Parental Consent and Confidentiality Issues  
For Working with Teens:  
Guidelines for Vermont Advocates

**PARENTAL CONSENT**

IT IS RECOMMENDED PRACTICE FOR NETWORK PROGRAMS TO…

- Have policies about provision of services to teens which provide clarity around your program’s parental consent requirements.

- Explain your policies to teens at the onset of services including your mandating reporting status.

- *Seek* parental consent and encourage teens to consult parents whenever possible.

- Have parental consent forms (approved by an attorney) available.

- If desired parental consent cannot be obtained, continue to offer and provide services to teens – don’t turn them away.

- *Require* parental consent only in circumstances where the safety of a teen depends on sharing information with a parent.

**ADDITIONAL INFORMATION REGARDING RIGHTS OF MINORS SEEKING SERVICES:**

**In Vermont, there are no laws that specifically address the issue of parental consent for teens receiving the following services:**

- Reproductive health (including contraceptive services, abortion, pre-natal care)
- Outpatient mental health

Therefore, there are no laws that *require* parental consent for these services

**Under Federal Law,** providers funded through the Public Health Services Act (this includes PPNNE) cannot require parental consent when offering contraceptive services to minors

**Vermont statute specifically states that parental consent is not required** for minors (12 and over) seeking treatment and/or hospitalization for alcoholism, drug abuse, and STDs **OR** minors ages 14 and older seeking inpatient mental health treatment. However, if immediate hospitalization is necessary, providers are required to notify parents in some cases.
It is recommended practice for Network programs to…

- Have policies about provision of services to teens which provide clarity around your program’s confidentiality agreement and disclosure requirements.
- Explain your policies to teens at the onset of services including your mandating reporting status.
- Maintain confidentiality of information disclosed by teens to advocates.
- Generally, disclose to parents only information that the teen has given you permission to share.
- If teens wish to share their information with others, encourage them to do this themselves with your support. If they want you to share their information, ensure a time-limited release of information form be signed by them and their non-offending parent (whenever possible).
- Confidentiality may be ethically or justifiably breached in circumstances where the physical or emotional safety of a teen depends on sharing information with a parent or someone else (like Family Services (CPS)).
- Consult the American Medical Associations policies on Confidential Care for Minors (attached) for guidance.

Additional information regarding rights of minors seeking services:

According to the Federal HIPAA law, if the state law does not address the issue of parental notification, a health care provider may or may not decide (using his/her professional judgment) to notify the minor’s parents even if parental consent of the minor was not required for medical services. However, a provider may choose not to notify a parent if he/she believes the minor has been subjected to domestic violence, abuse or neglect or if the provider believes that such disclosure could endanger the child.

Under the Federal Public Health Service Act, all patients (including minors) have the right to confidential contraceptive services (including abortion).

Vermont law does not speak to parental notification regarding reproductive health decisions of minors.

The American Medical Association states that “…where the state law does not require otherwise, physicians should permit a competent minor to consent to medical care and should not notify parents without the patient’s consent.”
Teens Seeking SANE Exams

Do parents or guardians need to give permission for a minor’s SANE exam?
According to the Vermont Medical Society, minors of any age may give informed consent to medical treatment associated with rape, incest, or sexual abuse (http://www.vtmd.org/consent-privacy-and-medical-records#minor-consent). HOWEVER, hospitals vary in their internal policies regarding requiring parental consent. For example, the policy of Fletcher Allen Hospital is that "minors may consent to medical treatment associated with rape, incest or sexual abuse." Other hospitals may determine that requiring parental permission is best.

Will a report to DCF be made?
Yes. All SANE exams for minors will result in a report to DCF. It is important to remember that parents or guardians will most likely be notified about the situation because of the report to DCF. [33 V.S.A. § 4911 et seq.]

Will a minor’s insurance be billed?
Adults and minors are not required to pay any out-of-pocket costs for a SANE exam or follow-up costs. Minors are eligible for the Sexual Assault Program of the Vermont Center for Crime Victim Services which will cover the entire cost of a SANE exam. The patient may instead choose to bill her insurance company.

What if a minor doesn’t want a SANE exam? A minor may refuse to consent to a SANE exam.

Listed rights of Minors to consent under Vermont Law:

1. Drugs, alcohol, STD services

   18 VSA § 4226 - A minor 12 years or older may consent to treatment including hospitalization for substance abuse, alcoholism, or sexually transmitted disease including HIV/AIDS. However, a parent must be notified if immediate hospitalization is required.

2. Voluntary Admission for Mental Health Treatment

   18 VSA § 7503 - If a person is under 14, he or she may be admitted as a voluntary patient if the patient consents and a parent or guardian makes the application for treatment.

   18 VSA § 7503 – A minor 14 years or older may apply for voluntary admission to a designated hospital for mental health examination and treatment. Before admission, the patient shall give consent in writing on a form approved by the department.
18 VSA § 8010 – If a voluntary patient gives written notice of his or her desire to leave the hospital, he or she must promptly be released. If the patient is a minor, the notice to leave may be given by the patient or his attorney or the person who applied for admission, provided that the minor consents to the release.

3. Emancipated minors 12 V.S.A. § 7151

An emancipated minor is defined in Vermont law as including a minor who is married, on active duty with the armed forces, or has been ordered emancipated by a probate court judge. The criteria for a probate court order of emancipation follow:

- The minor is at least 16 years old
- The minor has lived separate and apart from parents or guardian for three months or longer
- The minor manages his or her own financial affairs
- The minor has the ability to be self sufficient in personal and financial affairs through employment or other means of support not including Aid to Needy Families with Children
- The minor holds a high school diploma or is earning passing grades in a program towards earning a high school diploma or its equivalent
- The minor is not under legal guardianship or custody of DCF or under supervision or custody of corrections.

An emancipated minor is recognized as an adult for all purposes, including consenting to health care.

US Constitutional Rights for Teens to Access Reproductive Health Care:

Abortion
Minors have a constitutional right to confidential abortion services. Vermont has no law requiring parental consent, notice or judicial bypass for abortion decisions.

Contraception
Minors have a constitutional right to privacy, including the right to make reproductive health care decisions. This right includes the right to non-prescription contraceptives and may include the right to consent to prescription contraceptives.

Courts have interpreted the Public Health Service Act and the Medicaid law to require the provision of confidential contraceptive service to teens. Thus, when providers offer contraceptives to Medicaid patients or through programs funded by the Public Service Act, they may not require parental consent or notification.