

ON.24.01 Elimination of the Mature Minor Doctrine in Mental Health

1 **Resolved**, that the Ontario Provincial Council of The Catholic Women’s League of Canada in
2 2024 annual convention assembled urge the Ontario provincial government to enact legislation to
3 include parents/legal guardians in the assessment, development, modification, and ongoing
4 implementation of mental health treatment plans for children under the age of 16, thereby
5 eliminating the practice of mature minor doctrine.

6

7 **Gifted by Sault Ste. Marie Diocesan Council**

8

ON.24.01 Elimination of the Mature Minor Doctrine in Mental Health

1 The mature minor doctrine, a policy based in common law, exists because there is no legislation
2 or regulation for physicians to follow with respect to the mental health care of a minor. In Ontario,
3 The Health Care Consent Act, 1996, defines capacity in section 4 and does not include a stipulated
4 age of consent for mental health treatment of a minor. In the current practice, a dependant child
5 under the age of 16 can attend an appointment, have an assessment, develop and/or modify a care
6 plan, and implement a treatment process without consulting the parent/legal guardian.

7 The College of Physicians and Surgeons Ontario (CPSO) Consent to Treatment policy states
8 "...the test for capacity to consent to treatment is not age-dependant..." (CPSO, p 3, 18). As a
9 result, physicians use their own judgement to assess a child's mental capacity to understand
10 treatment information, reasonably foresee consequences, and make treatment decisions without
11 consulting or talking to a parent/legal guardian. "If a minor is capable with respect to a treatment,
12 the physician must obtain consent from the minor directly, even if the minor is accompanied by
13 their parent or guardian." (CPSO, p 3, 19)

14 The Canadian Mental Health Association recognizes the Diagnostic and Statistical Manual of
15 Mental Disorders, 5th edition (DSM-5), as a guide to assist clinicians to diagnose and treat
16 mental disorders. This guide includes a specific section on the Parents' Integral Role.
17 "As with any medical issue, no child should ever be diagnosed without a careful, comprehensive
18 evaluation...Parents play an integral role in this process as many of the DSM criteria require that
19 symptoms be observed by them or individuals who interact regularly with the child. It is both
20 appropriate and essential for parents to ask questions and provide information to clinicians during
21 a child's assessment. Parents' specific questions about their child's care should always be
22 discussed with the child's mental health clinician or pediatrician." (DSM-5, p 1)

23 We urge the provincial government to enact legislation to require parent/legal guardian
24 involvement in mental health care for children under the age of 16 thereby eliminating the practice
25 of the mature minor doctrine.

ON.24.01 Elimination of the Mature Minor Doctrine in Mental Health

Works Cited

1. College of Physician and Surgeons [CPSO]. “Consent to Treatment.” Minors, May 2020, www.cpso.on.ca/en/Physicians/Policies-Guidance/Policies/Consent-to-Treatment Accessed 4 January 2024.
2. Coughlin, Kevin W. “Medical Decision-Making in Paediatrics: Infancy to Adolescence.” Canadian Paediatric Society, cps.ca/en/documents/position/medical-decision-making-in-paediatrics-infancy-to-adolescence Accessed 12 Jan. 2024.
3. Diagnostic and Statistical Manual of Mental Disorders 5th ed. [DSM-5]. “DSM-5 and Diagnoses for Children.” American Psychiatric Association, 2013. www.psychiatry.org/File%20Library/Psychiatrists/Practice/DSM/APA_DSM-5-Diagnoses-for-Children.pdf . Accessed 4 January 2024.
4. Government of Ontario. Health Care Consent Act. 1996, S.O. 1996, c. 2, Sched. A version current May 18, 2023. <https://ontario.ca/laws/statute/96h02#BK5> Accessed 4 January 2024.
5. Knight, Kimberly. “Consent of Minors to Medical Treatment.” Siskinds Law Firm, 27 Feb. 2023, www.siskinds.com/consent-of-minors-to-medical-treatment/.

ON.24.01 Elimination of the Mature Minor Doctrine in Mental Health

Action Plan

1. Write letters to the premier of Ontario, the minister of health, and your MPP to enact legislation to include parents/legal guardians in the assessment, development, modification, and ongoing implementation of mental health treatment plans for children under the age of 16, thereby eliminating the practice of mature minor doctrine.
2. Find out more about your local agencies who assist with mental health and ask how you or your council can assist them in their mission.
3. Invite a guest speaker to speak on how to better support individuals struggling with mental health or illness.
4. Search the patron saints of mental health and organize a novena or spiritual development exercise to pray for the individuals and their families who struggle with mental health.