

Confidentiality Laws in Virginia Concerning Substance Abuse by Minors

By Michelle Labbe, August 11, 2010

1. Confidentiality laws and laws regarding confidentiality for minors vary by state; there is no national standard.

The laws concerning confidentiality for minors, particularly where substance abuse is involved, can be complex and difficult to navigate. In the state of Virginia, minors may have the right to confidentiality concerning substance abuse in certain situations. Depending on the circumstances, their records or personal information may be disclosed to certain parties.

2. Confidentiality of Court Records

Virginia law dictates that court records involving minors, including those concerning substance abuse violations, are filed separately from adult records. They may be disclosed only to certain parties, including judges and probation officers, lawyers, any agency with custody of the minor, or for furnishing evaluation or treatment as ordered by the court.

Records are also open to any deemed to have a "legitimate interest" in the case.

The law differs in cases of minors 14 or older who are found guilty of an act that would be considered a felony if committed by an adult. This includes possession of certain substances such as heroin, ecstasy, cocaine, or meth. In these cases, court records are not confidential and are open to the public.

3. Confidentiality of Department Records

Department records of minors who have appeared before court, are under state supervision, or are receiving services from a court service unit are confidential. These records might include documentation of medical or social histories concerning substance abuse.

Department records may be open for inspection to courts serving the minor in question, the minor's parent or legal guardian, child welfare agencies, and school administrations and law enforcement agencies deemed to have a "legitimate interest."

Records are also open to minors who have reached the age of majority (in Virginia, the age of 18) and wish to access their own records.

4. Doctor-Patient Confidentiality

Minors in Virginia who seek treatment for substance abuse are protected by doctor-patient confidentiality, but the law here is confusing.

According to Virginia law, minors who consent to their own treatment for issues such as substance abuse are considered adults and have the legal right to give or refuse consent for disclosure to others.

However, Virginia law also states that parents may not be denied access to the health records of their minor child.

Therapists and other treatment and health care providers may have their own policies regarding disclosure and non-disclosure for minor patients, given the combination of these two conflicting laws.

References

- Code of Virginia: Confidentiality of court records
- Code of Virginia: Confidentiality of department records
- Center for Ethical Practice: Minors Privacy Rights Under HIPAA

Resources

- [Code of Virginia: Chapter 11: Juven](#)