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## 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 Iowa Confidentiality/Minor Consent Laws Spark Handout

### Additional Resources

If you would like to learn more about this Spark topic, please refer to these additional resources.

- [Iowa Department of Justice Memorandum on Minor Consent Laws](#)
- [Physician Knowledge and Attitudes around Confidential Care for Minor Patients](#)

### Citation

If you plan to modify this resource, please cite or credit as: Confidentiality Laws. Spark Training developed by the Adolescent Health Initiative at Michigan Medicine; December 2017; Ann Arbor, MI.

## Key of Icons

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

Intro/Hook  (2 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, 15 Y/O GIRL

 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- IA LAW: PARENTAL CONSENT EXCEPTIONS

 Let’s review the laws and consider how we implement them here. As we see on this slide, 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**.

- Emergency care
- Care for emancipated minors who can be emancipated by court order, marriage, or military active duty
- Specific health care services related to reproductive health and substance abuse treatment

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

### 5- IA LAW: MINOR CONSENT

 Here’s a handout that explains Iowa’s confidentiality and minor consent laws. This slide also outlines the laws and can be a cheat sheet if you want to keep it handy. As we see here, patients under 18 have a right to the following **without** parental/guardian consent or knowledge:

- Family planning services
- Prevention of sexually transmitted infections (STIs), including vaccines for hepatitis B and HPV
  - PrEP for HIV prevention.
- Testing and treatment for STIs, including HIV
- Substance abuse treatment
- Tobacco cessation counseling, **age 12 and up only**
  - It is important to note that the Quitline IA program allows only minors age 13 and up to consent.

Are there any questions?

## 6 – IA LAW: MINOR CONSENT AND CONFIDENTIALITY

 Health care providers may still provide the service, but must notify the parent/guardian:

- At least 48 hours prior to any abortion, UNLESS
  - The minor is a victim of abuse that has been reported to the appropriate authorities
  - A court-authorized waiver is obtained
- If an **HIV test** is **POSITIVE**
  - Minor must be informed of this requirement prior to HIV testing
  - The notification requirement does NOT apply to Title X clinics

Are there any questions?

## 7 – IA LAW: MANDATORY 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 abuse or neglect by an adult
- The minor has been involved in sexually activity with someone else in their home
- The minor is under age 12 and has been involved in any sexual activity

Any questions?

## 8– CASE SCENARIO: SHAY, 15 Y/O GIRL

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

- Can Shay receive STI testing without a parent's permission? *[Answer: Yes]*
- What about HIV testing? *[Answer: Yes, but she must be reminded prior to testing that her parent will be notified if the test comes back positive.]*
- Can she receive STI treatment? *[Answer: Yes, for any STI, including HIV]*
- Can she get the HPV vaccine? *[Yes, she could, the HPV vaccine falls into the category of STI prevention, which minors can consent to on their own]*

## 9 – ACCESSING RECORDS

 In general, a minor's parent/legal guardian is authorized to access the minor's medical records but there are a few exceptions:

1. Providers may use discretion to prohibit parent/guardian access if it is not in the minor's best interest.
2. Providers cannot disclose information about substance abuse services and treatment to a parent/guardian without a minor's express permission.

3. Providers cannot disclose information about Title X services to a parent/guardian without written authorization of the minor.

## Application (2 minutes)

### 10 – CASE SCENARIO: GIOVANNI

-  Let's take a look at one last scenario. Giovanni is a 17-year-old boy who is struggling with substance use, but doesn't want to tell his parents.
-  Is Giovanni allowed to receive counseling to help him quit smoking without a parent's consent?
-  **Allow a moment for people to think to themselves, then either ask for a volunteer to answer or instruct the audience to answer to themselves.**
-  Yes, he can receive counseling, though the provider may encourage Giovanni to tell his parents.
-  How about treatment for alcohol abuse?
-  **Allow a moment for people to think to themselves, then ask for a volunteer to answer.**
-  Yes, although again, the provider may encourage him to tell his parents.
-  Finally, what if he were 11 years old?
-  **Allow the audience to think of their response.**
-  No, minors under age 12 need parental consent for smoking cessation counseling.

### 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, staff bathroom).**