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AN ACT

RELATING TO HEALTH CARE FOR MINORS; AMENDING THE UNIFORM HEALTH-CARE DECISIONS ACT REGARDING MINORS FOURTEEN YEARS OF AGE OR OLDER WHO ARE NOT EMANCIPATED.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 24-7A-17 NMSA 1978 (being Laws 1995, Chapter 182, Section 17) is amended to read:

"24-7A-17. SHORT TITLE.--Chapter 24, Article 7A NMSA 1978 may be cited as the "Uniform Health-Care Decisions Act"."

Section 2. Section 24-7A-6.1 NMSA 1978 (being Laws 1997, Chapter 168, Section 13) is amended to read:

"24-7A-6.1. LIFE-SUSTAINING TREATMENT FOR UNEMANCIPATED MINORS.--

A. Except as otherwise provided by law, a parent or guardian of an unemancipated minor may make that minor's health-care decisions.

B. A parent or guardian of an unemancipated minor shall have the authority to withhold or withdraw life-sustaining treatment for the unemancipated minor, subject to the provisions of this section and the standards for surrogate decision-making for adults provided for in the Uniform Health-Care Decisions Act.

C. Subject to the provisions of Subsection B of

1 this section, if an unemancipated minor has capacity
2 sufficient to understand the nature of that unemancipated
3 minor's medical condition, the risks and benefits of
4 treatment and the contemplated decision to withhold or
5 withdraw life-sustaining treatment, that unemancipated minor
6 shall have the authority to withhold or withdraw
7 life-sustaining treatment.

8 D. For purposes of Subsection C of this section, a
9 determination of the mental and emotional capacity of an
10 unemancipated minor shall be determined by two qualified
11 health-care professionals, one of whom shall be the
12 unemancipated minor's primary physician and the other of whom
13 shall be a physician that works with unemancipated minors of
14 the minor's age in the ordinary course of that physician's
15 health-care practice. If the unemancipated minor lacks
16 capacity due to mental illness or developmental disability,
17 one of the qualified health-care professionals shall be a
18 person whose training and expertise aid in the assessment of
19 functional impairment.

20 E. If the unemancipated minor's primary physician
21 has reason to believe that a parent or guardian of an
22 unemancipated minor, including a non-custodial parent, has
23 not been informed of a decision to withhold or withdraw
24 life-sustaining treatment, the primary physician shall make
25 reasonable efforts to determine if the uninformed parent or

1 guardian has maintained substantial and continuous contact
2 with the unemancipated minor and, if so, shall make
3 reasonable efforts to notify that parent or guardian before
4 implementing a decision.

5 F. If there is disagreement regarding the decision
6 to withhold or withdraw life-sustaining treatment for an
7 unemancipated minor, the provisions of Section 24-7A-11 NMSA
8 1978 shall apply."

9 Section 3. A new Section 24-7A-6.2 NMSA 1978 is enacted
10 to read:

11 "24-7A-6.2. CONSENT TO HEALTH CARE FOR CERTAIN MINORS
12 FOURTEEN YEARS OF AGE OR OLDER.--

13 A. An unemancipated minor fourteen years of age or
14 older who has capacity to consent may give consent for
15 medically necessary health care; provided that the minor is:

16 (1) living apart from the minor's parents or
17 legal guardian; or

18 (2) the parent of a child.

19 B. For purposes of this section, "medically
20 necessary health care" means clinical and rehabilitative,
21 physical, mental or behavioral health services that are:

22 (1) essential to prevent, diagnose or treat
23 medical conditions or that are essential to enable an
24 unemancipated minor to attain, maintain or regain functional
25 capacity;

1 (2) delivered in the amount and setting with
2 the duration and scope that is clinically appropriate to the
3 specific physical, mental and behavioral health-care needs of
4 the minor;

5 (3) provided within professionally accepted
6 standards of practice and national guidelines; and

7 (4) required to meet the physical, mental
8 and behavioral health needs of the minor, but not primarily
9 required for convenience of the minor, health-care provider
10 or payer.

11 C. The consent of the unemancipated minor to
12 examination or treatment pursuant to this section shall not
13 be disaffirmed because of minority.

14 D. The parent or legal guardian of an
15 unemancipated minor who receives medically necessary health
16 care is not liable for payment for those services unless the
17 parent or legal guardian has consented to such medically
18 necessary health care; provided that the provisions of this
19 subsection do not relieve a parent or legal guardian of
20 liability for payment for emergency health care provided to
21 an unemancipated minor.

22 E. A health-care provider or a health-care
23 institution shall not be liable for reasonably relying on
24 statements made by an unemancipated minor that the minor is
25 eligible to give consent pursuant to Subsection A of this

1 section.

2 F. Nothing in this section shall otherwise limit
3 the rights of an unemancipated minor to consent to treatment,
4 nor shall this section be read to conflict with the rights of
5 parents and children pursuant to the Children's Mental Health
6 and Developmental Disabilities Act."

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