

## 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 Ohio 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.

- Ohio Association for School-Based Health Care: [Understanding Minor Consent and Confidentiality in Ohio](#)
- Ohio Chapter of American Academy of Pediatrics: [Minors’ Medical Records and Consent to Care](#) (2006)
- Physicians for Reproductive Justice: [Minors’ Access to Reproductive Healthcare in Ohio](#) (2005)
- The American Civil Liberties Union of Ohio: [Your Health and the Law: A Guide for Teens](#) (2014)
- 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

 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 – OH 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 “Ohio Minor Consent & Confidentiality Laws” handout.

#### 5 – OH LAW: MINOR CONSENT BASED ON STATUS

 Here’s a handout that explains Ohio’s minor consent and confidentiality laws. As we see in the top section, emancipated minors can legally consent for their own health care, however, Ohio law does not allow for minor emancipation. However, there are situations where Ohio 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
- Enlisted in the military


There are also some situations where providers may provide care without parental consent, such as:


- Emergency care
- Exams related to sexual assault
  - Although written notice must be provided to the parent/guardian after examination.

Are there any questions about the **status** of minors who can consent to services without a parent or guardian’s permission?

## Ohio

 6– OH 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. Testing, treatment, and prevention of sexually transmitted infections (STIs), including HIV testing (but not HIV treatment).

 Advance slide

2. Substance use disorder treatment, including for alcohol or drug abuse, if they are 12 years of age or older


 Advance slide

3. Finally, patients age 14 and up can access outpatient mental health services without parental/guardian consent, but the treatment cannot last more than 30 days or 6 visits and cannot include mental health medications. If it does exceed that time/length, parent/guardians must be notified and provide consent, or services will stop.

\*Note that Ohio law is silent on contraceptives, pregnancy testing and related care, and minor access to pre-exposure prophylaxis (PrEP).

Are there any questions?


 7 – HPV VACCINATIONS & OTHER CARE THAT REQUIRES PARENTAL CONSENT

 Can a minor in the state of Ohio give consent for the HPV vaccine? Ohio is silent on HPV, unlike California, that interprets getting an HPV vaccination as a protected reproductive health service.

So the answer in Ohio is no. A minor cannot consent for the HPV vaccine. To get any vaccine, a parent or legal guardian must sign that they received a vaccine information statement (VIS).

On your handout, you'll see this toward the bottom. Note that mental health medications also require a parent or guardian's consent as well as minors seeking abortions, unless they obtain a judicial bypass waiver.

 8 – THE LAW DOES NOT HAVE EXPLICIT GUIDANCE FOR:

 There are a few services offered to minors that Ohio law does not have explicit guidance for. In any case, we recommend consulting with your legal and/or risk management team, and relevant state public health officials to develop policies and practices around these issues.

- Contraception or emergency contraception for non-Title X funded clinics
- Pregnancy testing or pregnancy related-care.
- Access to HIV prevention through pre-exposure prophylaxis (PrEP)

## Ohio

- Ohio 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 Ohio Department of Health HIV Prevention Program at (614) 995-5599.]*
- Conditions to determine mature minors or a judicial system for minor emancipation that in would result in minors consenting for their own health care.

**9 – REPORTING**

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

- If the minor poses a danger to themselves or others; also
- 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

**10 – 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. As far as other forms of contraception go, Ohio laws are silent on contraception, so it would be up to the provider's discretion to determine how they would handle that situation. If Shay was receiving care at a Title X funded clinic, she could consent for her own contraception.]*


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)**11 – 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. The provider is not required to notify Giovanni’s parents, but may encourage Giovanni to tell his parents.

 12 – 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).