

Confidentiality/ Minor Consent Laws

Introduction

Encourage your team to consider how staff and providers in varied roles can create a climate where adolescents are more likely to discuss their sexual and mental health openly and honestly.

Objectives

By the end of this Spark training, participants will be able to:

- Identify which services minors have a right to access without a parent/guardian's consent.
- State the circumstances that health care providers must override a minor's confidentiality and report.

Supplies

Prepare these supplies prior to facilitating this Spark.

- Laptop
- Projector
- Copies of the Colorado Confidentiality/Minor Consent Laws Spark Handout
- Writing utensils for all participants

Additional Resources

If you would like to learn more about this Spark topic, take a look at these additional resources.

- Colorado Association for School-Based Health Care: [Understanding Minor Consent and Confidentiality in Colorado](#)
- Colorado Legislative Council Staff: [Minors' Medical Records and Consent to Care](#) (March 2017)
- Colorado Office of Children, Youth, & Families: [Frequently Asked Questions from Mandatory Reporters](#)
- Vaccine Information Statement from CDC: <https://www.cdc.gov/vaccines/hcp/vis/about/facts-vis.html>

Citation

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Key of Icons

= Slide change = Estimated duration of topic = Script for facilitator = Note for facilitator

Intro/Hook (3 minutes)

1 – TITLE SLIDE

Today we are going to do a 15-minute mini-training, also called a Spark. As youth-serving professionals, it is important that we understand adolescent confidentiality and minor consent. This training is intended to be an overview of the most relevant laws on confidential services for teens.

Each person here will have times where we need to know and comply with consent and confidentiality laws, though it’s different for our various roles. For each law and scenario we discuss, try to think about how it applies to your role. To get us started, let’s review a case scenario.

2 – CASE SCENARIO: SHAY, 15 Y/O GIRL

This is Shay, who is 15. She is here today because of a sore throat. During her visit the clinician found out that she is concerned about having an STI. Shay says she is worried her mother will kick her out of the house if she knows Shay is sexually active. How does the right to confidentiality help or hurt Shay?

Give participants a moment to respond to the question on the slide. You may choose to have discussion here or just have people think about it.


Usually, not all of this patient information is available to everyone who comes into contact with her. When we know more details about a patient, does it affect how we feel about the patient’s right to confidentiality? Even though we know the law says we need to provide certain confidential services to teens without a parent’s permission, it can be challenging when we think parents should be involved. What can go wrong if we accidentally break confidentiality?

Have a couple of people respond briefly. Main point: If we don’t follow the laws, it can have a negative impact on teens.

Many teens choose to include their parent or guardian in decisions about their health. For some teens, however, having the option of certain confidential services makes it more likely that they will seek care when they need it. For instance, Shay would probably be more likely to get tested for STIs and possibly get a method of contraception if she’s assured her mother’s permission is not required.


Key Concepts (11 minutes)

3 – IMPORTANT DEFINITIONS

 Before we review the laws, it's important to recognize the difference between consent and confidentiality.

- **Consent** is permission to act. In general, a parent or legal guardian must give their permission – or “consent” – before their minor child can receive a medical service. However, there are important exceptions where a minor can consent to their own care, without a parent’s permission. We will discuss these exceptions today.
- **Confidentiality** refers to how health care providers and staff keep certain information private.
- **Consent does not equal confidentiality.**
 - Even if a minor is allowed to consent to a service without a parent’s permission, it does not necessarily mean that the provider is required to keep it confidential.
 - So, laws can protect a minor’s right to access a specific service, like contraception, but often, it’s up to health care providers and staff to protect a minor’s confidentiality.

4 – CO LAW: PARENTAL CONSENT EXCEPTIONS


 As this slide says, a parent or legal guardian must provide consent on behalf of a minor (under age 18) before health care services are provided, with several important exceptions.

The exceptions are based on either:

- Status (for example, legal independence from parents/guardians), or
- The type of service requested (such as certain sexual health services).


 Pass out the “Colorado Minor Consent & Confidentiality Laws” handout.


5 – CO LAW: MINOR CONSENT BASED ON STATUS

 Here’s a handout that explains Colorado’s minor consent and confidentiality laws. As we see in the top section, Colorado law allows certain minors to consent to services based on their **status**. This includes:

- A minor may consent to health care services without a parent/guardian’s permission if they are:
 - 15 years of age or older and
 - living apart from their parents and
 - managing their own financial affairs.
- They can also consent to any services if they’re **legally married**.
- A minor who is sentenced to the **youthful offender system** may consent to their own care.
- You’ll notice that a **pregnant** minor may consent to prenatal, delivery, and post-delivery care.
- A minor who **is the survivor of a sexual offense** may consent to exams and treatment relating to the offense. However, when a minor has been assaulted, the provider must first attempt to notify a parent or guardian. If the attempt is not successful, the provider can still provide care.
- Are there any questions about the **status** of minors who can consent to services without a parent or guardian’s permission?

 6- CO LAW: MINOR CONSENT BASED ON SERVICE

 Note: statements are animated to appear one after each click, with the answer showing after the last click. Read each statement aloud before advancing to the next one.


 Now let's look at the **services** any minors can receive without parental or guardian consent.

 Advance slide

1. Pregnancy testing and prenatal care, like we just discussed.

 Advance slide

2. Birth control information and supplies. There is a growing body of research that shows that sexually active young people are more likely to use birth control if they are assured that they don't need to involve a parent.

