

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 Georgia 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 this additional resources.

- Center for Adolescent Health & the Law [State Minor Consent laws: A Summary](#) (p.66-69).

Citation


If you plan to modify this resource, please cite or credit as: Confidentiality Laws, Georgia-Specific. Spark Training developed by the Adolescent Health Initiative at the University of Michigan Health; June 2023; Ann Arbor, MI.

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 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 – GA 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 nine 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 “Georgia Minor Consent & Confidentiality Laws” [handout](#).


5 – GA LAW: MINOR CONSENT BASED ON STATUS

 Here’s a [handout](#) that explains Georgia’s minor consent and confidentiality laws. As we see in the top section, Georgia 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:
 - Legally married
 - Pregnant
 - Emancipated by court order.
- A minor who is **legally married** may consent to health care services.
- A **pregnant minor** may consent to prenatal, delivery, and post-delivery care.
- In Georgia, a minor who is living independently from their caregivers must have a court order indicating **emancipation**.
- Are there any questions about the **status** of minors who can consent to services without a parent or guardian’s permission?

6– GA 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. Emergency medical, surgical, hospital, or health services IF the parent/legal guardian cannot be reached or is not readily available.

 Advance slide

2. Contraceptive and family planning services, including emergency contraception.

 Advance slide

3. Testing, treatment, and prevention of sexually transmitted infections (STIs), including HIV. Georgia law does not expressly allow minors to consent to HIV pre-exposure prophylaxis (PrEP) without parental/guardian involvement under the definitions of testing and treatment for STIs. It is considered best practice as part of routine STI prevention to counsel clients on PrEP use when indicated or requested. However, we recommend that you confer with your legal and/or risk management team, and state public health officials, to develop institutional policies around providing PrEP without parental/guardian consent. You can contact the Georgia Department of Public Health STD Office at (877) 783-4374.

 Advance slide

4. A minor may consent to an abortion. However, the minor's parent(s), legal guardian, or relative must be notified at least 24 hours in advance. Judicial bypass is available in Georgia for minors that wish to forgo this requirement. The only exception to the rule is a medical emergency.

 Advance slide

5. Pregnancy and prenatal care, as previously mentioned.

 Advance slide

6. Substance use treatment and services, including alcohol

Are there any questions?


7 – HPV VACCINES

 Can a minor in the state of Georgia give consent for the HPV vaccine?

Per Georgia statute, minors are required to have parental consent to receive ALL vaccines, including HPV.

So the answer in Georgia is no. A minor cannot consent for the HPV vaccine. To get any vaccine, a parent or legal guardian must provide consent.

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 there is suspicion of abuse or neglect;
- If the minor poses a danger to themselves or others;
- If the minor has had oral or sexual intercourse with a person more than 5 years older; or
- If the minor has had oral or sexual intercourse with a person more than 5 years younger.

Note: There is no state statute that requires providers to ask minor patients the age of their sexual partners.



9 – INFORMING THE PARENT

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

- A provider may inform the minor's parent/legal guardian of the minor's decision to get STI testing and/or care, but is not required
- Treatment for drug abuse, including alcohol

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.

The provider is required to tell the minor's parents about services in the following circumstance:

- Abortion services require at least a 24 hour notice to parent/legal guardian before services can be performed. Judicial bypass is available in Georgia for minors that wish to forgo this requirement. The only exception to the rule is a medical emergency.

Note: It is recommended for providers to encourage the adolescent to involve a parent/legal guardian whenever possible.



10 – CASE SCENARIO: SHAY, 15 Y/O FEMALE

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, in GA, minors can consent to STI testing without a parent/guardian's consent.]

Can she receive STI treatment? *[Answer: Yes, in GA, minors can consent to STI treatment without a parent/guardian's consent.]*

If Shay's mother calls the clinic to ask if Shay received an STI test, can this information be released? *[Answer: No. When a minor is consenting to confidential services, as noted prior, HIPAA is applied and information cannot be released to anyone unless the minor consents.]*

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.

11 – 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. When the minor obtains care by direction of the court.
3. The parent/guardian consented to a confidential relationship between the minor and health care provider.
4. 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)

12 – CASE SCENARIO: GIOVANNI, 17 Y/O MALE


 Let’s take a look at one last scenario. Giovanni is a 17-year-old male 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.

13 – 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).