



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 Florida 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 these additional resources.

- Guttmacher Institute: [Minors' Access to STI Services](#)
- Florida Legislature: [Florida Statutes](#)
- The Florida Bar: [Legal Hurdles to Get Medical Treatment for Children](#)
- Center for Adolescent Health & the Law: [State Minority Consent Laws](#)
- [Vaccine Information Statement from CDC: https://www.cdc.gov/vaccines/hcp/vis/about/facts-vis.html](https://www.cdc.gov/vaccines/hcp/vis/about/facts-vis.html)
- [ACOG statement for Written Consent for Pelvic Examinations: https://www.acog.org/news/news-releases/2020/06/acog-statement-on-new-florida-law-requiring-written-consent-for-pelvic-examinations](https://www.acog.org/news/news-releases/2020/06/acog-statement-on-new-florida-law-requiring-written-consent-for-pelvic-examinations)

Citation

If you plan to modify this resource, please cite or credit as: Confidentiality Laws, Florida-Specific. Spark Training developed by the Adolescent Health Initiative at Michigan Medicine; July 2025; 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. Florida 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 to think about how it applies to your role specifically. To get us started, let's review a case scenario.

Introduce yourself/yourselves.

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 a 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 respect teens' confidentiality, 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, a sexually active teen may be more likely to use contraception if someone tells the teen that they can get birth control without a parent or guardian's consent.

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 the permission to act. In general, a parent/legal guardian must give them 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/legal guardian'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/legal guardian'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 – FL LAW: PARENTAL CONSENT EXCEPTIONS


-  Let's review the laws and consider how we implement them here. As we see on the slide, a parent or legal guardian must provide consent on behalf of a minor (under age 18) before health services are provided, with **several important exceptions**:
- Emergency care
 - Emancipated minors (age 16+, self-supporting, living apart; or married; or tried as an adult)
 - Pregnancy related services: test, prenatal/postnatal care, delivery
 - Unmarried pregnant minors can only consent to medical/surgical services related to their pregnancy; cannot consent to medical/surgical care for themselves
 - A minor mother can consent to care for their child, but not for unrelated care for themselves
 - STI/HIV services: testing, treatment, and related counseling
 - Substance use assessment and outpatient treatment



- Outpatient mental health
 - Diagnostic/crisis care for minors 13+
 - Limited to 2 visits per week (excludes medications or residential care)

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


5 – FL LAW: CONFIDENTIALITY/MINOR CONSENT

 Here’s a handout that explains Florida’s confidentiality and minor consent laws. This slide 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:

- Pregnancy and prenatal care
- Testing and treatment for STIs, including HIV
- Substance use assessment and outpatient treatment
- Outpatient mental health services: ages 13 and up, limited to short-term diagnostic/evaluative care (up to 2 visits/week); parental consent required for ongoing therapy or medications.


Any questions?

6 – FL LAW: CONFIDENTIALITY/MINOR CONSENT FOR PREP

 Here is some additional information about prescribing PrEP for adolescent patients in Florida:

- PrEP prescriptions (without or without a recent STI) do NOT require parental consent
 - Minors may consent to HIV prevention
- Parental consent is NOT required in any setting
 - Florida law allows minors to independently consent to STI/HIV services, including PrEP.

7 – 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]
- Can Shay receive STI treatment? [Answer: Yes]
- Can Shay receive contraception without her parent/legal guardian’s permission? [Answer: According to the law, only minors who are married, pregnant, or a parent can consent to contraception **unless** the provider believes that not prescribing contraception will impose an “immediate health hazard” to the patient.]



8 –LEGISLATION UPDATES

Senate Bill 404, effective July 1, 2020, requires written, notarized parental or legal guardian consent before performing an abortion on a minor (under 18).

Exceptions apply when:

- A judge grants a judicial waiver, finding the minor mature enough or that involving a parent/guardian is not in their best interest.
- A medical emergency makes it unsafe to delay the procedure for consent.

9 –LEGISLATION UPDATES

Senate Bill 698, effective July 1, 2020, continues to require written consent from the patient or legal guardian prior to performing any pelvic examinations in Florida.

