

Confidentiality for Minors

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MaineHealth Division of Adolescent and Young Adult Medicine

(ages 10-26yrs old)

Clinical Care

Adolescent and Young Adult Medicine Clinic

Acute and Well Care
Substance abuse
Acne
Mental health

Eating Disorder Clinic

Young Adult Contraceptive Clinic

MMC Gender Clinic

Telehealth

Dr. Jonathan Fanburg
Dr. Brock Libby
Dr. Cynthia Robbins
Dr. Lucy Rosenbaum

MMP S. Portland

Community Based Care

Long Creek

School Health

School Advisors
USM School Physician

Academics

Education

Medical Students
Pediatric Residents
Med-Peds Residents
Addiction Fellows
MH providers

Research

Legislative

WE ARE HIRING

-Eating Disorder Counselor
Or psychologist
-Medical assistant



Disclosure

- The planners and speakers have no financial interest or disclosures for today's talk.

Outline

- Confidentiality – when and how to give it
- Does it apply in the school setting?
 - School based clinic – yes
 - Nurses office – laws aren't explicit

Confidentiality is Important

- If you state your confidentiality policy, you improve your odds of disclosure.
- Stating a confidentiality policy creates greater perceptions of trust for the patient, and this in turn results in the patient sharing more private information.

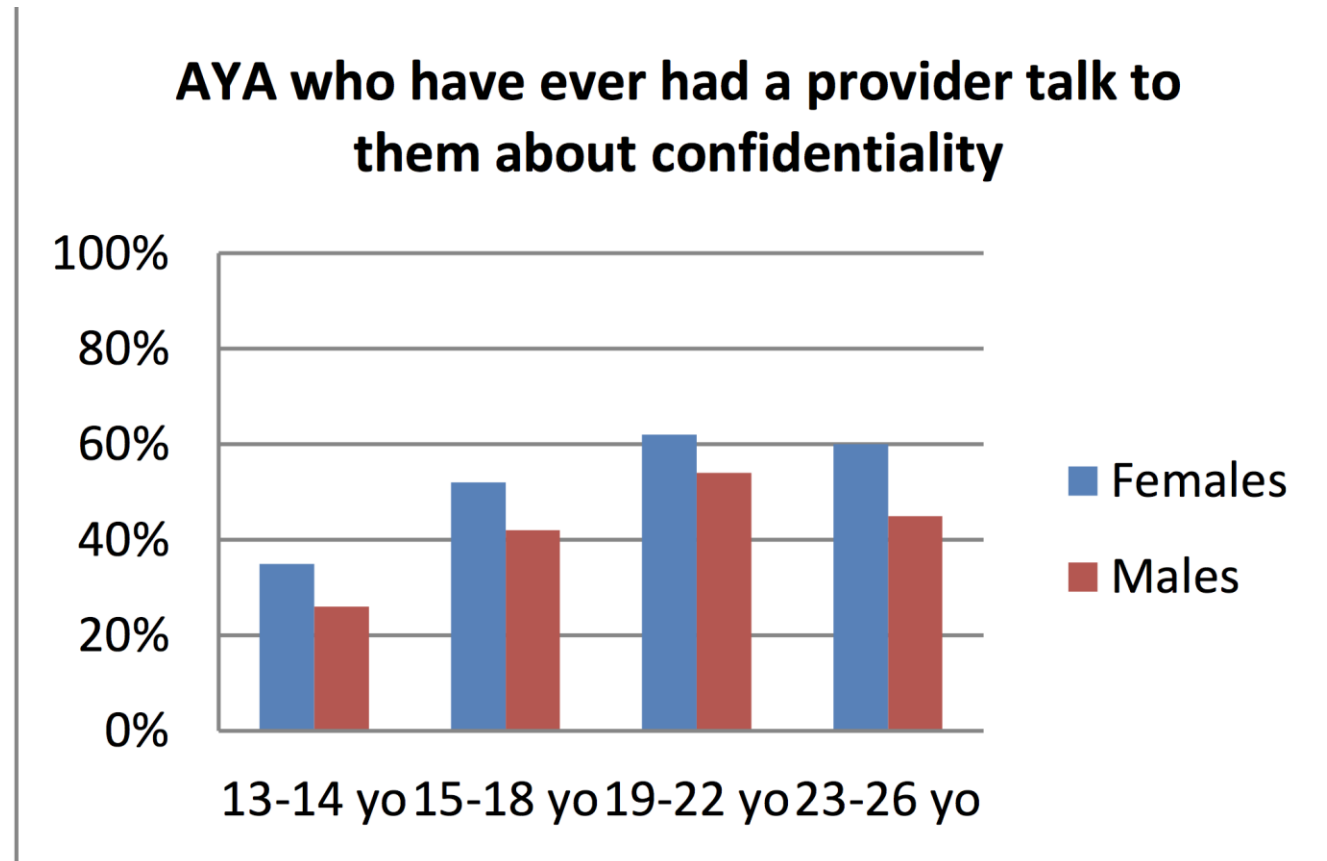
(Curr Opin Pediatr 2009 Aug 21 (4): 450-6)

