

Providing Confidential Care to Adolescents in Healthcare Settings

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INTRODUCTION

An unaccompanied 15-year-old girl presents to a local emergency department (ED) with abdominal pain, but at triage does not reveal her concern that she may have a sexually transmitted infection (STI). She is seeking care in the ED instead of her primary care medical home because she believes her visit will be confidential. Upon ED arrival, the youth explains her symptoms to a nurse, who orders urine testing for pregnancy and STIs. Registration staff obtains her insurance and contact information. If she were an adult, this would be a typical ED visit for an acute complaint. Since she is a minor, the situation is complicated by the complexities of providing confidential care to an adolescent.

Based on the patient's symptoms suggesting a possible STI, this minor has the legal right to confidential care in all 50 states. Privacy, however, even if mandated, is not always guaranteed because of the many ways confidentiality can be breached during a health care encounter.¹ In addition, the adolescent may not be in the best position to advocate for her rights. She may be unfamiliar with the laws created by the state and the Federal governments to decrease barriers to care for specific conditions as well as the general workings of the healthcare system.² Hospital staff may also be unaware of the laws, fail to inquire about confidential conditions or inform adolescents of their rights. By not recognizing that a minor is seeking confidential care, healthcare staff may unwittingly inform parents.¹ Unless informed, minors may be unaware that their parents' insurance company will be billed for visits and parents may receive financial statements as well as explanation of benefits (EOB) notifying them of the visit.³ Minors may not know that their parents may have access to confidential lab results through electronic health record (EHR) portals.^{4,5} Or, that healthcare providers may decide it is in the youths' best interest to notify parents of their conditions.¹

PRIVACY IN ADOLESCENT MEDICAL PRACTICE

One of the tenets of adolescent medical practice is to provide confidential care and privacy to minors that align with their evolving autonomy. Medical professionals who care for adolescents practice with an appreciation for their developing cognition and limited life experiences that sometimes, but not

always, limits their capacity to make fully competent decisions.⁶

Since parents are responsible by law and culture for most of the medical decisions involving minors, medical professionals routinely broker with both parents and adolescents about the allocation of medical decision-making. In many adolescent practices, minors, parents and physicians sign formal contracts, agreeing to confidentiality between adolescents and their medical providers as long as it is within the boundaries of professional practice and the law.^{7,8}

In most situations, parents are in the best position to help their adolescents make decisions. They typically know their children best and place the highest priority on their welfare with an appreciation for their evolving capacity for decision-making. Adolescents often welcome their parents' input and look to them for guidance.^{1,7,8,9}

It is faulty to assume however, that because parents are adults they always make competent decisions for their children. Or, that minors lack the capacity to make thoughtful decisions. In fact, sometimes there is conflict between parents' priorities and those of their adolescent children, especially in areas of reproductive health and substance abuse. Such conflict can create barriers to adolescents accessing appropriate healthcare.^{1,7,8,9}

POLICIES RELATED TO ADOLESCENT HEALTHCARE DECISIONS

Out of concern for adolescents and the public health, most states have adopted minor consent and privacy laws that allow certain minors to consent to confidential care in specific areas. Services supported by statute include those for family planning, pregnancy care, STI and HIV testing and treatment, substance abuse treatment, outpatient mental health care, emergency care, sexual assault evaluation and less frequently abortion. Laws differ in each state and define the limits of confidentiality and consent.^{10,11}

A few states have specific statutes that outline criteria for mature minor and emancipated minor status. Most states, including Rhode Island (RI), do not have laws and rely on individualized judicial decisions to make determinations.^{10,11}

At the federal level, protection for reproductive rights, including for adolescents, dates to 1970 when Congress added Title X of the Public Health Service Act that established federally funded programs to allow access to family planning services to everyone. The act was subsequently amended to insure that adolescents have confidential access to care in specific situations.^{1,8,11}

The Supreme Court has also ruled in favor of the consti-

tutional right to privacy of adolescents in the context of decision-making related to reproductive health and allows them autonomy in decisions to obtain contraception without parental consent.¹

The Supreme Court decision in *Roe v Wade* in 1972 led the way for legalized abortion, including for adolescents. State statutes that followed have consistently limited access to abortion for adolescents without parental consent in all but 2 states. Federal rulings have countered state regulation and supported protection of adolescent decision-making with a “judicial bypass” where a judge determines a minor’s capacity to make the decision to have an abortion without parental consent.^{1,12}

In 1996, Federal health care privacy regulations were issued under the Federal Health Insurance Portability and Accountability Act (HIPAA). These rules were designed to safeguard health information, and facilitate patients’ access to their health information. HIPAA rules closely align with state minor consent laws and other established laws to assure that when a minor can legally consent for care, their health information must be protected, including from their parents.^{3,5,13}

In addition to HIPAA protections, state privacy laws also direct healthcare providers to maintain confidentiality of information. In RI, like most states, if a minor has the authority to consent for care, information cannot be released, even to parents unless the minor consents.¹⁴

There are specific federally funded healthcare programs that protect adolescent confidentiality. Title X Health Centers administered through the Department of Health and Human Services are purposed to assure access to confidential family planning services regardless of age or ability to pay. Medicaid programs are also required to support family planning services for beneficiaries. A few state public funds also support specific abortion services allowed by law.^{1,10}

