

SARN Committee Legislative Draft A

RE: minor consent for sexual assault healthcare services – as revised 12/8/25

Authorizing minors to self-consent for health services related to sexual assault; amending 41-1-102, MCA; and providing an effective date and applicability date.

41-1-402. Validity of consent of minor for health services. (1) This part does not limit the right of an emancipated minor to consent to the provision of health services or to control access to protected health care information under applicable law.

(2) The consent to the provision of health services and to control access to protected health care information by a health care facility or to the performance of health services by a health professional may be given by a minor when the health professional, in good faith and with a reasonable belief supported by fact, determines that the minor meets any of the following descriptions:

(a) the minor professes to be or to have been married or to have had a child or to have graduated from high school;

(b) the minor professes to be or is found to be separated from the minor's parent, parents, or legal guardian for whatever reason and is providing self-support by whatever means;

(c) the minor professes or is found to be pregnant or afflicted with any reportable communicable disease, including a sexually transmitted disease, or drug and substance abuse, including alcohol. This self-consent applies only to the prevention, diagnosis, and treatment of those conditions specified in this subsection (2)(c). The self-consent in the case of pregnancy, a sexually transmitted disease, or drug and substance abuse also obliges the health professional, if the health professional accepts the responsibility for treatment, to counsel the minor or to refer the minor to another health professional for counseling.

(d) the minor needs emergency care, including transfusions, necessary to prevent serious injury or harm to the minor. If emergency care is rendered, the parent, parents, or legal guardian must be informed as soon as practical except under the circumstances mentioned in this subsection (2).

(e) the minor professes to be or is suspected to be a victim of sexual intercourse without consent, sexual assault, or incest. Self-consent under these circumstances also obliges the health professional, if the health professional accepts the responsibility for treatment, to counsel the minor or to refer the minor to another health professional for counseling. Unless the parent, parents, or legal guardian is the suspected perpetrator, the health professional shall attempt to

notify the parent, parents, or legal guardian of the minor as soon as practical except under the other circumstances mentioned in this subsection (2).

(3) A minor who has had a child may give effective consent to health service for the child.

(4) A minor may give consent for health care for the minor's spouse if the spouse is unable to give consent by reason of physical or mental incapacity.

New Section. Section X. Effective date. [This act] is effective on passage and approval.

New Section. Section X. Applicability. [This act] applies to proceedings begun on or after [the effective date of this act].