Self-assessment Tool: Liability Safeguards for Adolescent Care

The following self-assessment tool is designed to serve as a starting point for healthcare business owners seeking to assess and enhance their risk control practices regarding care of adolescents. For additional risk control tools and information, visit www.cna.com/healthcare, www.nso.com and www.hpso.com.

LIABILITY SAFEGUARDS	HAS ISSUE BEEN REVIEWED?	COMMENTS
GENERAL POLICY CONSIDERATIONS		
Does written policy define the period of adolescence in conformity with state law, especially in relation to the state statutory definition of a minor (e.g., 13 to 17 years of age)?		
Is emancipated minor *defined in accordance with state law*, e.g., a youth who is:		
- Emancipated by court order?		
- Legally married?		
- Independent of parental financial support and/or living apart from parents?		
- Pregnant or seeking treatment for possible pregnancy?		
- A parent of a minor?		
Are unemancipated minor patients/clients and their parents/guardians informed in writing about basic healthcare provider-patient/clients issues, including:		
- The limits of confidentiality between providers, patients/clients and their parents/guardians?		
- The limits of informed consent requirements?		
- Care compliance expectations?		
Do only designated staff members have access to patient histories and other sensitive information?		
Does the employee orientation program cover minor-related issues and policies, including confidentiality, parental notification, consent and patient/client education?		
Are minor patients/clients who legally have the right to consent to their healthcare informed in the same manner as adult patients/clients of payment requirements, including the offering of options other than insurance billing?		
Does written policy address treatment provisions for the unaccompanied homeless minor, including consent to routine medical care and any state-imposed reporting requirements?		

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CONFIDENTIALITY		
Are minor patients'/clients' privacy rights reflected in written policy, especially regarding the sharing of information with family and staff members?		
During the initial visit, do providers help promote minors' emerging autonomy by:		
- Reviewing the confidentiality policy of the practice with all minor patients/clients and parents?		
- Acknowledging that minor patients/clients may have specified legal rights regarding consent and confidentiality?		
- Fostering an appropriate level of choice, responsibility, compliance and self-reliance?		
Are sensitive healthcare services routinely treated in a confidential manner when provided to minor patients/clients, e.g., birth control, substance abuse, abuse by others?		
Is written informed consent optimally obtained from minor patients/clients prior to the sharing of sensitive medical information – such as diagnosis, prescribed medications or prognosis – with a parent or guardian?		
Do patient/client portals meet state and HIPAA confidentiality standards for minors whose parents or guardians may have proxy access to their healthcare information records?		
Are minor patients/clients informed that certain billing situations may affect confidentiality, e.g., billing statements or Explanation of Benefits notices sent by a third party to a parent/guarantor?		
Do policies address other minor patient/client documentation issues, such as authorization to release records and access to electronic health records via patient/client portals?		
PRIVACY		
Are minor patients/clients presented with a HIPAA privacy notice statement, which is reviewed with them when they give their informed consent to treatment?		
Are minor patients/clients offered a private space away from parents/guardians for interviews, physical examinations and medical procedures?		
Are minor patients/clients permitted to invite a family member, peer or other chaperone to be present during discussions and examinations, as well as to consult with others when making healthcare decisions?		
Is a chaperone required to be present during discussions and examinations of minor patients/clients, in order to ensure appropriate professional interaction, whenever a family member or guardian is not present?		
Are minor patients/clients apprised of the information that will be shared with parents or guardians, as well as the rationale for such information sharing – e.g., a clear and specific intent to cause harm to self or others, an instance of reportable abuse (physical, sexual or emotional) or the presence of a communicable disease?		
Are minor patients/clients asked if they may be contacted at the provided telephone number and/or email, and if messages may be left at the telephone number?		

