

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 *Minnesota Confidentiality/Minor Consent Laws Spark Handout* for all participants

Additional Resources

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

- Adolescent & Young Adult Health Care in Minnesota: https://nahic.ucsf.edu/wp-content/uploads/2019/01/Minnesota-AYAH-Confidentiality-Guide_Final.pdf
- Minors' Consent for Health Care: <https://www.house.leg.state.mn.us/hrd/pubs/ss/ssminorhc.pdf>
- Providing Medical and Mental Health Care Services to Minors in Minnesota: <https://www.mnschoolcounselors.org/wp-content/uploads/2017/03/Consent-and-Confidentiality.pdf>

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 – MINNESOTA 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. Minnesota 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: 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 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 (9 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 – MN 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:

- A minor’s status, or
- The type of service requested

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 “Minnesota Minor Consent & Confidentiality Laws” handout.](#)

6 – MN 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 or has given birth
- Minor living separate and apart from parents or guardian (with or without consent, regardless of duration) who is managing their own financial affairs

7 – MN 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. Remember, a parent may still find out about the service, so it may not actually be confidential, but it's important to note that legally, a minor does not need a parent to consent to these services:

- Emergency medical, surgical, hospital or health services (if a parent/guardian would delay or deny treatment)
- Contraceptive care and family planning services including emergency contraception
- Pregnancy and prenatal care
- Testing and treatment for sexually transmitted infections (STIs) including HIV
- Substance abuse services and treatment
- Outpatient mental health services if related to pregnancy, STIs, or substance use
- Inpatient mental health services and treatment ages 16 or older

8 – MINNESOTA REPORTING REQUIREMENTS

Minnesota's Disclosure to Parents states that any medical professional may inform a parent or guardian of treatment given or needed for which a minor is authorized to give consent when, in the professional's judgment, failure to inform the parent or guardian would seriously jeopardize the health of the minor. A health care provider must also override a minor's confidentiality when:

- There is reason to believe that there is a case of physical abuse, neglect, sexual abuse, sexual exploitation or sex trafficking, or emotional abuse present or having occurred in the past three years.

Application (3 minutes)

9 – CASE SCENARIO: GIOVANNI, 17 Y/O BOY

Now that we've reviewed the laws, let's take a look at another 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 get outpatient counseling for substance abuse 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.

10 – 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. We'll talk about parent engagement more in the Confidentiality Best Practices Spark as well.

11 – 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 for:

- Vaccines (except Hepatitis B)
- Abortion. Written notice must be given to at least one parent or guardian within 48 hours of request. (No notification is required if the physician certifies that abortion is necessary to prevent the minor's death or if the minor declares they are a victim of sexual abuse, neglect, or physical abuse, in which case the proper authorities will be notified)
- Inpatient mental health or substance abuse services and treatment under the age of 16

12 – 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, she can also receive treatment]*
- Can the provider talk to Shay's mother without Shay's consent? *[Yes, her provider can tell her mother that Shay received the services. However, Shay may be less likely to seek out care if she is worried her confidentiality will not be maintained, and in this case, there may be other negative consequences of involving the parent.]*

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.**

13 – 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).**