



CONSENT & CONFIDENTIALITY IN SBHC

SARA L. RIGEL, MPH, CHES

PUBLIC HEALTH- SEATTLE & KING COUNTY

JANET CADY, MN, ARNP

NEIGHBORCARE HEALTH

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OBJECTIVES

- **Session participants will:**
- Understand Washington state minor consent laws vis-à-vis health care in schools
- Learn how FERPA and HIPAA intersect in school-based health care
- Learn how schools and SBHCs, at both a contractual level and in day-to-day practice, share key data while ensuring student privacy
- Be able to describe key training for school and SBHC staff around consent and confidentiality

QUESTIONS & SCENARIOS



CONSENT

CONSENT & CONFIDENTIALITY

- Governed by state laws, regulations, & legal rulings.
- Interpretation and guidance will vary by organization
- General consent for care
- Additional informed or explicit consent
 - Immunizations
 - Dental procedures
 - Medical procedures
 - Mental health disclosures



Providing Health Care to Minors under Washington Law:
A summary of health care services that can be provided to minors without parental consent.

Washington State's general age of majority for health care is 18 (RCW 26.28.010).
 However, a minor can receive services without parental consent in the following areas:

Service needed	Parent/ Guardian Consent Required for Care	Parent/ Guardian Notification Required	Notes and Source
Emergency medical services:	No, but only if parent's consent is not readily available	No	If the parent's consent is not readily available, the consent requirement is satisfied and the minor can receive medical services. RCW 7.70.050(4).
Non-emergency medical services:	Yes, unless minor meets Mature Minor Doctrine	No	If it is not a medical emergency or one of the types of services listed below, minors may still give a valid consent under the "Mature Minor Doctrine" if they are capable of understanding or appreciating the consequences of a medical procedure. In determining whether the patient is a mature minor, providers will evaluate the minor's age, intelligence, maturity, training, experience, economic independence or lack thereof, general conduct as an adult and freedom from the control of parents. <i>Smith v. Seibly</i> , 72 Wn.2d 16, 21, 431 P.2d 719 (1967).
Immunizations:	Yes, unless minor meets Mature Minor Doctrine	No	Minors may receive immunizations without parental consent under the Mature Minor Doctrine summarized above.
Sexually transmitted disease testing/ treatment (including HIV):	Yes, unless youth is 14 or older.	No	Minors may obtain tests and/or treatment for sexually transmitted diseases if they are 14 years of age or older without the consent of a parent or guardian. RCW 70.24.110.
Birth control services:	No	No	Minors may obtain or refuse birth control services at any age without the consent of a parent or guardian. RCW 9.02.100(1).
Abortion services:	No	No	Minors may receive an abortion and abortion related services at any age without the consent of a parent, guardian or the man responsible for the pregnancy. RCW 9.02.100(2); <i>State v. Kooma</i> , 84 Wn.2d 901 (1975).
Prenatal care services:	No	No	Minors may seek prenatal care at any age without the consent of a parent or guardian. <i>State v. Kooma</i> , 84 Wn.2d 901 (1975).
Outpatient mental health treatment:	Yes, unless youth is 13 or older.	No	Minors may receive outpatient mental health treatment if they are 13 years of age or older without the consent of a parent or guardian. The parents will not be notified without minor consent. RCW 71.34.530.
Inpatient mental health treatment:	Yes, unless youth is 13 or older.	Yes	Minors 13 years of age or older may receive inpatient mental health treatment without parental consent. The parents must be notified, however. RCW 71.34.510.
Outpatient substance abuse treatment:	Yes, unless youth is 13 or older.	See Source and Notes section.	Minors 13 years of age or older may receive outpatient substance abuse treatment, without parental consent. The provider will inform the parents that the minor is receiving outpatient treatment within seven business days if the minor gives written consent or if the provider determines that the minor is not capable of making a rational choice to receive the treatment. RCW 70.96A.230.
Inpatient substance abuse treatment:	Yes, unless child is determined to be a Child In Need of Services (CHINS)	Yes, unless CHINS	Minors 13 years of age or older may receive inpatient substance abuse treatment without parental consent if DSHS determines he or she is a "child in need of services." RCW 70.96A.235. If school district personnel refer a child to inpatient chemical dependency services, they must notify the parents within 48 hours. RCW 70.96A.096. Parental notification is required if parental consent is required.

