13 or 14 is not uncommon. States also may have different parental notification requirements and spell out how much information can or must be shared with parents.

In most states, adolescents can consent to behavioral health treatment without their [parents'](#) permission, according to a 2015 study published in the Journal of Child & Adolescent Substance Abuse. It is more common for states to allow minors to agree to their own outpatient mental [health](#) or substance use treatment than to inpatient care, the study found.

Many teens who need care don't receive it. In 2017, the federal Substance Abuse and Mental Health Services Administration estimated 4% of adolescents ages 12 to 17 had a substance use disorder, or 992,000 people. Only 0.7% received any type of treatment, though. In 2017, 13% of young people ages 12 to 17 had a major depressive episode and only about 42% got treatment, according to SAMHSA.

The new law doesn't fix everything, but it's an important step in the right direction, Dolane said.

"We still have problems," said Dolane. "We have a shortage of providers and clinicians. But the way it was before—you couldn't get your kid in to a provider even if they were available."

©2019 Kaiser Health News

Distributed by Tribune Content Agency, LLC.

Citation: Washington state law on behavioral care balances parental rights, teens' autonomy (2019, October 30) retrieved 27 April 2024 from

<https://medicalxpress.com/news/2019-10-washington-state-law-behavioral-parental.html>

<p>This document is subject to copyright. Apart from any fair dealing for the purpose of private study or research, no part may be reproduced without the written permission. The content is provided for information purposes only.</p>
--