NCC Pediatrics Continuity Clinic Curriculum: **Adolescent Confidentiality & Consent** *Faculty Version*

Overall Goal:
Identify key adolescent health issues and become comfortable interviewing an adolescent.

Overall Outline-Primary Topics:

Adolescent I:	*Adolescent II:*	*Adolescent III:*
Contraception	Dysmenorrhea	Acne
STIs	Amenorrhea	

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Pre-Meeting Preparation:
- HEADSS & CRAFFT screens
- "Confidentiality and Consent in the Care of the Adolescent Patient" *(PIR, 2019)*
- *Excerpt from* "Adolescent & Young Adult Health Care in Maryland A Guide to Understanding Consent & Confidentiality Laws" *(2019)*

Conference Agenda:
- Complete Adolescent Addendum Quiz/ Discussion

Post-Conference: *Board Review Q&A*

Extra Credit:
- Adolescent and Young Adult Health Care in Maryland: A Guide to Understanding Consent and Confidentiality Laws *(2019)*
- Consent Laws *by* State- 2022**:** *overview from Guttmacher Institute*
- "How Should Adolescent Health Decision-Making Authority Be Shared?" *(AMA Journal of Ethics, 2020)*
- "Confidentiality and Caring for Adolescent Patients in the Age of the 21st Century Cures Act" *(Journal of Adolescent Health, 2022)*
- "Adolescent Consent and Confidentiality: Complexities in Context of the 21st Century Cures Act" *(Pediatrics, 2022)*
- "Confidentiality in Adolescent Health Care" *(ACOG Committee Opinion, 2020)*

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The HEADSS Assessment

(Adapted from Goldenring and Cohen, Contemporary Pediatrics, *1998)*

H – Home Environment
· Where do you live? Who lives with you? How does each member get along? Who could you go to if you needed help? · Parent(s) jobs? Recent moves? Run away? New people at home?
E – Education/Employment
· What do you like/not like about school/work? How do you get along with teachers/other students? · What can you do well/what areas would you like to improve on? Grades, suspensions? Changes? · Many young people experience bullying at school – have you ever had to put up with this?
E – Eating/Exercise
· Sometimes when people are stressed they can over eat/under eat. Have you ever experienced either of these? · In general, what is your diet like? In screening more specifically for eating disorders, you may ask about body image, the use of laxatives, diuretics, vomiting or excessive exercise and rigid dietary restrictions to control weight.
A – Activities and Peer Relationships
· **Do you have any stress right now?** With peers? (What do you do for fun? Where? When?) With family? · Sports; exercise? Hobbies? Tell me about the parties you go to? How much TV do you watch? Favorite music?
D – Drugs/Cigarettes/Alcohol
· Many people at your age are starting to experiment with cigarettes/alcohol. Have any of your friends tried these or maybe other drugs like marijuana, IV drugs, etc. How about you, have you tried any? Then ask about the effects of drug or alcohol use on them, and any regrets. How much are they taking, how often, and has frequency increased recently?
S – Sexuality
· **Have you had the sex talk with your parents?** How do you feel about relationships in general/ your own sexuality? · Some people are getting involved in sexual relationships. Have you had a sexual experience with a guy or girl or both? · Number of partners? Contraception? Knowledge about STDs · Has anyone ever touched you in a way that's made you feel uncomfortable or forced you into a sexual relationship?
S – Suicide/Depression/Mood Screen
· How are you feeling at the moment on a scale of 1-10? Do you feel this way often? · What sort of things do you do if you are feeling sad/angry/hurt? **Is there anyone you can talk to?** · Some people who feel really down often feel like hurting themselves. Have you ever tried to hurt yourself or take your own life? What have you tried? What prevented you from doing so? Do you feel the same way now?
S – Safety
· Sun protection, immunization, bullying, carrying weapons, violence at home or in the community.

The CRAFFT Screen *© Children's Hospital Boston, 2009*

If positive substance abuse screen, ask all 6 CRAFFT questions. If negative, ask only CAR question:

1. Have you ever ridden in a CAR driven by someone (including you) who was "high" or had been using alcohol or drugs?
2. Do you ever use alcohol or drugs to RELAX, feel better about yourself, or fit in?
3. Do you ever use alcohol or drugs while you are by yourself, or ALONE?
4. Do you ever FORGET things you did while using alcohol or drugs?
5. Do your FAMILY or FRIENDS ever tell you that you should cut down on your drinking or drug use?
6. Have you ever gotten into TROUBLE while you were using alcohol or drugs?

Confidentiality and Consent in the Care of the Adolescent Patient

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Practice Gap

Confidentiality protections are critical in the provision of comprehensive primary care of adolescent patients. The protections differ based on state laws and are limited by electronic health record documentation and billing operations of individual physician practices. Physicians need to strive to increase their knowledge regarding confidentiality protections for their adolescent patients. Moreover, physicians should understand their role in preventing possible confidentiality breaches.

Objectives After completing this article, readers should be able to:

1. Define confidentiality, its limitations, and reasons for developmentally appropriate confidentiality protections for adolescents.
2. Recognize confidentiality protections for adolescents provided by state and federal laws, including the Health Insurance Portability and Privacy Act privacy rule.
3. Explain minor consent laws.
4. Describe the limitations and advantages of the electronic health record in providing confidentiality protections.
5. Identify concerns and solutions related to billing for confidential services.