- A legally emancipated minor or a minor married to either an adult or an emancipated minor is treated as an adult.
- Information accurate as of November 5, 2007. For most up-to-date version and related document "A Kinship Caregiver's Guide To Consenting To Health Care" please visit www.washingtonlawhelp.org.
- Unless specified elsewhere in the document, the term "medical services" includes dental, optometry, and naturopathy services.
- RCW – Revised Code of Washington- <http://apps.leg.wa.gov/rcw/>

CARE FOR MINORS – UNDER 18YO

- Emergency care
- Non-emergency medical care, including immunizations
- Mental health
- Substance abuse
- Reproductive health
 - Contraception
 - Pregnancy
 - Sexually Transmitted Infection



2019 – NEW MENTAL HEALTH OUTPATIENT LAW: HB 1874

- Limited mental health information may be shared with parent, when the mental health provider believe that sharing this information would not be detrimental.
- Parent may request and receive medically necessary mental health or substance use disorder treatment for the adolescent
- Expands the definition of “parent”



IMMUNIZATIONS



- Immunizations require agreement and review of the Vaccine Information Statement prior to each immunization.
- Federal law requires that the VIS be reviewed by the consenting person prior to each immunization in a series— but signature is not required.
- **Best Practice**

ADDITIONAL CONSENTS OR ACKNOWLEDGEMENTS

EXAMPLES

- Specific medical procedures or care plans
 - Long Acting Reversible Contraceptives
 - Suturing
 - Controlled substances agreements
- Dental care & procedures
- Mental Health Therapist disclosures



CONFIDENTIALITY



- Minors have a right to access confidential services for specific care
- Parents or guardians are often aware of the confidential services their minors access
- Minors may be selective in what they share with their parent/guardians
- Confidential care is billable
- Not all health care plans protect the minor's privacy by suppressing the Explanation of Benefits
- External lab, diagnostics, or referrals confidentiality is based on the organization's policy and practices

MINOR CONSENT IN WASHINGTON STATE

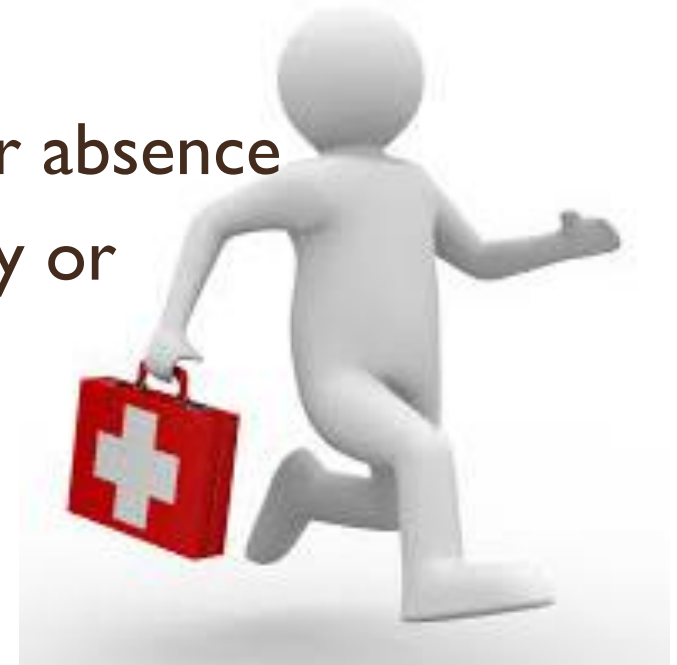
Minors may obtain some services independently without parental or guardian permission.