(Arch Pediatr Adolesc Med. 2000 Sep 154 (9): 885-92)

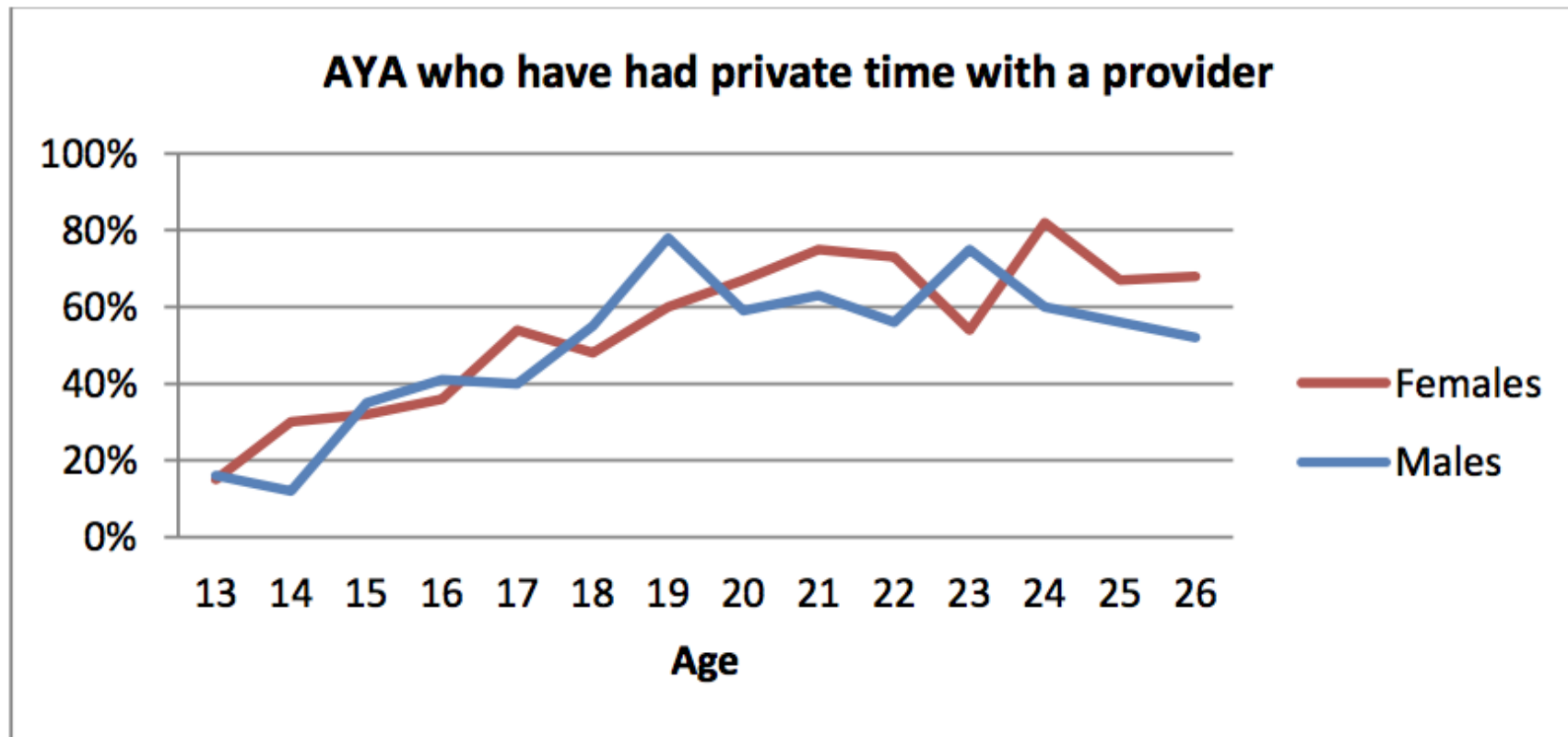
(J Gen Intern Med 2003 Aug 18 (8): 659-669)

- How do you state your confidentiality policy ??

