

Homeless Minors

A homeless youth is “a person under the age of eighteen who is in need of services and is without a place of shelter where supervision and care are available.”¹ Starting on March 23, 2023, minors who are homeless may consent to their own medical, dental, health, and hospital care without the consent of any other person.² No documentary proof is required to access care; the minor’s assertion that they are homeless is sufficient.³ Additionally, a minor’s experience of homelessness alone is not a reason to call the Statewide Central Register of Abuse and Neglect.⁴

A homeless minor who is receiving services at an approved runaway and homeless youth crisis services program⁵ or a transitional independent living support program⁶ may also consent to their own medical, dental, health, and hospital care without the consent of any other person,⁷ but a homeless minor need not be receiving services in order to consent to their own care.

Q: Joe, who is 17, homeless, and transgender, wants to start taking testosterone. Does the doctor need to get Joe’s parents’ permission before prescribing testosterone?

A: No, because Joe is homeless, the doctor can prescribe testosterone based on Joe’s own consent so long as Joe has the capacity to consent, meaning that he understands the risks and benefits of the proposed treatment and its alternatives.

Runaway Minors

A runaway youth is “a person under the age of eighteen who is absent from his or her legal residence without the consent of his or her parent, legal guardian or custodian.”⁸ In practice, runaway minors’ experiences are often similar to homeless minors’ experiences. According to homeless and runaway youth service providers, these young people often feel unsafe returning home, or their parents tell them they are unwelcome at home even as the parents tell the runaway and homeless youth crisis services programs⁹ that they can come home. Starting on March 23, 2023, runaway minors who receive services at an approved runaway and homeless youth crisis services program may consent to their own medical, dental, health, and hospital care without the consent of any other person.¹⁰ No documentary proof is required to access care; the minor’s assertion that they receive services at an approved runaway and homeless youth crisis service program is sufficient.¹¹ Additionally, a minor’s runaway status alone is not a reason to call the Statewide Central Register of Abuse and Neglect.¹²

Q: Sophie, who is 16 and has Type 1 Diabetes, is a runaway youth and is receiving services at an approved runaway and homeless youth crisis services program. Her parents told the program that she is welcome to return home at any time, but they told her not to even think about coming home. Sophie has run out of insulin. Can Dr. Xu prescribe insulin for Sophie based on Sophie's own consent?

A: Yes. Sophie is a runaway youth receiving services at an approved runaway and homeless youth crisis services program. So long as Sophie has the capacity to consent, meaning that she understands the risks and benefits of the proposed treatment and its alternatives, Dr. Xu can prescribe insulin based on Sophie's own consent.

CORRECTION: The "Incarcerated Minors" section on p. 27 of the 2018 Teenagers, Health Care, and the Law suggests that minors who are placed with the Office of Children of Children and Family Services or a social services district are treated the same as minors who are incarcerated in terms of their ability to consent to health care. This is inaccurate.

Rather, when the family court places a minor under 18 years old with the Office of Children of Children and Family Services or a social services district, the court must ask whether the parents or legal guardian, if present, will consent for the office or the district to provide routine medical, dental, and mental health services and treatment¹³ for the minor.¹⁴ However, even if no parent or guardian gives permission, the law provides that the placement order will be treated as giving the office or the district consent to provide routine medical, dental, and mental health services and treatment for the minor.¹⁵ The parent or guardian retains the ability to file a motion objecting to routine medical, dental, or mental health services and treatment at any time.¹⁶

While a minor who is placed with the Office of Children and Family Services or a social services district obtains no additional right to consent to their own health care, they do retain the ability to consent to their own medical, dental, or mental health service and treatment where they are otherwise authorized by law to do so (either because of the category of care sought or because they belong to a class of minors who already categorically have the right to consent to their own health care).¹⁷

ENDNOTES

- 1 N.Y. Exec. Law § 532-a(2)(a) (McKinney).
- 2 N.Y. Pub. Health Law § 2504(f) (McKinney).
- 3 Frequently Asked Questions: Guidance on a Minor's ability to consent to Medical, Dental, Health and Hospital-related Services, NEW YORK STATE DEPARTMENT OF HEALTH & NEW YORK STATE OFFICE FOR CHILDREN & FAMILY SERVICES, June 2023, https://wnydocs.org/resources/RHY-FAQ_Final.pdf.
- 4 *Id.*
- 5 A runaway and homeless youth crisis services program is defined as:
 - (a) any non-residential program approved by the office of children and family services, after submission by the municipality as part of its comprehensive plan, that provides services to runaway youth and homeless youth in accordance with the regulations of the office of children and family services; or
 - (b) any residential program which is operated by an authorized agency as defined in subdivision ten of section three hundred seventy-one of the social services law, and certified by the office of children and family services to provide short-term residential services to runaway youth and homeless youth in accordance with the applicable regulations of the office of temporary and disability assistance and the office of children and family services.
 - (c) Runaway and homeless youth crisis services programs may also provide non-residential crisis intervention and, if certified, residential respite services to youth in need of crisis intervention or respite services, as such term is defined in this section. Residential respite services in a certified runaway and homeless youth crisis services program may be provided to such youth for no more than twenty-one days, in accordance with the regulations of the office of children and family services and section seven hundred thirty-five of the family court act.
- 6 N.Y. Exec. Law § 532-a(4) (McKinney).
- 7 A transitional independent living support program is defined as:
 - (a) any non-residential program approved by the office of children and family services, after submission by the municipality as part of its comprehensive plan, that provides supportive services to enable homeless youth to progress from crisis care and transitional care to independent living, in accordance with the applicable regulations of the office of children and family services; or
 - (b) any residential program established and operated to provide supportive services, in accordance with the regulations of the office of children and family services, to enable homeless youth to progress from crisis care and transitional care to independent living.
 - (c) A transitional independent living support program may also provide services to youth in need of crisis intervention or respite services. Notwithstanding the time limitation in paragraph (i) of subdivision (d) of section seven hundred thirty-five of the family court act, residential respite services may be provided in a transitional independent living support program for a period of more than twenty-one days.
- 8 N.Y. Exec. Law § 532-a(6) (McKinney).
- 9 N.Y. Pub. Health Law § 2504(f) (McKinney).
- 10 N.Y. Exec. Law § 532-a(1) (McKinney).
- 11 *Supra* note 5.
- 12 N.Y. Pub. Health Law § 2504(f) (McKinney).
- 13 Frequently Asked Questions: Guidance on a Minor's ability to consent to Medical, Dental, Health and Hospital-related Services, NEW YORK STATE DEPARTMENT OF HEALTH & NEW YORK STATE OFFICE FOR CHILDREN & FAMILY SERVICES, June 2023, https://wnydocs.org/resources/RHY-FAQ_Final.pdf.
- 14 *Id.*
- 15 Routine medical, dental, and mental health services and treatment, in this context, mean "any routine diagnosis or treatment, including without limitation the administration of medications or nutrition, the extraction of bodily fluids for analysis, and dental care performed with a local anesthetic. Routine mental health treatment shall not include psychiatric administration of medication unless it is part of an ongoing mental health plan or unless it is otherwise authorized by law." N.Y. Fam. Ct. Act § 355.4(3) (McKinney).
- 16 N.Y. Fam. Ct. Act § 355.4(1) (McKinney).
- 17 N.Y. Fam. Ct. Act § 355.4(2) (McKinney).
- 18 N.Y. Fam. Ct. Act § 355.4(4)(a) (McKinney).
- 19 N.Y. Fam. Ct. Act § 355.4(5) (McKinney).