- STI treatment at age 14 (RCW 70.24.110).
- Birth control services at any age (RCW 9.02.100(2) Obtain or refuse services
- Abortion and related services at any age without the consent of a parent, guardian or the man responsible for the pregnancy. (RCW 9.02.100(2); State v. Koome, 84 Wn.2d 901)
- Prenatal care at any age. (State v. Koome, 84 Wn.2d 901)
- Mental Health services at age 13 (RCW 71.34.530)
- Substance abuse treatment at age 13 (RCW 70.96A.096, 230)



CONSENT & EMERGENCY CARE

- If the parent's consent is not readily available, the consent requirement is satisfied and the minor can receive medical services. RCW 7.70.050(4).
 - This means life or death emergencies such as true anaphylaxis
 - In the school, School Nurses are 1st responders
 - The School Nurse can designate school staff in their absence
 - SBHC staff support the school plan in an emergency or disasters
 - What about urgent care?



KINSHIP CARE

- Allows kinship caregivers to consent for health care for the child/children in their care
- A kinship caregiver is a relative of a child who is not the child's parent, but who is taking care of the child
- The law allows the kin to consent for care when they have written authorization from the parent, represent themselves as responsible for the health care of the child, or have signed a declaration stating they are responsible for the care of the child
- The declaration is valid for 6 months
- Does not change custody of the minor



KINSHIP CAREGIVER'S DECLARATION OF RESPONSIBILITY FOR A MINOR'S HEALTH CARE

Use of this declaration is authorized by RCW 7.70.065.

I DECLARE THAT:

1. I consent to health care for the child:
_____. (print name of the child)
2. The child's date of birth is: _____.
3. My name is:
_____. (print your name)
4. My home address is:
5. I am 18 years of age or older and I am a relative responsible for the health care of the minor
6. My date of birth is: _____.
7. I am the
_____ of the minor. (print your relationship to the child, e.g. grandparent, aunt/uncle, etc.)

- I declare under penalty of perjury under the laws of the State of Washington that the above is true and correct.
- Date: _____
- City and State: _____
- Signature of Caregiver:

- *This Declaration is ONLY valid for six months from the date listed here.

RELEASE OF INFORMATION

- Signed Release of Information
 - The person able to consent for the care provided is the person who signs the ROI
 - School and SBHC Release of Information
- Request for information for shared care
- Sharing information within health care team
- CPS or police
- Emergency situations



Safety

- ▾ [Report Child Abuse](#)
 - [How to Report Child Abuse or Neglect](#)
 - [What is Child Abuse and Neglect](#)
 - [What Happens Once Abuse & Neglect is Reported?](#)
 - [Child Abuse and Neglect Founded Findings Requests from External Requestors](#)
 - [Mandatory Reporting of Child Abuse and Neglect](#)
 - [Early Learning / Child Care Complaints](#)
- [Child Abuse Prevention Tips](#)
- [Protect Your Baby - Safe and Legal Alternatives](#)
- [Youth Suicide Prevention](#)
- [Safe Sleep & Other Safety Tips](#)

Mandatory Reporting of Child Abuse and Neglect

Any person who has cause to believe that a child has suffered abuse or neglect should report such incidents.

Those people legally required to report child abuse or neglect are:

