Consent and Confidentiality in Adolescent Health Care

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Disclosure

We have no relevant financial relationships with the manufacturer’s of any commercial product(s) and/or provider of commercial services discussed in this CME activity.

We do not intend to discuss an unapproved/investigative use of a commercial product/device in our presentation.
HELLO, I'M HERE TO RUIN MY SON'S LIFE BY HUMILIATING HIM BEYOND RECOGNITION.

SIGN HERE.

WHAT I SAID WAS, "I'M HERE TO TAKE MY SON TO HIS PEDIATRICIAN APPOINTMENT."

SAME THING.
WHAT IS IT EXACTLY THAT BOtherS YOU ABOUT SEEING A PEDIATRICIAN?
Creating Adolescent Friendly Office Environment

- Teen oriented magazines, posters
- Appropriate size tables, chairs
- Private areas to complete forms, check in/ discuss reason for visit
- Health education materials for teens
- After-school hours
- Office staff: nonjudgmental, friendly, courteous, like working with teens and their families
WHAT'S YOUR PROBLEM WITH SEEING A PEDIATRICIAN, JEREMY?

ARE YOU KIDDING??

MOM, I'M FIFTEEN YEARS OLD!

IN A YEAR I'LL HAVE A DRIVERS LICENSE!

IN THREE YEARS I'LL BE ABLE TO VOTE!

I THINK I'M JUST A LITTLE BEYOND THIS ON THE MATURITY SCALE.

PEDIATRICS GROUP

HEY! POWER RANGERS!
### Pediatrists

#### Barriers to Providing Counseling

<table>
<thead>
<tr>
<th>Topics: STI/ HIV counseling</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lack of time</td>
<td>76</td>
</tr>
<tr>
<td>Inaccurate response from teen</td>
<td>68</td>
</tr>
<tr>
<td>Physician discomfort with sexual health issues</td>
<td>66</td>
</tr>
<tr>
<td>Teen’s concern about confidentiality</td>
<td>60</td>
</tr>
<tr>
<td>Insufficient training</td>
<td>55</td>
</tr>
</tbody>
</table>

*Pediatrics 2010; 125: e741*
Jeremy Duncan? The doctor will see you now.

Do you want me to go in the exam room with you?

Are you trying to make up your mind? That’s no er than “no.”
I'M FIFTEEN YEARS OLD AND MY MOM STILL INSISTS ON BEING IN THE ROOM WHEN I GET A PHYSICAL.

TALK ABOUT DYING A THOUSAND DEATHS!

KNOCK! KNOCK!

Hi. I'M DR. GAIL. I'M FILLING IN FOR DR. MATTHEW TODAY.

MAKE THAT TWO THOUSAND DEATHS.
YOU'RE NOT DR. MATTHEW.
RIGHT. I'M DR. GAIL, HIS PARTNER.
AND YOU'RE A WOMAN.
EYESIGHT... NORMAL.
MRS. DUNCAN, WOULD YOU STEP OUT OF THE ROOM WHILE I ASK JEREMY SOME QUESTIONS? UM, OKAY.

I MEAN, ABSOLUTELY! DOCTOR-PATIENT CONFIDENTIALITY, RIGHT?

NO PROBLEM! CLICK!

SHE'S LISTENING AT THE DOOR, ISN'T SHE? WHAT DO YOU THINK?

I AM NOT!
Structure of the Office Visit
Defining Physician-Patient Relationship

- Give adolescent time alone
  - Normalize practice for all adolescent patients

- Outline confidentiality
  - Discuss confidentiality before there is a need
  - Send letter to new adolescent patients/ families and those age 11-12
  - Ensure that office staff is aware of confidentiality laws
  - Always explain the limits of confidentiality
  - Post confidentiality policy

- Discuss role of parent
Learner Change

As a result of attending this session, we encourage you to incorporate these changes in your practice:

- Review the relevant laws and statutes regarding confidential services for adolescents
- Ensure that office procedures enable confidential care for teens
Learner Objectives

Regarding confidentiality and consent, the learner will be able to:

- Define concepts of mature minor and emancipated minor
- Describe the laws/statutes that exist regarding confidentiality and consent in adolescent health care
- Discuss the practical issues encountered when providing confidential health care to adolescents
Confidentiality for Adolescents

- When confidentiality not assured teens will
  - Forgo health care
  - Be less forthcoming with their health concerns

- Examples from various studies
  - Sexually active teens would stop using family planning clinics if there was mandatory parental notification
  - Teens would continue to have sex but use less effective or no contraception

