

Is there a way to make sure that my wishes will be followed if at some point I do not have the capacity to consent to care?

Yes, if you are 14 or older you can direct your treatment if you become incapacitated. This is called an advanced directive. Your individual instructions will be signed by you, your parent or guardian, and a witness.

Even when you have the right to consent to your own care, your mental health care provider might suggest that your parents or guardian get involved in your treatment. Whether or not you decide to have your parent or legal guardian be involved in your treatment, it will not prevent you from making your own decisions.

Resources:

Pegasus Legal Services for Children: Provides legal services targeted to the needs of children and youth.
Tel.: (505) 244-1101.

Disability Rights New Mexico: protects, promotes and expands the legal and civil rights of persons with disabilities.
Tele/TTY: (505) 256-3100;
State-wide Toll Free: 1-800-432-4682.

Youth Law: Mental Health Rights

This brochure explains when a person under 18 years of age can consent to mental health treatment and what rights they have to keep their mental health information confidential.

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What are “mental health treatments”?

Mental health treatment includes treatments such as: individual therapy, group therapy case management, behavior management, family therapy, substance abuse treatment, and other forms of verbal therapy that do not cause discomfort.

I am 13 (or younger) can I see a psychologist without my parent’s consent?

When you are under 14, you need your parent’s consent to see a psychologist or other mental health care provider. However, even if you are under 14, you can see a mental health care provider to get an evaluation without your parent’s consent. The mental health care provider can see you for up to two (2) weeks before he needs to get your parent’s consent.

At any time, if your mental health care provider believes that you are being abused or/and neglected, he will need to report your case to the authorities (for example, the police). Remember that these providers always have your best interest in mind.

If I am 13 (or younger) can I control who gets to see my mental health records?

Your parents have the authority to release your mental health records if you are under fourteen. That means that they can let someone else get information about your mental health, even if you do not want them to.

If I am 14 (or older) can I see a psychologist without my parent’s consent?

When you are 14 years old or older, you can consent to mental health care on your own.

If I am 14 (or older) can I control who gets to see my mental health records?

Yes, you can agree to the release or withhold your mental health records. That means that you get to decide who can see your records.

Can I take psychotropic medications - such as Prozac - without my parent’s consent?

Yes, when you are 14 years old or older, you can consent to psychotropic medication (for example, Ritalin, anti-depressants, anti-anxiety medication, anti-psychotic medication, etc.). However, your mental health care provider must tell your parents that you are taking this type of medication.

Are there situations where my parents will make decisions for me regarding mental health care even though I am 14 or older?

Yes, if the doctors decide that you do not have the capacity to consent, your parents may be able to consent to mental health treatment and psychotropic medications for you.

“Capacity” means that you are able to make important decisions for yourself such as whether or not to receive counseling or whether or not to take medication.

If your parent or doctors think you do not have capacity to consent, you will need to be evaluated by two doctors (for example a doctor or psychologist). One of the doctors will be your usual doctor. You can object to a doctor’s decision that you lack capacity to make your own mental health care decisions.