

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 Nebraska Confidentiality/Minor Consent Laws Spark Handout

Additional Resources


If you would like to learn more about this Spark topic, or want to find health care services to refer teens to, take a look at these additional resources.

- [Summary of Nebraska Minor Consent Laws](#)
- [Physician Knowledge and Attitudes around Confidential Care for Minor Patients](#)

Citation

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Key of Icons

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


Intro/Hook  (4 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**

 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  (8 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- NE LAW: PARENTAL CONSENT EXCEPTIONS

Let’s review the laws and consider how we implement them here. As we see on this slide, a parent or legal guardian must provide consent on behalf of a minor (under age 19) before health care services are provided, with **several important exceptions**.

- Emergency care
- Care for independent minors who are living apart from parents and managing their own financial affairs; married OR in active military duty
- Specific health care services

 Pass out the “Nebraska Confidentiality/Minor Consent Laws” [handout](#).

5- NE LAW: MINOR CONSENT

Here’s a [handout](#) that explains Nebraska’s confidentiality and minor consent laws. This slide also outlines the laws and can be a cheat sheet if you want to keep it handy. As we see here, patients under 19 have a right to the following **without** parental/guardian consent or knowledge:

- Pregnancy testing and prenatal care
- Birth control information and contraceptives
- Testing and treatment for STIs
 - It is important to note that parents/guardians remain financially responsible for STI-related services.
- Nebraska law does not expressly allow minors to consent to HIV testing, HIV treatment, or HIV pre-exposure prophylaxis (PrEP) without parental/guardian involvement. It is considered best practice as part of routine STI prevention to counsel clients on HIV testing, treatment, and 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 HIV testing, treatment, and PrEP without parental/guardian consent. You can contact Nebraska Department of Health and Human Services HIV and Hepatitis Program Manager Andy Dillehay at (402) 471-6318.

Are there any questions?


6 – NE LAW: MINOR CONSENT

 Health care providers must receive a parent/guardian’s permission for:

- Vaccines (including HPV)
- Mental health services and medications
- Substance use treatment
- Abortion except if...
 - A minor is age 18 -OR-
 - In cases of parental abuse/neglect –OR-
 - A court approved waiver is obtained.

Are there any questions?


7 – NE LAW: MANDATORY 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 to the appropriate authorities such as a parent/guardian or child protective services if:

- The minor is a risk to themselves or someone else
- There is suspicion of physical abuse or neglect by an adult
- The minor is under age 12 and has been involved in sexual activity with a person age 19 or older
- The minor is under age 16 and has been involved in sexual activity with a person age 25 or older

Any questions?


8– CASE SCENARIO: SHAY

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


- Can Shay receive STI testing without a parent’s permission? *[Answer: Yes]*
- What about HIV testing? *[Answer: Yes]*
- Can she receive STI treatment? *[Answer: Yes, for any STI, including HIV]*
- Can she get the HPV vaccine? *[Answer: No, she would need parent permission to receive the HPV vaccine]*

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 X clinic. The Spark on Confidentiality Best Practices covers more strategies to ensure confidential services for minors.


 9 – ACCESSING RECORDS


-  Parents/guardians can access minors' records, but the provider may use discretion to prohibit parent/guardian access if it is not in the minor's best interest.

Application  (3 minutes) 10 – CASE SCENARIO: GIOVANNI


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


Is Giovanni allowed to receive treatment for alcohol use without his parent's consent?

-  Allow a moment for people to think to themselves, then either ask for a volunteer to answer or instruct the audience to answer to themselves.

-  Answer: No, a provider must obtain parental consent prior to a minor receiving substance use treatment.

 11 – 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).