Impact of Mandatory Parental Notification About Contraception

- Girls < age 18 attending family planning clinics

- 2003-4: National sample
  - 46% would use OTC method
  - 20% would use no contraception or rely on withdrawal
  - Only 7% would stop having sex

JAMA 2005; 293: 340
Pediatricians
Identifying High-Risk Behaviors

- Random sample mail survey: US members AAP in 2005
- Providing preventive health care to patients ≥ 11
- More than ¾ always discussed general health topics
- 58.3% had standardized office protocol for confidentiality
  - Medical record access
  - Disclosure of information
  - Billing
  - Appointments

Pediatrics 2010; 125: e741
## Pediatricians

### High-Risk Behaviors: % Discussing

<table>
<thead>
<tr>
<th>Topic</th>
<th>Always</th>
<th>Occ</th>
<th>Rarely/Never</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nutrition/ Weight Control</td>
<td>90.5</td>
<td>9.5</td>
<td>------</td>
</tr>
<tr>
<td>School Issues</td>
<td>87.8</td>
<td>11.7</td>
<td>0.4</td>
</tr>
<tr>
<td>Seat belts</td>
<td>80.2</td>
<td>11.7</td>
<td>8.1</td>
</tr>
<tr>
<td>Tobacco use</td>
<td>89.9</td>
<td>9.0</td>
<td>1.1</td>
</tr>
<tr>
<td>Drug/ Alcohol use</td>
<td>89.7</td>
<td>9.5</td>
<td>0.9</td>
</tr>
<tr>
<td>Puberty</td>
<td>85.9</td>
<td>12.8</td>
<td>1.3</td>
</tr>
<tr>
<td>Sexual activity</td>
<td>83.2</td>
<td>15.3</td>
<td>1.5</td>
</tr>
</tbody>
</table>

Pediatrics 2010; 125: e741
## Pediatricians
### High-Risk Behaviors: % Discussing

<table>
<thead>
<tr>
<th>Topic</th>
<th>Always</th>
<th>Occ</th>
<th>Rarely/Never</th>
</tr>
</thead>
<tbody>
<tr>
<td>Violence Prevention</td>
<td>36.6</td>
<td>40.9</td>
<td>22.5</td>
</tr>
<tr>
<td>Mental Health</td>
<td>57.8</td>
<td>39.1</td>
<td>3.1</td>
</tr>
<tr>
<td>Abstinence</td>
<td>62.3</td>
<td>25.7</td>
<td>11.0</td>
</tr>
<tr>
<td>Contraception</td>
<td>61.2</td>
<td>33.3</td>
<td>5.6</td>
</tr>
<tr>
<td>Condom Use/ Barrier protection</td>
<td>60.8</td>
<td>32.3</td>
<td>6.0</td>
</tr>
<tr>
<td>HIV</td>
<td>53.6</td>
<td>34.3</td>
<td>12.1</td>
</tr>
<tr>
<td>STIs</td>
<td>61.2</td>
<td>32.1</td>
<td>6.7</td>
</tr>
<tr>
<td>Homosexuality/ Sexual Identity</td>
<td>17.6</td>
<td>46.8</td>
<td>35.6</td>
</tr>
</tbody>
</table>

Pediatrics 2010; 125: e741
## Pediatricians
### % Providing On-site Services

<table>
<thead>
<tr>
<th>Topic</th>
<th>% Providing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pelvic Exams</td>
<td>77.0</td>
</tr>
<tr>
<td>Wet mounts</td>
<td>60.6</td>
</tr>
<tr>
<td>Screening for GC</td>
<td>80.2</td>
</tr>
<tr>
<td>Screening for CT</td>
<td>81.4</td>
</tr>
<tr>
<td>Screening for HIV</td>
<td>73.8</td>
</tr>
<tr>
<td>Contraception Rx: OCP</td>
<td>84.7</td>
</tr>
<tr>
<td>Contraception Rx: Depo-Provera</td>
<td>68.2</td>
</tr>
<tr>
<td>Condoms</td>
<td>52.8</td>
</tr>
</tbody>
</table>
Pediatricians
% Recommending STI/ HIV Testing

<table>
<thead>
<tr>
<th>Topic</th>
<th>STI</th>
<th>HIV</th>
</tr>
</thead>
<tbody>
<tr>
<td>All sexually active patient</td>
<td>45.8</td>
<td>27.5</td>
</tr>
<tr>
<td>Patients who ask for the test</td>
<td>73.3</td>
<td>73.2</td>
</tr>
<tr>
<td>All patients who screen high risk</td>
<td>69.4</td>
<td>65.7</td>
</tr>
<tr>
<td>Some patients who screen high risk</td>
<td>29.7</td>
<td>29.5</td>
</tr>
<tr>
<td>When parent asks for the test</td>
<td>39.6</td>
<td>39.1</td>
</tr>
</tbody>
</table>

