



# Amy Loudenbeck

REPRESENTING WISCONSIN'S 31<sup>ST</sup> ASSEMBLY DISTRICT

**Testimony before Assembly Committee on Mental Health  
Assembly Bill 848  
Rep. Amy Loudenbeck  
January 30, 2018**

Thank you, Mr. Chairman and committee members for the opportunity to testify in favor of this bi-partisan legislation, Assembly Bill 848. AB 848 will allow minors to access mental health treatment in emergency situations without the written consent of a parent or guardian.

According to the National Conference of State Legislatures (NCSL), recent studies have shown that runaway and homeless youth who experience high rates of traumatic events should be treated by mental health professionals. For example, 46% have reported being physically abused, 38% reported being emotionally abused, and 17% reported being forced into unwanted sexual activity by a family or household member.

According to Education for Homeless Youth and Children Data a total of 2,235 "Unaccompanied Homeless Youth" were identified by local education agencies in Wisconsin for the 2016-2017 school year.<sup>[1]</sup> Under Federal law (the McKinney-Vento Homeless Assistance Act), an individual must meet both of the following criteria to be classified as "Unaccompanied Homeless Youth".

1. The child's or youth's living arrangement meets the Act's definition of *homeless*, and
2. The child or youth is not in the physical custody of a parent or guardian.<sup>[2]</sup>

Advocates for unaccompanied and homeless youth in Wisconsin have indicated that additional flexibility is needed in order for vulnerable youth to access mental health treatment services in a timely fashion, particularly when harm may come to the minor if treatment is not initiated before written consent is obtained.

Under current law a minor who is 14 years or older may petition a mental health review officer (MHRO) to review a parent's refusal or inability to consent to the minor's mental health treatment. This is a quasi-judicial process that can take several weeks to complete. My office has been working with local advocates and stakeholders to increase the use of the MHRO process but concerns remain regarding the health and well-being of an unaccompanied minor in between the time of referral and the determination of the MHRO.

AB 848 would waive the requirement for informed consent for outpatient mental health treatment of *minors in emergency situations or where time and distance requirements*

<sup>[1]</sup> <https://dpi.wi.gov/homeless/data>

<sup>[2]</sup> <http://nche.ed.gov/downloads/briefs/youth.pdf>





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*preclude obtaining written consent before beginning treatment and a determination is made that potential harm may come to the patient or others before written consent is obtained.* AB 848 requires that before this waiver may be used, the provider must have made an effort to obtain written consent from a parent or guardian of a minor patient. Additionally, under the provisions of AB 848, the waiver is limited to a period of 30 days during which time informed consent shall be obtained in writing or the MHRO process shall be initiated.

AB 848 specifically prohibits the health care provider from admitting a minor to an inpatient facility or an inpatient treatment facility and prohibits the health care provider from prescribing medications to a minor seeking treatment for a mental health condition without the consent of a parent or guardian.

Thank you for the opportunity to testify on this bill today. I would be happy to answer any questions at this time.



**Alberta Darling**  
**Wisconsin State Senator**  
Co-Chair, Joint Committee on Finance

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Thank you Chair Tittl and committee members for holding a public hearing on Assembly Bill 848. This bill is vital to ensuring that our most vulnerable youth can access the mental health services they need to begin leading healthy, stable lives.

In Wisconsin, minors who are 12 years of age or older can access alcohol or other drug abuse services without obtaining consent from a parent or guardian if he or she cannot be found. While our state law grants some exceptions for health services for minors who cannot gain parental consent, currently, minors wishing to obtain mental health services like counseling cannot do so without the consent of a parent or legal guardian.

Assembly Bill 848 allows certified health care providers to deliver outpatient mental health treatment for 30 days without first obtaining informed parental consent in emergency situations. Under the bill, in order for the provider to begin services, a reasonable effort must have been made to obtain consent from the parent. Assembly Bill 848 includes services like counseling, but does not include inpatient services or prescribing medication.