There are a variety of other state specific laws and policies that help safeguard adolescent confidentiality and direct healthcare professionals. Included are laws that address healthcare providers’ rights to care for adolescents within the boundaries of professional practice and rely on good faith information provided by a minor about their status.^{1,9,11}

A joint statement issued by the the American Academy of Family Physicians (AAFP), the American Academy of Pediatrics (AAP), the American College of Obstetricians and Gynecologists (ACOG), and the Society for Adolescent Medicine (SAM), support the principles of protecting adolescent privacy and respecting confidentiality when the adolescent has the legal right to give consent, while making reasonable efforts to encourage adolescents to involve their families in their healthcare decisions.⁷

STI TESTING AND TREATMENT, CONTRACEPTION AND PREGNANCY

In all states, youth ages 12 and older can consent to confidential care related to STIs. In RI, the law includes confidential testing and treatment of all reportable communicable diseases including HIV. There is no legal requirement to report pregnancy to a parent.^{10,11}

In many states there are laws defining the age of consent for contraceptive and pregnancy related services. In RI there are no statutes but Federal privacy and Title X mandates allow all minors access to confidential family planning services and sets a precedent for access to adolescent confidential contraception and pregnancy care.^{10,11} Title X language encourages but does not require minors to involve their parents in their decisions. Medicaid programs in RI also support payment for adolescent contraception and pregnancy related services.^{10,11} Adolescents who consent for treatment but are not insured by Medicaid are financially responsible for services. The Affordable Care Act (ACA) mandates that private insurance cover contraceptive services with some exceptions.¹¹

ABORTION

Per RI Law, abortion for a minor requires consent of one parent except for medical emergencies. There is an allowance for judicial bypass.^{10,11,14} Connecticut is one of two states that allow adolescents to make the autonomous decision to have an abortion.¹¹ Many private insurers cover abortion services. A recent ruling related to the ACA however, mandates that insurers offer plans that do not offer coverage abortion services.

In RI, public insurance or programs for public employees cover abortion only in cases of life endangerment, rape or incest.¹⁵ Massachusetts Medicaid programs support specific abortion services.

EMERGENCY CARE

Adolescents in RI ages 16 years or older or married may consent to “routine medical or surgical care” and the health information from these visits is confidential. Since “routine emergency care” may fall outside of typical specific confidentially protected care, without safeguards in place in the EHR, this information may be vulnerable to disclosure.^{1,16} In general, minors are financially responsible for treatment for which they consent. In every state, laws support treatment of minors for emergency conditions without parental consent.¹⁶

SUBSTANCE ABUSE TREATMENT

In RI, as in many states, adolescents are allowed to seek treatment for drug or alcohol abuse without parental consent if a qualified professional agrees contacting a parent would not be helpful to the care. There is also no legal requirement to report substance abuse to parents. Parental participation is required for minors to enter a substance abuse treatment program.^{14,17,18}

ELECTRONIC HEALTH RECORD

The establishment of EHRs has increased the exchange and accessibility of health information, but has also resulted in dilemmas related to the protection of adolescent confidential health information.^{19,20}

Most commercial EHRs, including those in RI medical practices, do not have automatically instituted privacy controls for adolescent confidential information. Very few provide point of care access to medical professionals that allow them to segregate or highlight confidential information within the record.^{3,4,5} HIPAA and state privacy laws require

that confidential medical information of minors can only be released after their written consent. Without privacy controls, determining what constitutes confidential information requires an inspection of the record by trained personnel without guarantee that all confidential information will be identified.³ Some EHR vendors have customizable features that can be adapted to meet privacy standards.^{19,20} Patient portals, for example can be configured to allow minors of a specified age and their medical providers access to their personal health information (PHI) while parents are allowed access only by proxy.^{19,20} Each institution must determine how options for privacy are implemented in the EHR and inconsistency across systems may compromise confidentiality.

HEALTH INFORMATION EXCHANGE

The Health Information Exchange in RI called Current Care include policies that support the privacy of enrolled minors that aligns with HIPAA and privacy regulations.²⁰ The PHI related to confidential care of minors between the ages of 10 and 18 years is released only to the minor's authorized health care providers. The PHI of "routine emergency medical or surgical care" of minors between the ages of 16–18 years is released only to them or their authorized healthcare provider.

INSURANCE

Adolescents are typically insured as their parents' dependents. One of the most common ways adolescent confidential information is breached is when parents receive insurer provided explanation of benefits (EOBs) or financial statements.^{4,18,20} Each insurer sets the standard for what information is included in their EOBs. Some provide detailed information related to testing and treatments while others, including EOBs from Medicaid programs, are less specific. Some states have developed regulations around EOBs to protect the confidentiality of minors insured as dependents.^{1,3,5}

Respecting the evolving autonomy and privacy of adolescents aligns with best medical practices. Healthcare professionals and their staff are obligated to know and integrate the laws and standards related to adolescent confidentiality and privacy into their practices. Medical professionals will best serve their patients by becoming educated about programs supported by the federal and state governments and other organizations to safeguard adolescent confidentiality, reduce barriers to care and promote adolescent health and wellbeing.

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