

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 when 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 *Washington Confidentiality & Minor Consent Laws Spark Handout* for all participants

Additional Resources

- [When can a minor access health care without parental consent? | WashingtonLawHelp.org | Helpful information about the law in Washington.](#)
- [Adolescent & Young Adult Health Care in Washington: A Guide to Understanding Consent & Confidentiality Laws](#)


Citation

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Key of Icons


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


Intro/Hook  (5 minutes) 1 – WASHINGTON MINOR CONSENT AND CONFIDENTIALITY LAWS


 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 when we need to know and comply with 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 specifically. 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 provider finds out that Shay 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. Consider the answer to these questions quietly to yourself: Can the provider screen Shay for STIs without her mother's knowledge or permission and still follow consent laws? Why or why not?

 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.


 Think about how this might play out at your clinic, and we will talk about the answer at the end of the presentation.

 3 – CASE SCENARIO: SHAY, 15 Y/O GIRL

 Shay's scenario brings up another issue, which is how our own values might affect the way we feel about teens accessing certain services without their parents being aware. In Shay's situation, she is concerned about her mother, which may affect how we feel about her getting STI testing without involving a parent.


We usually do not have complete information about a patient. When we know more details, could it affect how we feel about the patient's right to confidentiality? Even if a teen can legally receive some services without a parent's consent, it can be challenging when we think parents should be involved. What can go wrong if we 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.


Key Concepts (10 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 when 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 – WA 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 exceptionsⁱ.

The exceptions are based onⁱⁱ:

- A minor’s status
- The type of service requested
- The clinic’s funding source
- And the patient’s insurance

Again, these laws can sometimes be confusing, so I’m passing out a handout that summarizes these exceptions. If it’s helpful, you can keep this on hand for quick reference in the future.

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

6 – WA LAW: MINOR CONSENT BASED ON STATUS


 First, let’s look at the exceptions based on status.

If a minor has any of these four statuses, they can consent to health care services without a parent or guardian’s permission:

- Married to an adultⁱⁱⁱ –OR–
- Considered a “mature minor”^{iv} –OR–
- Experiencing homelessness and are not in the physical custody of a parent/guardian^v –OR–

- Legally emancipated^{vi}

7 – THE MATURE MINOR RULE


 One of the ways a minor can consent to health care services without their parent/guardian is if the provider determines that they are a “mature minor” under the Mature Minor Rule^{iv}.

The Mature Minor Rule requires that health care providers consider certain factors to determine whether a youth has the capacity to understand health care services and can make their own health care decisions. To be considered a “mature minor” the patient must meet one or more of the following factors^{vii}:

1. They are living apart from parents or guardians and are managing their own affairs.
2. They can provide reliable information and make important decisions with good insight and judgment.
3. They are financially independent from parents or guardians or are involved in work-training program.
4. They have sufficient training and experience to make knowing and intelligent healthcare decisions.
5. They demonstrate general conduct as an adult.


This distinction is up to the provider to determine and must be reflected in the patient’s chart. The determination must include the provider’s name, date of service, and documentation supporting their decision.

8 – WA LAW: MINOR CONSENT BASED ON SERVICE

 Now let’s look at the exceptions based on type of service. Each state has certain services that a minor may consent to without a parent or guardian’s consent. In the state of Washington, patients under 18 may consent to the following without parental/guardian consent:

- Emergency care^{viii}
- Testing and treatment for sexually transmitted infections (STIs) and HIV^{ix}
- Pregnancy testing and prenatal care including abortion^x
- Family planning and contraceptive care including emergency contraceptives^{xi}
- Outpatient mental health and substance use treatment (age 13 or older)^{xii}
- Inpatient mental health treatment (age 13 or older)^{xiii}. The parent/guardian does not have to be notified if they can’t be found or it would be harmful to the youth to notify the adult^{xiv}.
- Inpatient substance use treatment (age 13 or older)^{xv}


9 – WASHINGTON REPORTING REQUIREMENTS

 Another important set of laws to be aware of are reporting requirements. Mandated reporting requirement laws outline when a health care provider must break confidentiality and report the information. A health care provider must make a report when:

- There is suspicion of abuse or neglect^{xvi}
- The patients states that they wish to harm themselves or others^{xvii}
- The patient is under 12 and has had sexual intercourse with a person at least 2 years older^{xviii}


- The patient is 12 or 13 and has had sexual intercourse with a person at least 3 years older^{xix}
- The patient is 14 or 15 and has had sexual intercourse with a person at least 4 years older^{xx}
- The patient is under 14 and a person at least 3 years older sexually touches them^{xxi}
- The patient is 14 or 15 and a person at least 4 years older sexually touches them^{xix}

 **10 – WASHINGTON REPORTING REQUIREMENTS**

 Minors also receive some assurances of confidentiality based on the funding source of the clinic they go to and their insurance status.

- Minors can receive family planning services at Title X locations without parental involvement under federal confidentiality safeguards, which align with state laws^{xxii}.
- Under Washington state law, health insurance plans should not release personal health information about services minors receive confidentiality to their parents or guardians without written consent. This includes mailing bills or Explanation of Benefits to a policyholder, calling the home to confirm appointments, and mailing appointment notices^{xxiii}. However, it is important to note that this policy lacks enforcement especially when the insurance policy is outside state sponsored policies. It is recommended to have a conversation with your adolescent patients about the limitations of the law and help them with alternative payment plans if they decide to forgo using their caregiver’s insurance.