This bill will be incredibly influential for the lives of Wisconsin's homeless youth. For the 2015-2016 school year, the Department of Public Instruction estimated that Wisconsin was serving nearly 18,600 homeless minors in our public schools. National data shows that these children experience trauma at a higher rate than other youth. Studies done by the National Conference of State Legislatures showed 46% of homeless youth reported physical abuse, 38% reported emotional abuse, and 17% reported sexual abuse by a family member.

While homeless youth experience trauma, they are not able to receive mental health services like counseling without obtaining parental consent. In many cases, it is impossible to find the birth parent to consent to services. These youth need to access mental health services to begin to treat the trauma they have endured, start the road to recovery, and begin to lead healthy and stable lives.

This bill is crucial to ensuring vulnerable minors in our state have access to critical mental health services. In passing this legislation, Wisconsin will join the 17 other states who have embarked upon similar reforms.

I'd like to thank Representative Loudonbeck for her leadership on this bill and for all of her work on legislation for homeless and unaccompanied youth. I urge your support on Assembly Bill 848.



### III. AODA TREATMENT (continued)

- C. If you are 12 or older, you can be provided some limited treatment without your parent or guardian's consent or knowledge.

### IV. TREATMENT RIGHTS

- A. You must be provided prompt and adequate treatment.
- B. If you are 14 years old or older, you can refuse treatment until a court orders it.

- C. You must be told about your treatment and care.

- D. You have the right to and are encouraged to participate in the planning of your treatment and care.

- E. Your relatives must be informed of any costs they may have to pay for your treatment.

### V. PERSONAL RIGHTS

- A. You must be informed of your rights.
- B. Reasonable decisions must be made about your treatment and care.
- C. You cannot be treated unfairly because of your race, national origin, sex, religion, disability or sexual orientation.

### VI. RECORD ACCESS AND PRIVACY

- A. Staff must keep your treatment information private (confidential). However, it is possible that your parents may see your records.

- B. If you want to see your records, ask a staff member.

- 1. You may always see your records on any medications you take.
- 2. Staff may limit how much you may see of your other records. They must give you reasons for any limits.
- C. If you are at least 14, you can consent to releasing your own records to others.

### VII. PATIENT RIGHTS HELP

If you want to know more about your rights or feel your rights have been violated, you may do any of the following:

- A. Contact the patient rights staff if you have any questions. Their contact information should be provided to you by the service provider.
- B. File a complaint. Patient rights staff will look into your complaints. They will keep your complaints private (confidential); however, they may need to ask staff about the situation.
- C. Call Disability Rights Wisconsin (DRW). They are advocates and lawyers who can help you with patient rights issues. Their telephone number is (608) 267-0214 or 1 (800) 928-8778.

STATE OF WISCONSIN  
DEPARTMENT OF HEALTH SERVICES  
Division of Care and Treatment Services  
P-20470B (09/2016)  
[www.dhs.wisconsin.gov](http://www.dhs.wisconsin.gov)

State of Wisconsin

# RIGHTS

# OF

# CHILDREN

# AND

# ADOLESCENTS

# In Outpatient Mental Health Treatment

*What every young patient needs to know  
to be aware of his/her legal rights.*



## I. OUTPATIENT TREATMENT CONSENT

### A. If you are less than 14 years old:

A parent or your guardian must agree, in writing, to your receiving outpatient mental health treatment.

### B. If you are 14 years or older:

1. You and your parent or guardian must agree to your receiving outpatient mental health treatment.

2. If you want treatment but your parent or guardian is unable to agree to it or won't agree to it, you (or someone on your behalf) can petition the county Mental Health Review Officer (MHRO) for a review.

3. If you do not want treatment but your parent/guardian does, the treatment director for the clinic where you are receiving your treatment must petition the MHRO for a review.

## II. REVIEW BY MHRO AND/OR COURT

A. Each Juvenile Court appoints a MHRO for that county. A list of MHRO's by county is at: <https://www.dhs.wisconsin.gov/clientrights/minors.htm>

B. The Juvenile Court must ensure that you are provided any necessary assistance in the petition for review.

C. The MHRO must inform your county of the petition for review.

D. If you request it and the MHRO thinks it is in your best interests, review by the MHRO can be skipped and the review will be done by the court.

