

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 Wyoming 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.

- [An Overview of Consent to Reproductive Health Services by Young People](#)- Guttmacher Institute

Citation


If you plan to modify this resource, please cite or credit as: Confidentiality Laws, Wyoming-Specific. Spark Training developed by the Adolescent Health Initiative at Michigan Medicine; December 2019 ; 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. Wyoming law is complex, so if you want to do additional learning, resources are available in the facilitator guide to this Spark.

Each person here will have times where 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 think about how it applies to your role specifically. To get us started, let's review a case scenario.


 2 – CASE SCENARIO: CHEYENNE

 This is Cheyenne, 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. Cheyenne says she is worried her mother will kick her out of the house if she knows Cheyenne is sexually active. How does the right to confidentiality help or hurt Cheyenne?

 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 – WY 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 and reproductive health services).

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


5 – WY 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.

- Emancipated by court order
- Married
- On active military duty
- Living apart from his/her parents or guardian and is managing his/her own affairs regardless of source of income

6– WY 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 Care (If parents or guardian of the minor cannot be contacted)

 Advance slide

2. Examination and treatment of Sexually Transmitted Diseases

 Advance slide

3. Sexual assault care (If parents or guardian of the minor cannot be contacted)

 Advance slide

4. Tobacco cessation services (if minor is 12 years of age or older, is a smoker or user of tobacco products, and the health care to which the minor consents is a tobacco cessation program approved by the department of health)


 Advance slide

5. Wyoming 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.

- a. 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 Wyoming Department of Health HIV Prevention Program Manager at 307-777-3562.

Are there any questions?


7 – 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 physical or mental injury, harm or imminent danger to the physical or mental health or welfare of a child other than by accidental means
- There is suspicion of the commission or allowing the commission of a sexual offense against the minor

Please review the Confidentiality/Minor Consent Laws handout for more information about these specific definitions in Wyoming state law.

8 – CASE SCENARIO: CHEYENNE

 Let's go back to our 15-year-old patient, Cheyenne, and answer these questions together as I read through them.

- Can Cheyenne receive STI testing without a parent's permission? [Answer: Yes.]
- Can she receive STI treatment? [Answer: Yes.]
- Can the provider talk to Cheyenne's mother without Cheyenne's consent? [No. Under the HIPAA Privacy Rule, Cheyenne's provider cannot give her parent's access to this information since the consent of her parent is not required under state law.]

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.]

9 – ACCESSING RECORDS


 In general, a minor's parent/legal guardian is authorized to access the minor's medical records.


However, a minor's confidentiality must be protected if:

1. the minor is the one who consents to care and the consent of the parent is not required under State or other applicable law;
2. the minor obtains care at the direction of a court or a person appointed by the court; and
3. the parent agrees that the minor and the health care provider may have a confidential relationship (and to the extent that the parent agrees to.)


Application (1 minute)

10 – CASE SCENARIO: TOBI


 Now that we've reviewed the laws, let's take a look at one last scenario. Tobi is a 15-year-old boy who is ready to receive tobacco cessation services, but doesn't want to tell his parents.

 Is Tobi allowed to receive tobacco cessation services without a parent's consent?


 **Allow a moment for people to respond either quietly to themselves or aloud.**

 The answer is yes. According to Wyoming law, Tobi is able to consent for tobacco cessation services, as long as the program is approved by the department of health. However, if Tobi was under the age of 12, he would not be able to receive these services without a parent's consent.

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 \(e.g., lunchroom\).](#)

