

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 Nevada Confidentiality/Minor Consent Laws Spark Handout

Additional Resources

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

1. <https://www.guttmacher.org/geography/united-states/nevada>

Citation

If you plan to modify this resource, please cite or credit as: Confidentiality Laws, Nevada-Specific. Spark Training developed by the Adolescent Health Initiative at Michigan Medicine; August 2018; 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

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.

3 – CASE SCENARIO: SHAY


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)

4 – 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.

5 – NV 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 “Nevada Minor Consent & Confidentiality Laws” handout.](#)


6 – NV LAW: MINOR CONSENT BASED ON STATUS

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

- Emancipated minors, living apart from parents/guardians for at least 4 months
- Married or previously married minors
- Minors who are mothers or who have borne a child

7– NV 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 services and prenatal care

 [Advance slide](#)

2. Contraceptives and family planning services including emergency contraceptives

 **Advance slide**


3. Testing and treatment for sexually transmitted infections including HIV testing and treatment. Providers must note an attempt to obtain minor consent to communicate with parents or justification for not attempting in minor's medical record, unless doing so would jeopardize the treatment or result in a health hazard.
 - a. Nevada law does not expressly allow minors to consent to HIV pre-exposure prophylaxis (PrEP) without parental/guardian involvement. 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 Nevada DBPH HIV Prevention and Surveillance Program at (702) 486-8105.

 **Advance slide**

4. Substance use treatment (Provider must make every reasonable effort to report treatment to the minor's parents/guardian within reasonable time after treatment.)


Are there any questions?

8 – HPV VACCINATIONS & MENTAL HEALTH MEDS


-  Can a minor in the state of Nevada give consent for the HPV vaccine? Nevada requires parent/guardian consent for all vaccines, including the HPV vaccine.

Note that mental health medications also require a parent or guardian's consent.

9 – ABORTION CARE

-  Can a minor in the state of Nevada give consent without a parent or guardian to obtain an abortion? Nevada requires parent/guardian *notice* for a minor to receive abortion care.
- Unless deemed medically necessary by a physician to save the patient's life or health, parent/guardian notice is required before performing an abortion. A minor may seek court order to obtain an abortion without parental notification

10 – 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 minor is a risk to themselves or someone else
 - There is suspicion of abuse or neglect by an adult
 - The minor is under age 16 and has been involved in sexual activity with a person aged 18 or older


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 provider uses believes parent/guardian access is not in the best interest of the health of the minor.

12 – CASE SCENARIO: SHAY

 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.*]
- Can she receive STI treatment? [*Answer: Yes.*]
- Can she receive preventive care, such as an HPV vaccine? What about condoms or other contraception? [*Answer: She can't get an HPV vaccine without her mother's consent, but she can get condoms or other contraception without her mother's consent.*]

 As we talked about at the beginning, there are different perspectives and feelings about how parents should be involved in their teen's health care. It can be helpful to consider how each of our own feelings affects the care we provide.


 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, Nevada law says that information regarding consultation, examination, or treatment for a STI provided to teens 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.


Application (1 minute)

13 – CASE SCENARIO: GIOVANNI


 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 quietly to themselves or aloud.

 The answer is yes. However, it is important to remember that the provider must make every reasonable effort to report treatment to the minor's parents/guardian within reasonable time after treatment.

15 – 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).