 **11 – ADDITIONAL RIGHTS FOR ADOLESCENT PATIENTS**


 Lastly, adolescents have rights that are universal to all people but that they might not be aware of. The following are some examples that are also included on AHl’s Health Rights for Teens Poster:

- You have the right to be treated with respect regardless of race, skin color, place where you were born, religion, sex, age, sexual orientation, gender identity, gender expression, ability, immigration status, financial status, health status, or parental status^{xxiv}.
- You have the right to talk to your provider alone, without your parent or guardian in the room. We may encourage you to share what we talk about with a parent/legal guardian or a trusted adult. (This is not expressly stated in the law but is considered best practice by the Academy of Pediatrics)^{xxv}.
- You have the right to have your options for care explained to you^{xxii}.
- You have the right to review your health center records^{xxii}.

It is recommended to have these, and the state specific minor consent and confidentiality laws posted in the waiting room and/or exam rooms or given to adolescents directly.


Application  (5 minutes)

 **12 – CASE SCENARIO: GIOVANNI, 17 Y/O BOY**


 Now that we’ve reviewed the laws, let’s review another scenario. Giovanni is a 17-year-old boy who is concerned with his alcohol use, 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, though the provider may encourage Giovanni to tell his parents.


13 – THE ROLE OF PARENTS/GUARDIANS

 A quick note about parents and guardians. Research shows that they can play a crucial role in their teenage children's decision-making and health. It can be tricky to keep parents engaged and at the same time, it's essential to provide the opportunity for adolescents to talk to a provider alone, and to provide confidential services where possible. AHI also has a Confidentiality Best Practices Spark that includes more information on engaging parents if you are interested in learning more.

14 – COMMON QUESTIONS

 People often ask about the services listed on this slide, which are not protected for minors, and require the consent of a parent or guardian. Minors DO need a parent or guardian's permission to receive any kind of immunization, including HPV.

15 – CASE SCENARIO: SHAY, 15 Y/O GIRL


 Let's wrap up by going back to our 15-year-old patient scenario, Shay. We'll answer these questions together as I read through them.


- Can Shay receive STI testing without a parent's permission? *[Answer: Yes, Shay can be tested for all STIs including HIV without her parent's consent.]*
- Can she receive STI treatment? *[Answer: Yes.]*
- Can the provider talk to Shay's mother without Shay's consent? *[No, her provider cannot tell her mother that Shay received the services unless she gives permission for them to do so.]*

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.

 If time allows, you may choose to discuss what approach your health center takes to protecting minor confidentiality.

16 – 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).

- ⁱ [RCW 26.28.010: Age of majority. \(wa.gov\)](#)
- ⁱⁱ [When can a minor access health care without parental consent? | WashingtonLawHelp.org | Helpful information about the law in Washington.](#)
- ⁱⁱⁱ [RCW 26.28.020: Married persons—When deemed of full age. \(wa.gov\)](#)
- ^{iv} [Smith v. Seibly, 72 Wn.2d 16 \(1967\) - The Mature Minor Rule - King County, Washington](#)
- ^v [RCW 7.70.065: Informed consent—Persons authorized to provide for patients who do not have capacity—Priority—Unaccompanied homeless minors. \(wa.gov\)](#)
- ^{vi} [Chapter 13.64 RCW: EMANCIPATION OF MINORS \(wa.gov\)](#)
- ^{vii} <https://kingcounty.gov/en/dept/dph/health-safety/health-centers-programs-services/public-health-centers/mature-minor-rule>
- ^{viii} [RCW 7.70.050: Failure to secure informed consent—Necessary elements of proof—Emergency situations. \(wa.gov\)](#)
- ^{ix} [RCW 70.24.110: Minors—Treatment, consent, liability for payment for care. \(wa.gov\)](#)
- ^x [State v. Koome : 1975 : Washington Supreme Court Decisions : Washington Case Law : Washington Law : US Law : Justia](#); [RCW 9.02.100: Reproductive privacy—Public policy. \(wa.gov\)](#)
- ^{xi} [RCW 9.02.100: Reproductive privacy—Public policy. \(wa.gov\)](#)
- ^{xii} [RCW 71.34.530: Outpatient treatment of adolescent. \(wa.gov\)](#)
- ^{xiii} [RCW 71.34.500: Self-admission of adolescent for inpatient behavioral health treatment or substance use disorder treatment—Requirements. \(wa.gov\)](#)
- ^{xiv} [RCW 71.34.510: Notice to parents of adolescent voluntarily admitted to inpatient treatment—When required—Duties of professional person in charge—Form of notice. \(wa.gov\)](#)
- ^{xv} [RCW 71.34.500: Self-admission of adolescent for inpatient behavioral health treatment or substance use disorder treatment—Requirements. \(wa.gov\)](#)
- ^{xvi} [WAC 110-30-0030: What is Child Abuse and Neglect?](#)
- ^{xvii} [Guidance on New Duty to Warn or Protect Standard, Washington State Medical Association](#)
- ^{xviii} Wash. Rev. Code Ann. § 9A.44.073.
- ^{xix} Wash. Rev. Code Ann. § 9A.44.076
- ^{xx} Wash. Rev. Code Ann. § 9A.44.079
- ^{xxi} Wash. Rev. Code Ann. § 9A.44.096
- ^{xxii} [2021 Title X Final Rule SUMMARY \(hhs.gov\)](#)
- ^{xxiii} [WAC 284-04-510: Right to limit disclosure of health information. \(wa.gov\)](#)
- ^{xxiv} [AMA Code of Medical Ethics: 1.1.3 Patient Rights](#)
- ^{xxv} [American Academy of Pediatrics: Considerations for Providing Adolescent Care](#)