Pediatrics 2010; 125: e741
Missed Opportunities
Adolescent Reports of Preventive Counseling

- National Data from 1999 YRBS (9-12th graders)

- Percent discussing pregnancy, STI, HIV prevention during preventive health visit
  - Females: 42.8%
  - Males: 26.4%

Pediatrics 2003; 111: 996
Parental Attitudes Toward Confidentiality

- Convenience sample parents in adolescent medicine clinic: anonymous survey (N=86)
- Parents recognize benefits of confidentiality
  - Opportunity to talk about sensitive matters
  - Hear teen’s point of view
  - Help teen learn to take responsibility for health care
  - Strengthens bond teen and doctor
  - Child will be more truthful

Journal of Adolescent Health 2011; 49: 428
### Parental Attitudes Toward Confidentiality

Parents want to be informed even for confidential information

<table>
<thead>
<tr>
<th>Top Concerns</th>
<th>% Holding belief</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not being informed about important information</td>
<td>44</td>
</tr>
<tr>
<td>Teen would not remember treatment plan</td>
<td>21</td>
</tr>
<tr>
<td>Teen not telling the truth</td>
<td>15</td>
</tr>
<tr>
<td>Not being informed about the treatment plan</td>
<td>15</td>
</tr>
</tbody>
</table>

Journal of Adolescent Health 2011; 49: 428
Parent/Adolescent Attitudes Toward Confidentiality

- Nationally representative sample of adolescents 13-17 and parents of adolescents
- 89% of parents believed adolescents should have time to speak to providers alone
  - 61% preferred to be in room for entire visit
  - 60% disagreed that parental presence restricts conversation
- Almost ½ of adolescents reported parental presence impacted conversation

Journal of Adolescent Health 2014; 55: 672
Parental Attitudes Toward Confidentiality

- Mean number of topics discussed increased with partially confidential visit
- Per adolescent report: topics discussed dependent on confidential care including:
  - Nutrition/ diet, Exercise
  - Issues at school
  - Risk behaviors: Sexual health and Substance Use
  - Mental Health, self image, stress

Journal of Adolescent Health 2014; 55: 672
Communication Models

Adolescents

- Parent-Adolescent Collaborative
  - Early adolescence
- Adolescent primary- Parent Secondary
  - Middle Adolescence
- Adolescent primary- Parent Optional
  - Late adolescence
Legal Issues in Adolescent Health Care

- Age of majority
- Emancipation
  - Living apart from parents
  - Self supportive
  - Married
  - In armed services
  - Pregnancy
  - Being a parent
Legal Issues in Adolescent Health Care

- Mature minor
- Minor treatment statutes
  - General Medical Care, Emergency Care, Care for their child
  - STIs/ HIV, Pregnancy, Contraception, Abortion, Sexual Assault
  - Substance Abuse, Mental Health
  - Blood Donation, Organ donation/ transplantation
- Other state laws regarding information disclosure to parents
  - Requirement vs. Permitted vs. Prohibited vs. Silent
Ethical Principles in Providing Confidentiality

- **Autonomy**
  - Patient’s wishes, choices supported

- **Nonmaleficience**
  - Health care professionals avoid doing harm

- **Beneficence**
  - Doing what is good for the patient

- **Justice**
  - Give a fair and reasonable opportunity to receive appropriate health care

Journal of Adolescent Health 2004; 35: 1
Legal Issues in Adolescent Health Care

- **Emergency**
  - Care permitted in emergency situations

- **Contraception**
  - Supreme Court decision recognizes constitutional right to privacy for minors

- **Title X and Medicaid:**
  - Confidentiality protections for family planning

- **Abortion**
  - Judicial bypass required with parental notification/consent
HIPAA laws defer to state laws on the ability of minors to control access to portions of their medical record related to care minor could legally consent to on their own.