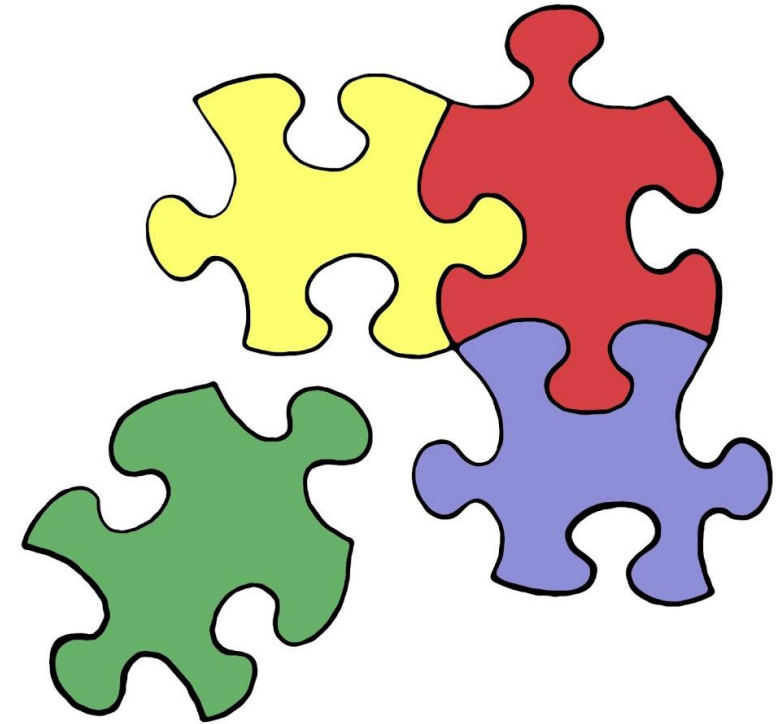
- ✓ Medical practitioners
- ✓ Nurses
- ✓ Dentists
- ✓ Social service counselors/therapists
- ✓ Psychologists
- ✓ Medical examiners
- ✓ Pharmacists
- ✓ School personnel
- ✓ Child care providers
- ✓ Law enforcement officers
- ✓ Juvenile probation officers
- ✓ Corrections employees
- ✓ DSHS employees
- ✓ DCYF employees
- ✓ Placement and liaison specialists
- ✓ Responsible living skills program staff
- ✓ HOPE center staff
- ✓ State family and children's ombudsman
- ✓ Any volunteer in the ombudsman's office
- ✓ Adults residing with child suspected to have been severely abused

MANDATED REPORTING OF CHILD SEXUAL ABUSE

- Do I need to report sexual abuse of a minor that is not committed by a parent or caregiver? What about reporting sexual violence committed against a minor by their peer?
- WAC 388-15-009 states that "Child abuse or neglect means the injury, sexual abuse, or sexual exploitation of a child by any person under circumstances which indicate that the child's health, welfare, or safety is harmed..." It also defines sexual abuse as "committing or allowing to be committed any sexual offense against a child as defined in the criminal code."

PARENT OR GUARDIAN INVOLVEMENT & NOTIFICATION

- Keep connections open
- Best practice
 - Phone calls or letters home
 - Preferred language
 - Communicate care plan & informed consent
- Emergency situations
- Harm to self or others
- Mandatory reporting



SBHCs → HIPAA

- Covers student **protected health information** (PHI) held/transmitted by a healthcare provider, i.e. information from the SBHC's medical record
 - Includes demographics, name, address, birthdate, SSN, and any other personally identifiable data
 - **Also includes** info relating to past, present, or future physical or mental health condition, healthcare provided to patient, or payment for healthcare
- The student (or a designated representative) can authorize disclosure in writing
 - Disclosure is required to be made to the individual/representative
- Disclosure without consent is only allowed to parties who could prevent or lessen a serious and imminent threat to safety

Schools → FERPA

- Covers **personally identifiable information** (PII) in a student's education record
 - Includes name, address, SSN, birthdate, student immunization history on record with the school nurse, or other info that could identify a student
 - Schools can disclose "directory info" without consent unless parent/student requests otherwise
- A parent or eligible student (aged 18 or older) can authorize disclosure (i.e.: FERPA release form)
- Schools/agency can make case-by-case disclosures without consent to address "articulable and significant threat"