 Advance slide

3. Vaccines that prevent viruses transmitted sexually (including HPV, Hep A, and Hep B)

 Advance slide


4. Testing, treatment, and prevention of sexually transmitted infections (STIs), including HIV.

a. Note that the provider must encourage the patient to involve a parent or guardian. Encouraging a minor to involve a parent or guardian in their health care is often a best practice, but in the case of STIs, this encouragement is required by Colorado law.

b. Colorado law does not expressly allow minors to consent to HIV pre-exposure prophylaxis (PrEP) without parental/guardian involvement, but it can be reasonably included under providers being able to "discuss prevention measures, where applicable; and include appropriate therapies and prescriptions" for STIs.

 Advance slide

5. Substance use disorder treatment, including for alcohol or drug use. Note that this excludes opioid replacement therapy.

 Advance slide

6. A minor may consent to an abortion without a parent's consent, but the parent, guardian, or a relative must be notified at least 48 hours in advance.

a. This is governed by Colorado's Parental Notification Act.

b. The Act includes very specific requirements about who must be notified, the form of the notice, who may deliver it, when the 48 hours begins, etc.

c. The law includes exceptions to the notice requirement, such as in the case of an emergency.

d. The bottom line is that if you're facing a situation where a minor is seeking an abortion without parental consent, you should review the law and consider whether you need to consult legal counsel.

 Advance slide


7. Patients age 12 and up can access **outpatient mental health services** without parental/guardian consent.

8. Finally, patients age 15 and up can access **inpatient mental health services** without parental/guardian consent.

It's important to keep in mind that if a minor needs a medication for a mental health condition, they would still need their parental/guardian consent.


Are there any questions?

7 – HPV VACCINATIONS & MENTAL HEALTH MEDS

 Can a minor in the state of Colorado give consent for the HPV vaccine? Colorado allows minors to consent to the HPV, and hepatitis A and B vaccines, because when administered in the context of a reproductive health visit, these vaccinations are considered preventive services.


So the answer in Colorado is yes! A minor can consent for the HPV vaccine.

8 – REPORTING

 Now we're going to review when a minor's confidentiality must be overridden. Health care providers must override the minor's confidentiality and report...

- If the provider suspects abuse or neglect by an adult
- If the minor poses a danger to themselves or others; also
- A behavioral health service provider must contact a parent/guardian if the information is essential to making an informed medical decision for the minor.


9 – INFORMING THE PARENT

 There are a few circumstances where a provider is **permitted** (but not required) to notify a parent. In each of these situations, the provider should use discretion in deciding whether telling a parent is in the best interests of the minor.

1. If a minor 13 or younger receives "consultation, examination, or treatment for sexually transmitted infections," the provider may involve the parent or legal guardian.
 - a. Remember, the provider must encourage the minor to involve a parent or legal guardian even if the provider determines not to involve them.
2. A mental health service provider may advise a minor's parent or legal guardian of mental health services provided or needed.
3. Treatment for substance use disorder

Again, this part of the law allows a provider to tell a parent about these specific confidential services if it's in the best interest of the young person.


10 – CASE SCENARIO: SHAY, 15 Y/O GIRL

 Let's go back to our 15-year-old patient, Shay, and answer these questions together as I read through them.

- Can Shay receive STI testing without a parent's permission? [*Answer: Yes, but the provider must encourage her to involve a parent or guardian.*]
- Can she receive STI treatment? [*Answer: Yes, but again, the provider must encourage her to involve a parent or guardian.*]
- Can she receive preventive care, such as an HPV vaccine? What about condoms or other

contraception? [Answer: She can get vaccines that prevent viruses transmitted sexually, such as the HPV vaccine, in the context of a confidential reproductive health visit, without her mother's consent. She can also get condoms or other contraception without her mother's consent. The provider still must encourage her to involve a parent or guardian.]


11 – CASE SCENARIO: SHAY, 15 Y/O GIRL

 Are there other ways that Shay's mother could find out that Shay received this service? While the provider must encourage Shay to involve her mother, Colorado law says that information regarding consultation, examination, or treatment for a STI provided to teens 14 and up may not be disclosed to a parent without the teen's consent.

So, If Shay's mother calls the clinic to ask if Shay received an STI test, can this information be released? [Answer: No. There is special protection for this.]

A final note about Shay. If she uses her mother's insurance, any health information may be disclosed in an explanation of benefits (EOB) form that could be sent to her parents. For maximum confidentiality, a minor may go to a provider that is able to provide services without billing insurance, like a Title Ten clinic. The Spark on Confidentiality Best Practices covers more strategies to ensure confidential services for minors.


12 – ACCESSING RECORDS


 In general, a minor's parent/legal guardian is authorized to access the minor's medical records. However, a minor's confidentiality may be protected if:

1. The parent/guardian's consent was not required for the service. So, for any of the special confidential services we've discussed today, a health care provider or staff is allowed to protect a minor's confidentiality.
2. The parent/guardian consented to a confidential relationship between the minor and health care provider.
3. The health care provider believes the minor is being abused or neglected by the person requesting information or may be harmed by disclosure of information to that person.


Application (1 minute)

13 – CASE SCENARIO: GIOVANNI, 17 Y/O BOY


 Let's take a look at one last scenario. Giovanni is a 17-year-old boy who is struggling with a substance use disorder, but doesn't want to tell his parents.


 Is Giovanni allowed to get outpatient counseling for substance use without a parent's consent?

 Allow a moment for people to respond either silently to themselves or aloud.

 The answer is yes. The provider is not required to notify Giovanni's parents, but may encourage Giovanni to tell his parents.

 14 – THANK YOU!

 To keep this conversation going over the next month, I will share Sparklers, or quiz questions, about confidentiality. I'll post the Sparklers around the office in places that you all can easily see them. When you see a Sparkler, take a moment to read them and reflect on the responses. Thank you for your participation!

 [Print and post Sparklers in areas your staff can see \(e.g., lunchroom\).](#)