May request:
- Confidential communication
- Limits on disclosure of information because of concern of danger/harm

Protected health information can be disclosed if there is concern for safety of patient or public.
Medical Record
Confidential Services

● Consider ways to document in the medical record while maintaining confidentiality
  - e.g. a separate part of the record that can be easily identified if the records are to be copied

● EMR/ “My Chart” challenges

● Arrange for ways to confidentially contact the adolescent
  - Cell phone (call or text)
  - Email (secure email)
Affordable Care Act
EOB: Confidentiality Concerns

● Coverage to \_< age 25
  - Preventive services including STI screening and contraception without co-pay

● Insured as dependent so confidentiality concerns for \_> 18 (not just minors)
  - Insurance Billing Claims: Explanation of Benefits

Advocates for Youth, Policy Brief, March 2014
Reimbursement Issues
Confidential Services

- Adolescents may be willing to pay
  - Parents not responsible for services obtained confidentially
  - Consider systems for the adolescent to pay for confidential services
  - With private insurance details of visit sent home may compromise confidentiality (EOB)

- Know alternatives for free or low cost reproductive health care for adolescents in your community
Possible State Solutions*
EOB Confidentiality

- No EOB for services patient can lawfully consent without authorization of patient (including a minor)
- Insurance companies must honor requests for confidential communications for sensitive services or when there is concern for harm
- EOB sent to patient rather than policy holder if no outstanding balance
- No EOB for STI services

* This does not apply currently to Ohio; Advocates for Youth, Policy Brief, March 2014
CASES
Case 1: Sexually Transmitted Infections

- Anne is a 16 year old who presents to your office with a concern for having an STI because his partner recently told her that she was diagnosed with chlamydia.

- She denies any symptoms of vaginal discharge or abdominal pain.
Case 1: Sexually Transmitted Infections

- She is not there with his parents which is unusual and she requests that you keep this visit confidential.

- You do have the insurance information on file and it is a private insurance company.
Case 1: Sexually Transmitted Infections

- Can you see Anne confidentially without informing her parent(s)?
  - Obtaining STI/ HIV testing
  - Treating her for chlamydia or another STI or HIV

- What office-based issues do you need to consider when treating Anne?
Case 1: Sexually Transmitted Infections

- What would you do if she did have abdominal pain and you diagnosed her with pelvic inflammatory disease?

- Would you approach this case differently if you were doing asymptomatic screening for STIs as part of his annual physical exam?
Case 2: Can You Break Confidentiality?

- Jane is a 17 year old teen you have seen in your office since her birth. At her last well exam she disclosed weekend binge drinking but no drinking and driving but has been driven home by a drunk friend.

- Now 6 months after that exam she reveals she has driven when drinking but only after 3 drinks.
Case 2: Can You Break Confidentiality?

- She also admits to some weekday drinking and drinking more on every weekend.

- She also doesn’t see anything wrong with these behaviors and refuses to consider cutting back and stop drinking and driving in spite of your persistence.
Case 2: What Is Your Next Move?

- Call her parents and discuss your concerns
- Tell Jane about your concerns that these behaviors are dangerous and harmful to her and her friends. You now need to speak to her parents
- Call the police
- Do nothing follow up 1 month
Case 3: Prescribing Contraception

- Carol is a 15 year old who presents to your office requesting a prescription for oral contraceptive pills.

- She recently became sexually active and although she is using condoms would like a more effective method for pregnancy prevention.
Case 3: Prescribing Contraception

- She requests confidentiality and tells you that she knows there are pills you can get for less than $10 a pack at the pharmacy and has the money from her steady babysitting job to pay for them.

- Can you prescribe oral contraceptive pills for Carol confidentially?
Case 3: Prescribing Contraception

- Would you approach this case differently if she were age 13?

- What would you do if she was requesting a long acting method such as Nexplanon (subdermal rod) or an IUD?
Case 4: Mental Health

- John is a 16 year old who presents with symptoms of depression with associated decreased appetite and trouble falling asleep
- He denies ever having suicidal ideation
- He asks for a confidential referral for counseling because his parents do not believe in therapy and refused to make him an appointment
Case 4: Mental Health

- Can John access mental health services in Ohio without parental involvement?
- Would you approach this differently if he reported suicidal ideation or previous suicide attempts?
- Could you prescribe psychotropic medications to John without parental involvement?
So did you and Dr. Gail have a nice chat, Jeremy?

I guess so.

She just wanted to know if there was anything she should know about my personal life.

(ulp!) and what did you tell her?

I told her the truth...

...with you for a mother, I have no personal life.

Whew!
Home belonging (connection)
individual decision making

Education mastery(competence)

Eating

Activities helping others, physical activity

Drugs

Safety

Sexual Activity

Suicide coping, resilience, self confidence


Do you drink or use drugs?

C  car
R  relax
A  alone
F  forget
F  family and/or friends
T  trouble
As a result of attending this session, we encourage you to incorporate these changes in your practice:

- Review the relevant laws and statutes regarding confidential services for adolescents in your state
- Ensure that office procedures enable confidential care for teens