HIPAA & FERPA

- SBHCs collect yearly FERPA releases with their registration packets
 - Allows SBHC providers access to FERPA-covered PII for students they are serving
- SBHC Mental Health providers are “Agents of the District”
 - Allows mental health providers access to FERPA-covered PII for students they are serving
- Sharing of HIPAA-protected PHI with SPS staff is still held to same restrictions

CONSIDERATIONS

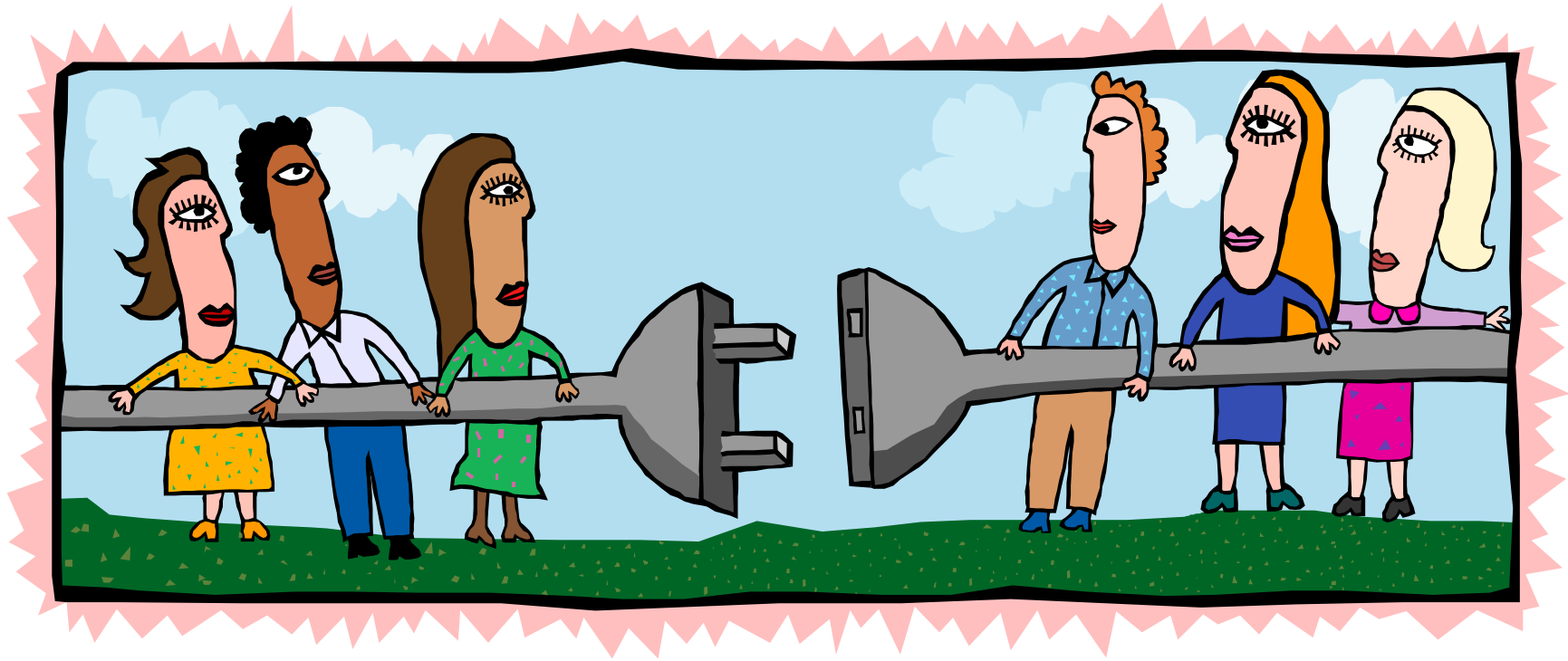
- SBHC as Institutional Partner/Agent of the District
- Routine ROI allows for more sharing between SBHC and school
 - May be limited information (appointment day)

School-Based Health Centers (SBHCs):

