Independent Access to Confidential Health Services
Vital for Young People to Develop Healthy Lives

Young people need the right to access the full range of reproductive, sexual, and other sensitive health services they need to take personal responsibility for their own health. Most young people seek these health services with their parents’ knowledge and involvement. And any young person who needs to access health care services should be able to seek the advice of those who care for them. But for those who can’t or who face the threat of violence in their homes—it is better for them to be able to access the services of a trained medical professional than to face the situation alone and afraid, possibly delaying or foregoing the health care they need. Advocates must push policymakers on the local, state, and federal levels to guarantee that young people can independently consent to the care they need and to receive that care confidentially.

INDEPENDENT ACCESS TO CONFIDENTIAL HEALTH CARE IS KEY FOR YOUNG PEOPLE’S HEALTH

The right to take responsibility for important decisions is a vital part of young people’s health. Why? Because developing responsibility for healthcare is part of building a healthy adulthood. The vast majority of young people exercise this responsibility in consultation with their parents about their healthcare decisions. Nonetheless, there are a variety of reasons they do not always feel it is safe or possible to involve their parents. For example, thirty percent of teens who do not tell their parents about their abortions feared violence or being forced to leave home. If young people cannot consent to their own health care or feel secure in that care being confidential, they may delay, forgo, or even be denied needed care by parents, guardians, or others. That’s why the American Medical Association, the Society of Adolescent Medicine, and the American Academy of Family Physicians have stated it is essential that adolescents have independent access to confidential health care, and the Centers for Disease Control has made the clear guarantee of independent access and confidentiality protections key in developing teen-friendly reproductive health care.

STATE AND FEDERAL LAW OFTEN PREVENT YOUNG PEOPLE FROM ACCESSING HEALTH CARE INDEPENDENTLY

Current policies limit youth rights to independently consent to a range of necessary health services. Legal doctrine historically required parental consent for the medical treatment of almost all minors. Thirty-eight states currently enforce laws that require a young person to notify or obtain consent from one or both parents before they can receive abortion care. Just sixteen provide exceptions for minors who are victims of sexual and physical assault, incest or neglect. Twenty-nine states have some limitations on minors’ right to consent to contraceptive services, and eighteen states do not even allow all minors to consent to their own prenatal care. The legal barriers extend beyond sexual and reproductive health care: Half of the states do not permit minors to independently consent to mental health care. Ten states do not permit minors to independently consent to substance abuse treatment. And as few as five states permit minors to consent to medical treatment for sexual assault independently.

But there has been progress: over the last several decades some policymakers have begun to recognize the importance of young people’s right to consent to their own care in some circumstances. For example, the federal government requires that minors be able to independently consent to contraception and STI services at federally funded Title X clinics and for services provided through Medicaid and to receive those services confidentially.

EVEN WITH INDEPENDENT ACCESS TO SOME CARE, YOUNG PEOPLE’S CONFIDENTIALITY IS OFTEN COMPROMISED

Young people cannot always count on information about the health care they
receive to be kept confidential. Some states allow providers to inform parents of certain types of care received even when they allow minors to consent to their own services. For example, while every state allows minors to obtain STI screening and treatment without parental consent, eighteen states allow providers to notify parents of those services. And if a minor is insured on a parent’s health plan, the federal Health Insurance Portability and Accountability Act (HIPAA) does not usually protect their personal health information from parental access.

Even for young people over eighteen, widespread insurance billing and claims practices routinely risk compromising confidential access to health care: when teenagers or young adults access care through their parents’ health plans, explanations of benefits and other insurance communications may disclose sensitive medical information to their parents, inadvertently breaching patient confidentiality. This contributes to serious negative health risks for teens and young adults and counteracts the promise of efforts, such as those of the Affordable Care Act, to expand youth access to health care.

FAILING TO GUARANTEE YOUNG PEOPLE INDEPENDENT ACCESS TO HEALTH CARE CAUSES REAL HARM, ESPECIALLY TO THOSE FROM COMMUNITIES THAT ARE ALREADY MARGINALIZED

The failure to guarantee young people independent access to care can lead to a range of troubling health outcomes: When young people fail to seek timely STI/HIV screening and treatment, they put themselves and their sexual partners at risk of a variety of serious health problems. For young people with the capacity for pregnancy, delaying or forgoing contraceptive care increases their risk for unintended pregnancy and related health concerns, and delaying prenatal care when they are pregnant has negative effects for both the young person and their child. For young people seeking abortion care, parental involvement requirements can delay access, leading to more expensive, invasive, and harder to obtain later-term abortion procedures.

The harm of these policies falls more heavily on young people from marginalized communities: young people in the foster care system or whose parents are unavailable may be forced to leave the state they live in to access care they need, or denied access entirely. Similarly, homeless minors may be denied a range of sensitive health care services due to a lack of parental consent in many states. Finally, consent restrictions allow parents and the state to deny LGBTQ youth treatment they need, and to subject them to harmful treatment against their will.

WE CAN ENSURE YOUNG PEOPLE HAVE THE RIGHT TO INDEPENDENTLY ACCESS CONFIDENTIAL HEALTH SERVICES

Advocates and policymakers on the local, state, and federal levels must support young people rights to access the full range of reproductive, sexual, and other sensitive health services they need to take personal responsibility for their own health.

• State legislatures should recognize young people’s right to independently consent to sensitive health services. State legislatures have the power to grant young people the right to independently consent to health services, and to require communications about those services be confidential. Some states have crafted inventive approaches to do just that, and Advocates for Youth has drafted the MY Access (Minors & Youth Access to Sensitive Health Services) Act, model legislation that allows advocates can replicate effective measures in their own states.

• The federal government should work towards a national solution. The U.S. Department of Health and Human Services (DHHS) should be encouraged to interpret HIPAA to grant young people the option of requesting that insurance communications be sent directly to them when they reference sensitive health care services.

• State agencies should guarantee the

A 2007 study found that guaranteeing young people access to confidential health services did not discourage them from discussing their healthcare decisions with their parents and was not a barrier to parental involvement.
protection of young people’s confidentiality. Advocates should urge their state Insurance Commissioners and Departments of Health to enact strong, comprehensive confidentiality protections for young people and all individuals insured as dependents.

• Advocates should ensure that young people know their rights. Unless young people are adequately informed of their rights, protections will fail to meaningfully improve their access to needed health care services. That is why advocates should support state-wide efforts to educate patients and providers on the right to confidential health care.

When they need health care, young people should able to access the services of a trained medical professional rather than face the situation alone and afraid. Advocates must push policymakers on the local, state, and federal levels to fully recognize that young people need the right to access the full range of reproductive, sexual, and other sensitive health services they need to take personal responsibility for their own health.

For more information on young people’s consent and confidentiality laws, please contact Abbey Marr, State Policy Analyst, abbey@advocatesforyouth.org.

In a 2002 study, 59% of young women under 18 indicated they would stop using some or all sexual health care services, or delay testing or treatment for HIV or other STDs if their parents were informed.18
REFERENCES


12. Ibid.


15. Ibid.


20. Ibid.