We don't always talk about confidentiality



We don't always give them private time



Do we provide confidentiality to all teens?

Depends on the Issue

Depends on the Age

Depends on the Circumstances



Case #1

- 18 year old female wants Birth Control
 - Can you give it to her?

Case #1

- 18 year old female wants Birth Control
 - You provide care.
 - Confidentiality is outlined by HIPPA guidelines.

Case #2

- **18** year old female wants Birth Control
- **She comes with her mother.**
- How do you protect confidentiality?
- How do you outline the visit?

Case #2a

- 18 year old female wants Birth Control
- **Mother Calls for test results.**
 - Can you give them out???
 - Can't give them out without the patient's explicit consent. HIPPA
 - Best to get permission as to what to do every time a test is being obtained.

EPIC pearl

- For Chlamydia, Gonorrhea, and HIV tests, you can write down what to do with the result while you are ordering the test.

Hyperspace - MMP SOUTH PORTLAND PEDIATRICS - PRD Environment - JONATHAN F. - 102054

4 316 Referral Message

Epic Dragon Log In Dragon Log Out Safety Reporting Home Schedule In Basket Chart UpToDate Study Images

In Basket New Msg Patient Msg Refresh Edit Pools Personalize Search Manage QuickActions Attach Out

My Messages : Completed Work > Results 70 total

Patient Calls
Patient Call Back
Pt Advice Request
My Incomplete Notes
Addendum Notification
Staff Message
CC'd Charts
Letters
Medication Cancellation
Message Routing
Outpatient Coding Query

Specimen Collected: 03/02/20 15:39 Last Resulted: 03/04/20 15:31

[Order Details](#) [View Encounter](#) [Lab and Collection Details](#)

When ordering the lab above, the "What to do with results" question was completed. Please use this information to contact the patient with results.

Order Questions

Question	Answer	Comment
CT/GC SOURCE:	Vaginal	
What to do with results?	749-4183. May leave a message.	

Case #3

- 17 year old female with abdomen pain.
 - You interview her alone and she says she wants Birth Control.
 - Do HIPPA Guidelines apply?
 - Can you give out birth control without parental consent?

HIPPA for Teens

If a state has a law addressing teen health, it supersedes federal HIPPA laws.

- Hence, DEPENDS ON THE ISSUE.

Minors' Rights to Confidential Health Care In Maine: A Practitioner's Resource

A Minor

A minor is a person
under the age of 18.



Minors' Consent

As a general rule, Maine law requires a minor who seeks medical treatment to obtain the consent of a parent or guardian. However, as described below, minors who meet specific criteria may consent to *all* medical treatment. In addition, all minors may give consent to certain medical treatments outlined in this card, if the practitioner believes they are capable of giving informed consent.

Minors Who May Consent to ALL Medical Care

If a minor fits one of the following categories, she/he may consent to ALL health care evaluation and treatment without the consent of a parent or guardian:

- The minor has been living separately from the minor's parents or legal guardians for at least 60 days and is independent of parental support.
- The minor is or was legally married.
- The minor is or was a member of the Armed Forces of the United States.
- The minor has been legally emancipated by a court.

“Minors’ Rights to Confidential Health Care in Maine” (2002)

