

Minors and Health Care: New Law Allows Homeless Youth to Consent to Health Care

Each year, thousands of New York’s youth run away from home, are told to leave their homes, or otherwise experience homelessness. Youth face these challenges not just in cities but in suburban and rural communities as well. Often, youth are trying to escape abuse, neglect, or conflict in their homes. Youth experiencing housing instability are highly vulnerable and experience higher rates of chronic health problems, nutritional problems, trauma-related injuries, and dental complications. Current law generally requires parental consent for minors to receive health care unless there is an emergency or if the minor is pregnant, married, or has a child. The need for parental consent can be a huge barrier to accessing health care for minors experiencing homelessness.

Effective March 23, 2023, a new amendment to Public Health Law § 2504 was enacted to support homeless youth by allowing them to consent to their own medical, dental, health, and hospital care. The amendment states:

Any person who is eighteen years of age or older, or is the parent of a child or has married, or is a homeless youth as defined in section five hundred thirty-two-a of the executive law, **or** receives services at an approved runaway and homeless youth crisis services program or a transitional independent living support program as defined in section five hundred thirty-two-a of the executive law, may give effective consent for medical, dental, health and hospital services for themselves, and the consent of no other person shall be necessary.

A “homeless youth” is a person under the age of 18 who is in need of services and is without a place of shelter where supervision and care are available. The programs that are cited are runaway and homeless youth crisis services programs (RHY) or transitional independent living support programs that are certified by the NYS Office of Children and Family Services (OCFS).

While the new law is clear that homeless youth will be able to consent to their own health care if they are receiving services from an established program, it is unsettled as to whether they can separately consent to their own care if they are not receiving services. Although a technical reading of the language of the law would seem to permit a homeless youth to independently consent to health care regardless of whether they are receiving services, OCFS does not appear to adopt that interpretation.¹

Youth who meet the criteria can consent to a wide range of health care services, including, but not limited to:

- Routine physical and dental checkups
- Vision tests and glasses
- Hearing exams and hearing aids

¹ <https://ocfs.ny.gov/programs/youth/rhy/assets/docs/Medical-Consent-Youth-Under-18-Experiencing-Homelessness.pdf>. This site contains a flow chart that states: “Are you receiving services from an OCFS-approved RHY program? No: You most likely **cannot** consent to health services for yourself—consent from a parent or legal guardian will probably be required.”

- Reproductive and sexual health services
- Treatments for illness and conditions
- Vaccines
- Gender-affirming care²

However, from the provider's perspective, the right to give consent is not the only consideration as to whether they should provide care. A provider should always ensure that the youth has capacity to give informed consent (i.e., that they are capable of understanding the health concern; the risks and benefits of any treatment; alternatives to treatment, including no treatment; the proper use of medication; and the need for follow-up care). The ability to provide necessary follow-up care is especially problematic with homeless youth who do not have a reliable means of communication or transportation. Further, a homeless youth may not have the ability to provide payment for health care services, or if they do have insurance, they may wish to have information withheld from their parents or guardians. The issues of payment and information sharing may also present barriers to providing health care services.

If you do find yourself in a position where you must decline to provide services to a youth experiencing homelessness, keep in mind that under antidiscrimination laws you cannot refuse to provide professional services to a person because of the person's race, creed, color, national origin, sexual orientation, military status, sex, age, marital status, domestic violence victim status, disability, pregnancy-related condition, predisposing genetic characteristics, prior arrest or conviction record, familial status, and gender identity.³

Homeless youth are often in desperate need of supportive services, and their medical care can present challenges. If you are presented with a request to provide health care services to a homeless youth, it is recommended that you assist the youth in connecting with an approved OCFS RHY program. Many counties have RHY services coordinators, and a list of approved programs with 24-hour help lines can be found [here](#). You should also have a list of health centers or walk-in clinics in your community where free or low-cost services are available if you find yourself unable to provide care.

If you have any questions regarding the content of this article, please contact Fran Ciardullo, special counsel, at fciardullo@barclaydamon.com.

AUTHOR'S BIOGRAPHY

[Fran Ciardullo](#)

As special counsel at Barclay Damon LLP, Fran concentrates her legal practice on health care and risk-management issues. She counsels physicians, physician groups, dentists, hospitals and health systems, nursing homes, and other health care providers on matters involving professional misconduct, professional liability, medical-staff issues, scope of practice, mandated reporting,

² It is well established that minors are able to independently consent to family planning services; preventing, testing, and treatment for sexually transmitted infections (STI), including HIV; and other specific services allowed under NYS law.

³ Education Law § 6530(10); Executive Law § 296.

peer review, and regulatory compliance. Fran also handles consent for treatment and surrogate decision making, patient care, EMTALA, and health-information privacy issues.

A former Town of Schroepel town justice, Fran is also trained in alternative dispute resolution and has mediated and arbitrated a variety of civil actions and disputes. She routinely publishes industry articles and presents educational programs on legal matters to hospitals, medical and dental practices, and trade associations.