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INFORMED CONSENT		
Is there a policy regarding when verbal consent from a parent/guardian suffices, and does this policy comply with state informed consent laws and regulations?		
In those states where verbal parental consent is permitted or required, is the process documented comprehensively – i.e., do providers note in the healthcare information record that the parent giving consent understands the benefits, risks and consequences of the proposed treatment or procedure, as well as alternative treatments?		
Is there a written policy addressing informed consent by "mature minors," if the practice is located in a state that has enacted a mature minor statute?		
Does written policy stipulate when minor patients/clients may give consent to treatment without parental consent, such as in the following situations:		
- Forensic examinations for sexual assault?		
- Treatment for sexually transmitted diseases?		
- Treatment for alcohol or drug abuse?		
- Psychological services associated with the abuse of drugs or alcohol?		
- Contraceptive and reproductive services?		
When obtaining consent from a minor patient/client, do providers routinely:		
- Assess the patient's/client's decision-making ability and degree of autonomy?		
- Discuss risks and benefits of the proposed treatment in an age-appropriate manner?		
- Evaluate and document the patient's/client's health literacy level and understanding of the information given?		
Is the information provided by parents or guardians authorizing treatment of an minor examined for authenticity, and does the verification process confirm that:		
- The author/signatory is, in fact, a parent or legal guardian?		
- The author is legally able to give permission to treat, i.e., that parental rights are intact?		
- The document has been notarized?		
Is the decision-maker's name prominently noted in the healthcare information record, whether it is the patient/client, a parent or a legal guardian?		
Is there a protocol established and implemented for settling disputes between parents/legal guardians and the minor patient?		
Is there a protocol established and implemented for settling disputes between parents about a proposed treatment or procedure for their minor child?		
Does written policy address parental consent for divorced parents, and are safeguards in place to ensure that court orders regarding legal custody and shared rights are followed?		
Is a policy in effect concerning the rights of step-parents and foster parents, including a process to verify their legal authority to grant consent for medical treatment?		
Are backup measures established and implemented if a provider is morally or ethically opposed to treating minor patients/clients without parental consent, e.g., a mechanism for referring the patient/client to another practitioner?		

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HISTORY AND PHYSICAL EXAMINATION		
Are staff members trained to communicate with minor patients/clients during an examination, with an emphasis on younger patients'/clients' emotions, sensitivities, thought processes and degree of autonomy?		
Are medical histories of minor patients/clients taken in a private location and also discussed in such a setting?		
When examining minors, do providers inquire about the patient's/client's possible risk factors, such as:		
- Physical and emotional home environment?		
- Relationship with parents, siblings and others living in the home?		
- Dietary concerns and self-image?		
- Alcohol and drug use?		
- Depression?		
- Bullying?		
- Time spent on social media sites?		
- Lack of exercise?		
- Excessive intake of junk food?		
- Unsafe sexual practices?		
- Suicidal and violent ideation?		
Do providers use mnemonic devices to ensure thorough evaluation of minor patients/clients, such as: **HEADS** (**H**ome, **E**ducation, **A**ccidents, **D**rugs and alcohol, and **S**ex and suicide) or **SAFE TEENS** (**S**exuality, **A**ccidents and abuse, **F**irearms, **E**motions, **T**oxins, **E**nvironment, **E**xercise, **N**utrition, and **S**hots)?		
Is the medical office equipped to perform a pelvic examination on sexually active young women, if applicable to the profession?		
Are medical staff members trained to act as chaperons during pelvic examinations, if applicable to the profession?		
Do history and patient/client intake forms inquire about personal wellness, including exercise intervals, eating habits, stress levels, peer relationships, etc.?		

LIABILITY SAFEGUARDS	HAS ISSUE BEEN REVIEWED?	COMMENTS
PATIENT/CLIENT EDUCATION		
Are minor patients/clients offered current information on relevant health issues, including:		
▪ Nutrition and exercise?		
▪ Patterns of growth and development?		
▪ Peer relationships?		
▪ Contraception and sexually transmitted diseases?		
▪ Tobacco, alcohol and drug use/abuse issues?		
Is health-related information offered in a variety of convenient and engaging formats, including age-appropriate brochures, videos, websites and online tutorials?		
Are sensitive healthcare issues discussed in a private area where minors can feel comfortable?		
When indicated, are minor patients/clients offered social service support to help them understand and accept the potential impact and consequences of their medical condition?		

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