E. If the MHRO does the review:

1. A hearing must be held within 21 days of the filing of the petition for review.

2. Everyone must get at least 96 hours (4 days) notice of the hearing.

3. To approve your treatment (against your will or despite the refusal of your parent/guardian) the MHRO must find that all these are true:

a. The refusal of consent is unreasonable.

b. You are in need of treatment.

c. The treatment is appropriate and least restrictive for you.

d. The treatment is in your best interests.

4. You and your parent/guardian will be informed of the right to a judicial review.

F. Judicial Review

1. Within 21 days of the MHRO's ruling (or if that review is skipped), you (or someone acting on your behalf) can petition the Juvenile Court for a judicial review.

2. If you do not want the treatment, the court must appoint you an attorney at least 7 days prior to the hearing.

3. If it is your parent/guardian who does not want the treatment and you do not already have a lawyer, the court must appoint you one.

4. A court hearing must be held within 21 days of the petition.

5. Everyone must get at least 96 hours notice of the hearing.

6. To approve your treatment (against your will or despite the refusal of your parent/guardian) the Judge must find that all these are true:

a. The refusal of consent is unreasonable.

b. You are in need of treatment.

c. The treatment is appropriate and least restrictive for you.

d. The treatment is in your best interests.

7. A court ruling does not mean that you have a mental illness.

8. The court's ruling can be appealed to the Wisconsin Court of Appeals.

## III. AODA TREATMENT

A. At any age, if your parent or guardian agrees to it, you can be required to participate in treatment for alcohol or other drug abuse.

B. If you are less than 12, you may get limited treatment (like detox) without your parent or guardian's consent only if they cannot be found or you do not have one.



**TO: Members, Assembly Committee on Mental Health**

**FROM: Justin Schoen, MD, President  
John Schneider, MD, President-Elect  
Wisconsin Psychiatric Association**

**DATE: January 30, 2018**

**RE: Support for Assembly Bill 848**

The Wisconsin Psychiatric Association represents over 400 psychiatrists throughout Wisconsin. Psychiatry is the specialized practice of medicine devoted to the brain, brain chemistry and mental illnesses and disorders relating to mood, behavior, cognition and perception. Psychiatrists are specialized medical doctors who complete four years of undergraduate and four years of medical school education, followed by a minimum of three years of training as medical residents under the direction and guidance of more experienced psychiatrists. Child psychiatry is a further specialized sub-specialty of psychiatry.

Mental health issues can arise from myriad causes with varying degrees of genetic, biological, chemical, environmental, physical, social and psychological factors involved. We know that the developing brains of children can be highly susceptible to many of these, and that left undetected, undiagnosed or untreated can cause far more serious mental illnesses that are much harder to treat. Encouragingly, we also know that with early diagnosis and treatment those same developing brains of children are highly resilient. Children diagnosed early with mental health issues can often be quickly restored to good mental health with timely and proper care.

As with most physical illnesses, the key to swift and successful outcomes is early detection, diagnosis and treatment. In many cases, for example those where a child's parents or guardians are themselves struggling with mental illness, or are drug abusers, or who are largely absent, it is others in a child's life (like teachers, or counselors) who see the first signs of mental health issues. Appropriately, written consent of a child's parents or guardians is required before children receive mental health treatment, but in some instances parents or guardians are unavailable to provide that consent. In those cases, Wisconsin law provides a mental health review officer (MHRO) process by which children can receive mental health treatment without a parent or guardian's consent. Unfortunately, that MHRO process can be difficult and time consuming to navigate, and can result in a delay in finding mental health care for a child, perhaps resulting in no care at all.

AB 848 would allow children to receive up to 30 days of emergency mental health treatment without parental/guardian consent if circumstances make gaining that consent difficult or impossible. Under appropriate circumstances, this allows a child to get necessary mental health care while the MHRO process plays out, rather than delaying care and increasing the child's chances for a negative outcome. Our children are among our most vulnerable, and while requiring the involvement of their parents/guardians in their healthcare is a good public policy, it is important that we do all we reasonably can to get children necessary mental health care as quickly as possible. AB 848 represents a balanced approach to this dilemma. Please support AB 848.