www.prch.org

http://www.prch.org/assets/library/6_maine.pdf

Physicians for Reproductive Choice and Health

Maine Chapter AAP

Maine Medical Association

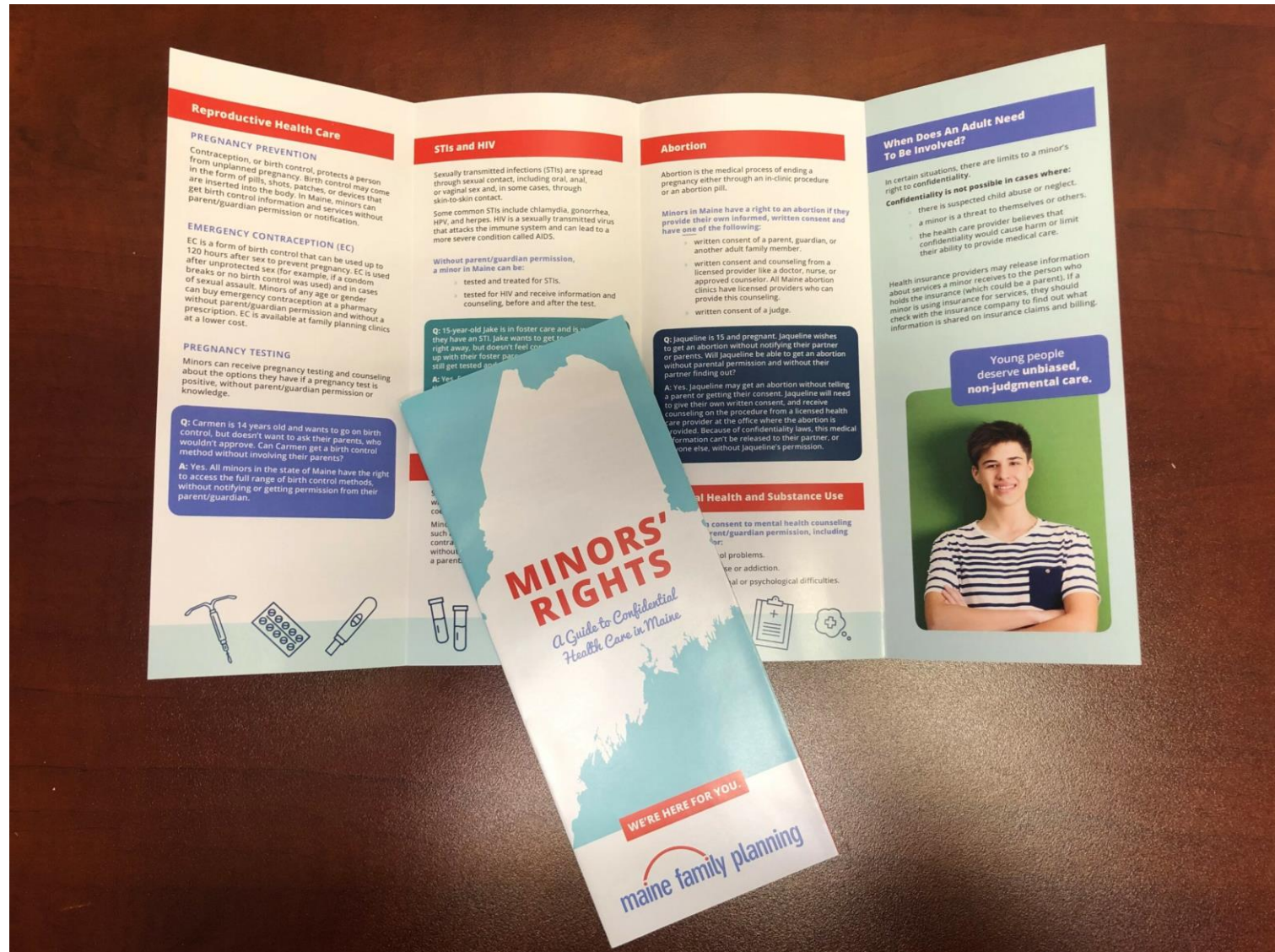
Center for Adolescent and Young Adult Health, MCMH

ACLU of Maine

Family Planning Association of Maine



Maine Family Planning





Maine Laws for Teens

STD's/HIV

Contraception

Pregnancy

Drugs/Alcohol

Emotional Health



Maine Law

1. Sexually Transmitted Diseases

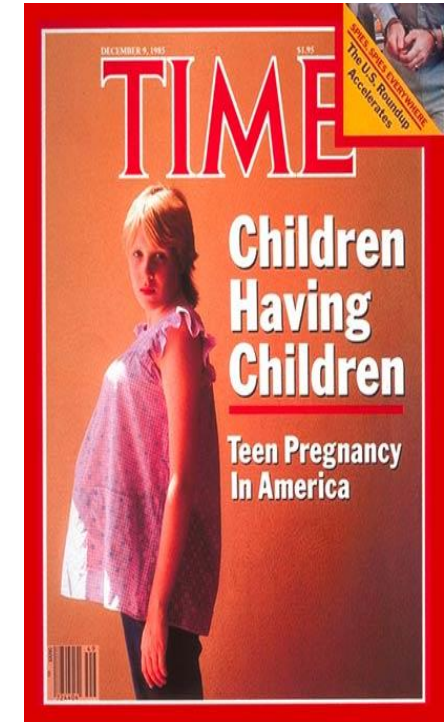
- Testing and Treatment
- Includes HIV



Maine Law

1. Sexually Transmitted Diseases
2. **Pregnancy Testing / Abortion**

- Family planning now includes both testing for pregnancy and treating pregnancy. Legislation..2019.



