

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 Illinois 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 this additional resource. Illinois Caucus for Adolescent Health, Healthcare Rights of Youth in Illinois (updated January 2018).

<https://www.icaah.org/blog/healthcare-rights-of-youth-in-illinois>

Citation

If you plan to modify this resource, please cite or credit as: Confidentiality Laws, Illinois-Specific. Spark Training developed by the Adolescent Health Initiative at Michigan Medicine; August 2018; 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.

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 – IL 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 “Illinois Minor Consent & Confidentiality Laws” handout.

5 – IL LAW: MINOR CONSENT BASED ON STATUS

 Here’s a handout that explains Illinois’ minor consent and confidentiality laws. As we see in the top section, Illinois law allows certain minors to consent to services based on their **status**. This includes:

- You’ll notice that a **pregnant** minor may consent to prenatal, delivery, and post-delivery care.
- A minor may consent to health care services without a parent/guardian’s permission if they are emancipated. This can be through court order, marriage, or military active duty.

6 – IL 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.

 [Advance slide](#)

2. Pregnancy testing and prenatal care, like we just discussed.

 [Advance slide](#)

3. Birth control information and supplies. There is a growing body of research that shows that sexually active young people are more likely to use birth control if they are assured that they don't need to involve a parent.

 [Advance slide](#)

4. Testing, treatment, and prevention of sexually transmitted infections (STIs).

a. PrEP (HIV prevention) may be provided to minors ages 12+

 [Advance slide](#)

5. Substance use disorder treatment, including for alcohol or drug abuse.

 [Advance slide](#)

6. Mental health services.

a. Minors ages 12-16 can access up to eight, 90-minute counseling sessions without parental consent.

b. Minors ages 16 or older can consent to inpatient mental health treatment.

 [Advance slide](#)

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 there is suspicion of abuse by an adult
- If the minor is a risk to themselves or someone else

8 – 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, but she can get condoms or other contraception without her mother's consent.]*

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)

9 – 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.

11 – THANK YOU!

 Thank you for your participation! If you like, you can keep the handout of the laws in a place that you can easily access, in case any questions come up for you in the future.