

Confidentiality and Parental Involvement

Protecting an appropriate level of confidentiality for adolescents' health care information is an essential determinant of whether this population will access care, answer questions honestly and develop and maintain a therapeutic alliance with their doctor. Fear that clinicians will reveal private information can cause concern and lead adolescents to answer screening questions inaccurately. It is essential that providers understand confidentiality laws and how to navigate discussions with patients and parents so that they are able to screen and intervene as needed. Although privacy and minor consent laws vary by state, providers need to make a clinical judgment as to whether the circumstances for referral warrant parental involvement. In most states, confidentiality cannot be breached unless clinical judgment suggests the patient or another individual is in imminent danger because of risky behavior.

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“All of the major medical organizations and numerous current laws support the ability of clinicians to provide confidential health care, within established guidelines, for adolescents who use alcohol.”

— (NIAAA, 2011)

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REGULATORY CONSIDERATIONS: WHICH LAWS APPLY TO YOU?

Numerous federal and state laws protect the privacy of health care information. According to the American Academy of Pediatrics, there are at least four types of laws that affect a health provider's ability to share information about a patient in their care:

- Federal medical privacy rules issued under the federal Health Insurance Portability and Accountability Act (HIPAA)
- State privacy laws
- State minor consent laws
- Family Educational Rights and Privacy Act (FERPA)

There is also federal confidentiality legislation (42 USC § 290dd-2) that governs facilities deemed to be federal alcohol and drug abuse treatment programs under 42 Code of Federal Regulations (CFR) Part 2.

Each type of privacy or confidentiality regulation can change over time, so we recommend regular examination of applicable federal and state laws in coordination with legal counsel to ensure service delivery compliance.

More information on HIPAA, state privacy laws and state minor consent laws can be found in the [American Academy of Pediatrics, Confidentiality Laws Tip Sheet](#) and the [Legal Action Center's training resources](#).

HIPAA

While HIPAA rules permit sharing information between providers, there are unique considerations for minors who have legally consented to care. In general, HIPAA allows a parent or guardian to have access to the medical records for their minor child, when the access is consistent with state or other law. Providers should inform parents that they have the right to access their child's medical records, but encourage them to speak directly with their child instead to avoid hindering the effectiveness of treatment.