Maine Law

1. Sexually Transmitted Diseases
2. Pregnancy Testing / Abortion

3. **Contraception**

- oral, injectable, implantable, patch, IUD's, emergency contraception
- So long as the provider believes the minor would “suffer probable health hazards” if she does not receive these services.



Maine Law

1. Sexually Transmitted Diseases

2. Pregnancy Testing / Abortion

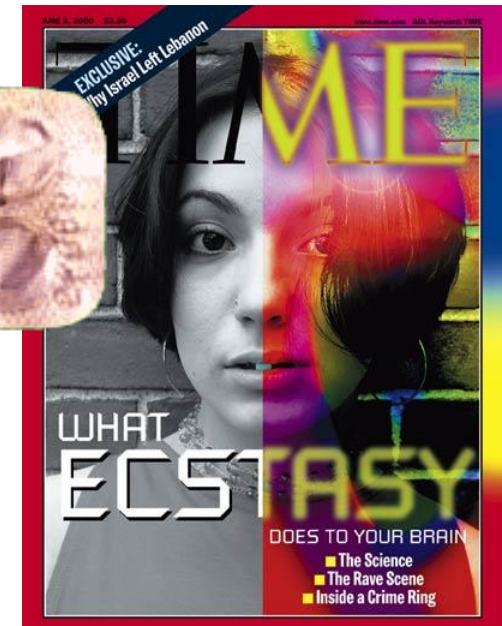
3. Contraception

4. Emotional / Psychological Health

- Although not explicit, it includes anxiety and depression including treatments.
- If actively suicidal or homicidal, obligation to disclose exists.

Maine Law

1. Sexually Transmitted Diseases
2. Pregnancy Testing / Abortion
3. Contraception
4. Emotional / Psychological Health
5. **Drug / Alcohol Abuse**



Case #3a

- **17** year old female **seeks care for ear infection**
 - **Can you see and treat her confidentially?**

Case #3a

- **17** year old female **seeks care for ear infection**
 - Don't evaluate or treat her unless it is an emergency.



LAWSUIT

Case #3a

- 17 year old female seeks care for ear infection

EXCEPTIONS: CAN SEEK ALL CARE

1. Living separate from parents and financially independent.
2. Has ever been married or in military.
3. Has been emancipated by courts.

- Living separate from parents, newish (2019)
- Surrogates – future slide, newish (2015)

Safe

Living separately and independent of parent support (new in 2019)

- May prove they meet this by:
 - Letter from:
 1. A director/designee of a service that provides homeless services.
 2. An educational agency – liaison or counselor
 3. An attorney representing the minor.
 - A protection from abuse order or complaint against the legal parent/guardian.
 - Proof of filing for emancipation

Surrogates (new in 2015)

- An adult who is not a parent/guardian who gives ongoing care and support expected of a parent (and does not have delegated parental consent from parent).
- The surrogate can consent (except life withdrawal)
- Must make reasonable attempt to notify parent/guardian (except where minors already have independent rights)
- Mail, e-mail, text, or other written means, or telephoning.

Case #4

- 13 year old female wants Birth Control.
 - Seen alone.
 - Sexually active with another 13 year old.
-
- How do you outline the visit from the beginning?????

Case #4

- **13** year old female wants Birth Control.
- Seen alone.
- Sexually active with another 13 year old.
- Tests **POSITIVE for chlamydia**.
- **Demands Confidentiality**
- **Do you give her confidentiality?**

Maine Law

- Where Maine law allows a patient to consent for care, they also allow confidentiality.

*** Teen must be capable of consent in order to obtain confidentiality. ***

DEPENDS ON AGE (not chronological), but
DEVELOPMENTAL AGE

Teen Development 101

- Early Adolescence (10-13)
 - Self centered
 - Struggle with autonomy and separation from parents
 - Preoccupied with body image – compare self to peers – the body “norm” keeps changing
 - Very concrete thinkers
 - Look to outside house for role models
- I.e. have to be able to consent in very clear, concise, black and white terms.