- ▶ Are located in schools or on school grounds
 - ▶ Work cooperatively with schools
- ▶ Focus of culturally competent, patient-centered care to school-age children (and sometimes families) using a medical model to provide primary care with a multidisciplinary team to provide:
 - Laboratory services and diagnosis
 - Illness treatment including prescription services
 - Comprehensive health assessments
 - Screening and early interventions
 - And may include oral and mental health care
 - ▶ Reduce health disparities & improves health outcomes for underserved youth who are enrolled
- ▶ Integrate increased access to primary care in the public
 - ▶ Receive funding from billing third party payors (including Medicaid) and support by foundations or healthcare systems
 - ▶ Serve the school and the surrounding community
 - ▶ **Learn more at www.sbh4all.org**

School Nurses

- ▶ Are registered nurses (Generalist to Specialist) who practice in schools
 - ▶ Serve the entire school population
- ▶ Coordinates the development of individualize student health (IHP) and emergency plans (ECP)
 - ▶ Member of school health teams
- ▶ Collaborates on school education teams (e.g., IEP, 504)
- ▶ Typically employed or contracted by local school districts
 - ▶ Promote health and well-being through:
 - Health promotion
 - Health education
 - Immunization compliance
 - Securing insurance and access to a medical home
 - ▶ Mitigate potential health issues with:
 - Health screenings
 - Healthcare provider referrals
 - Ongoing health issue surveillance
 - Preparation for school emergencies
- ▶ Provide care coordination and case management:
 - Chronic and communicable diseases
 - Life threatening allergies
 - First aid and emergencies
- ▶ **Learn more at www.nasn.org**



WHAT DO WE DO?



- Jose is 16yo and living with friends. He comes to your SBHC for a sports physical and does not have parent consent. His family is in Guatemala. What do we do?
- Amina is 5yo and her grandmother requests an appt for an ear ache and vaccines. The grandmother has not heard from either parent in over a year. What do we do?
- George discloses longstanding physical abuse by his stepfather. You have called CPS and they are sending someone to the school today. What do we do?

- Marissa is 16yo and has an appt for birth control. Her parents are not aware of her care at the SBHC. When she checks in, Marissa also feels sick with a fever and sore throat. What do we do?
- Trevor is 14yo and discloses his older cousin sexually assaulted him 5 years ago. He has never told anyone and doesn't want anyone to know. What do we do?
- A teacher at your school knows you work with a student in their class, so asks you what is 'really going on' since the child's behavior has changed in class. What do we do?



- Ava is 16yo and was kicked out of their home. Ava lives with a friend's family. She wants an appt for acne, and TB screening so she can get a daycare job. She is due for Tdap, MCV, flu, and HPV vaccines, and has not seen a dentist in over 2 years. What do we do?
- The school principal asks to be notified if any student has a positive pregnancy test. What do we do?
- Freddie is 14yo, and well known by the School Nurse and SBHC staff. He struggles with academics and attendance. Today he feels suicidal and has access to multiple pills in his car on the school parking lot. What do we do?



RESOURCES

- [Joint Guidance on the Application of the Family Educational Rights and Privacy Act \(FERPA\) And the Health Insurance Portability and Accountability Act of 1996 \(HIPAA\) To Student Health Records](#)
- [Providing Health Care to Minors under Washington Law](#)
- [Kinship Care Resources](#)
- [ASTHO Public Health and Schools Toolkit](#)
- [Mandatory Reporting of Child Abuse and Neglect](#)
- [Washington Coalition of Sexual Assault Programs](#)

CONTACT INFORMATION



- **Sara L. Rigel, MPH, CHES**

Public Health- Seattle & King County

Tel: 206-263-8830 | Fax: 206-296-3808 | Sara.Rigel@kingcounty.gov

- **Janet Cady, MN,ARNP | School-Based Health Center Programs**

Neighborcare Health

Phone: 206-548-3008 | Fax: 206-461-8382

janetc@neighborcare.org | www.neighborcare.org