Exceptions apply when:

- The examination is court-ordered for evidence collection.
- The examination is immediately necessary to avoid serious risk.
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10 –LEGISLATION UPDATES

Florida House Bill 241, effective July 1, 2021, requires health care providers to obtain written parental or legal guardian consent before providing services, prescribing medications, or performing medical procedures on a minor, unless another law explicitly allows the minor to consent on their own.

Therefore, all services that minors are legally allowed to consent under Florida law (e.g., STI testing/treatment, substance use care, pregnancy-related services, limited mental health evaluation) remain unaffected by HB 241.

While minors may consent to certain components of care such as outpatient mental health counseling, services like psychotropic medications or ongoing therapy still require parental consent under HB 241. In these cases, parents/legal guardians may access related medical records, though some parts (e.g., confidential therapy notes) may remain protected, while others (e.g., prescriptions) are accessible.


11 – HPV VACCINES AND MENTAL HEALTH MEDICATIONS

Can a minor in the state of Florida give consent for the HPV vaccine?

The answer in Florida is no. A minor cannot consent for the HPV vaccine. To receive any vaccine, including HPV, a parent or legal guardian must provide written consent and must sign that they received the Vaccine Information Statement (VIS). On your handout, you'll see this toward the bottom. Note that mental health medications also require a parent or legal guardian's consent.




12 – REPORTING

 Now we are going to review when a minor’s confidentiality must be overridden. Health care provider must override the minor's confidentiality and report if...

- If the minor poses a danger to self or others
- There is suspicion of abuse or neglect
- Sexual activity occurred that was without consent, involved coercion, or was not between peers of similar age or developmental stage
- The minor is under age 16 and has engaged in sexual activity with an adult age 24 or older

Again, this part of the law allows a provider to tell a parent/legal guardian about these specific confidential services if it’s in the best interest of the young person

13 – CASE SCENARIO: SHAY, 15 Y/O (SHE/HER)


 If Shay’s mother calls the clinic to ask if Shay received an STI test, can this information be released? *[Answer: No. Florida law specifically protects the confidentiality of STI services for minors and prohibits health care providers from disclosing information related to STI consultation, examination, or treatment, either directly or indirectly, without the minor’s consent.]*

Are there other ways that Shay’s mother could find out that Shay received this service? *[Answer: No, she shouldn’t—Florida law prohibits disclosing STI services in any direct or indirect way, including through billing. If Shay uses their caregiver’s health insurance, an Explanation of Benefits (EOB) is typically generated and sent to the policyholder, which can include details about services received. However, Florida law prohibits STI testing or treatment information from appearing on EOBs unless the minor provides explicit permission.]*

That said, confidentiality can still be compromised in other ways like through out-of-pocket payments, copays, or clinic communications. For maximum confidentiality, minors should be referred to providers who do not bill insurance and can offer confidential services such as Title X clinics. The Spark on Confidentiality Best Practices covers more strategies to ensure confidential services for minors.]

Application (3 minutes)

14 –CASE SCENARIO: GIOVANNI, 17 Y/O (HE/HIM)


 Let’s take a look at one last scenario. Giovanni is a 17-year-old who is struggling with a substance use disorder but doesn’t want to tell his family. Is Giovanni allowed to get outpatient counseling for substance use without a parent/legal guardian’s consent?




[Allow a moment for people to respond either silently to themselves or aloud.]

The answer is yes. Under Florida law, a minor may consent to outpatient care, treatment, or rehabilitation for substance use without the consent of a parent or legal guardian. Additionally, the law requires that written consent from the minor must be obtained before any information is disclosed to a parent or legal guardian.

15 – THANK YOU

 Questions? To keep our theme of confidentiality on our minds this month, we'll post new case scenarios, called Sparklers, with quiz questions each week. I'll post these Sparklers around the office in places that you all can easily see them. When you see a Sparkler, take a moment to read the scenario and think through the questions listed on the page. Thank you for your participation!

 Print and post Sparklers in areas your staff can see (e.g., lunchroom).