DEVELOPMENTAL AGE

- Mid Adolescence (14-16)
 - Strongly attached to peer group
 - Trying out different images (pants, looks, ect)
 - Sexual interests in others (sexual experimentation, view partner as sex object)
 - Risk takers, impulse driven
 - Invincible
 - Trying to prove autonomy – Let Teen Arrive at Right Conclusions on Own.



DEVELOPMENTAL AGE

- Late Adolescence (17-19)
 - Adult level of abstract reasoning, yet idealist.
 - Respond to more traditional adult approaches.
 - Relationships are 1:1 with intimacy and caring.
 - Satisfied with body image, work on personality



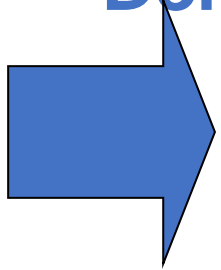
DEVELOPMENTAL AGE

- Emerging Adults (19-25)
 - New population
 - Still malleable in their habits and thoughts
 - Idealistic, hopeful
 - Difficult access to healthcare – insured, but copay is relatively high to salary.
 - Many more pathways
 - Later marriage and families.



Case #4

- **13** year old female wants OCP's.
- Seen alone.
- Sexually active with another 13 year old.
- Tests **POSITIVE for chlamydia**.
- **Demands Confidentiality**



She is rational, capable of making mature decisions
You decide to treat confidentially

Case #4a

- **13** year old female wants OCP's.
- Tests **POSITIVE** for **chlamydia**.
- Demands Confidentiality.
- **Doesn't want to be treated.**
- **Are you going to keep confidentiality?**

DEPENDS on the CIRCUMSTANCES

Maine Law



- Exceptions to Confidentiality Law
- “If failure to inform parent would seriously jeopardize the health of the teen or would limit the provider’s ability to provide medical care,” the provider may break confidentiality.

If you break confidentiality, how would you do it?

- Other Times:
- Suspected child abuse or neglect.
- When the minor makes threats against self or other.
- Teens treated inpatient for greater than 16hrs require parental notification.
- Submitting bills to insurance company

Risk of Inappropriately Breaking Confidentiality

System Flaws

- Parent calls for test results
- Electronic Medical Records
- Calling or texting the parent instead of the patient
- Office does reminder calls for patient visits
- Parent needs copy of medical records
- Records are transferred and new provider discloses information

Confidentiality Pearls

1. Teens can be seen confidentially for 5 topics (contraception, pregnancy, sexually transmitted diseases, drugs, and emotional issues).
2. They must be capable of consent.
3. They must make rational non-harmful decisions for treatment.
4. Confidentiality must be broken if abuse, suicide, homicide, or extended hospitalizations.

FERPA vs HIPPA

- **FERPA** – privacy of educational records. Applies to those who get federal funds.

(private and religious schools are exempt)

- Can't disclose educational records or personal identifiable information (PII).
- Can disclose info (including health) to teachers/staff in school (need to know)
- Can disclose info in emergency situations
- School providers if the clinic is operated by the school.
- More limits – school nurse needs permission to discuss with pediatrician

- **HIPPA** – privacy for health providers and health plans

- Can't disclose health records or protected health information (PIH).
- Can disclose info in emergency situations
- School providers if the clinic is operated by the hospital (even at the school).
- Fewer limits – pediatrician can share info w school nurse w/o permission when it is necessary for treatment purposes.

Applying this to School Based Clinics

- My Disclosure:
 - Unable to find laws that differ on this topic
 - Not aware of written departmental policies for DHHS
 - Schools clinics typically have a student sign up for services, which is implicit consent.
- Preserve the same principles of laws that exist for minors
 - What is in the minor's best interest?
 - The minor in a school clinic likely has the same rights as a minor in a non-school clinic.
 - Involve the minor in deciding what is protected information or not.
- Prison health:
 - Guardian is the warden/superintendent
 - Rights to know exist when it is a public health risk, or when it is required to get necessary care (like when pregnant)

Electronic Medical Record

- MaineHealth - EPIC
 - Parents can see parts of a minor's medical record (all but labs)
 - Minors (12+) can see most of their medical record (all but growth chart)
 - Minors can give or rescind a parent's access to their entire medical record
- Providers can block the record from both the parent and minor from seeing any one visit.
- Providers can also segment a visit so that some is blocked and some isn't.
- Parents can be given access to charts of minors with significant developmental disabilities.

Discussion