AUTHOR DISCLOSURE Drs Maslyanskaya and Alderman have disclosed no financial relationships relevant to this article. This commentary does not contain a discussion of an unapproved/investigative use of a commercial product/device.

ABBREVIATIONS

CDC	Centers for Disease Control and Prevention
EHR	electronic health record
EOB	explanation of benefits
HIPAA	Health Insurance Portability and Privacy Act
HIV	human immunodeficiency virus
SAHM	Society for Adolescent Health and Medicine
STD	sexually transmitted disease

CASE

A 16-year-old girl who has been your patient since birth presents to an appointment alone and requests testing for sexually transmitted diseases (STDs). She also does not want her parents to find out about this visit. How would you proceed?

Confidentiality and Autonomy

The provision of confidentiality and the ability of adolescents to consent for certain health concerns are the cornerstone of optimal adolescent health-care. (1) According to this tenet, information about an adolescent's health-care is not disclosed without his or her permission. Assurance of confidentiality is important to protect the adolescent's health and to safeguard public health. The major causes

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of morbidity and mortality in adolescents are due to risky behaviors such as sexual activity and alcohol and substance use, as well as unmet mental health needs.

During the past 3 decades, research has supported the importance of the provision of confidential health-care and illustrated that if not provided, adolescents and young adults will not seek out prescription contraceptives, receive screening and treatment for STDs, or disclose substance use to the providers at their medical home. (2)(3)(4)(5)(6) Moreover, they will withhold information from their health-care provider and may not return for subsequent visits. (7) During the adolescent years, adolescents transition from children to adults, and clinicians need to support the adolescent's individualization and developing autonomy. By ensuring confidentiality for certain health-care concerns, pediatricians are supporting this crucial milestone of adolescent development by fostering decision-making skills. This approach also reflects the physician's ethical obligation to ensure the patient's well-being and protect the nonautonomous. Because we wish to minimize harm, the ethical concept of beneficence is also in play when providing confidential care. Beneficence refers to the clinician's responsibility to prioritize the patient's well-being when making decisions about medical care. Therefore, the services that may be provided confidentially to adolescents are related to reproductive health, outpatient substance abuse, and mental health services.

For more than a quarter of a century, national medical organizations, including the American Academy of Pediatrics, the Society for Adolescent Health and Medicine (SAHM), the American Academy of Family Practice, and the American College of Obstetricians and Gynecologists have supported the need to provide confidential care for adolescents (Table 1). (8)(9)(10)(11) Not only do they call for such care, but they also advocate for education of adolescents and their parents about the importance of confidentiality, particularly for evaluation, testing, and treatment of STDs (including human immunodeficiency virus [HIV]), preventive reproductive health-care, contraception, and pregnancy-related services such as abortion.

It is essential to educate families, both parents/guardians and adolescents, on the reasons for clinicians requesting to spend part of the visit with the adolescent alone and starting to do this annually in early adolescence as part of best practices. Adolescents are frequently unaware of where they could obtain confidential services, especially substance abuse and mental health services, and do not use or envision their primary care providers as a resource. (12) The 11-year-old visit, when multiple vaccines are recommended and many children are on the brink of entering middle school, is a good time to start to engage in this conversation with parents and their preteens. Physicians should have discussions with the parent or guardian and the preteen or adolescent on the importance of adolescents having time alone with their physicians so that adolescents can voice their concerns to physicians and be encouraged to take responsibility for their health-care decisions. Physicians should continue to encourage open communication and discussions surrounding sensitive topics between parents and adolescents.

Primary care offices could create office policies describing adolescents' rights and share them with all new patients and families of preteens so as to normalize this essential aspect of adolescent health-care. This office culture should allow for improved trust and the potential for disclosures by adolescents and their parents. The SAHM recommends the

TABLE 1. **Position Statements and Opinions on Adolescent Confidentiality**

CONFIDENTIALITY	CONFIDENTIALITY AND THE EHR
American Academy of Pediatrics. Confidentiality in adolescent health care. *AAP News*. 1989	American Academy of Pediatrics. Standards for health information technology to ensure adolescent privacy. 2012
Confidential Health Care for Adolescents: position paper for the Society for Adolescent Medicine. 2004	Society of Adolescent Health and Medicine. Recommendations for electronic health record use for delivery of adolescent health care. 2014
American College of Obstetricians and Gynecologists. Confidentiality in adolescent health care. In: *Tool Kit for Teen Care*. 2nd ed. Washington, DC: American College of Obstetricians and Gynecologists; 2009	Committee on Adolescent Health Care. ACOG Committee Opinion no. 599: adolescent confidentiality and electronic health records. 2014
American Academy of Family Physicians. Adolescent health care, confidentiality. 2008	

EHR=electronic health record.

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training of front desk and billing staff so that they could provide appropriate guidance to patients on the confidential services available in their office. (9)

The ability of an adolescent to interpret health-care information provided to them and to adhere to recommendations is related to their cognitive development. The maturation of the adolescent brain generally occurs as the teen progresses from early to late adolescence. (13) Similar to physical pubertal changes, cognitive changes of adolescents are not age dependent and, therefore, age is not the determining factor in the adolescent's ability to make health-care decisions. Cognitive development advances as the adolescent progresses through early, middle, and late adolescence (Table 2). After age 18 years, adolescents have full legal rights as they become legal adults and are considered to have full adult reasoning. Parents may have or may apply for legal guardianship of their adult children with intellectual disabilities and, therefore, would have the power of attorney to make medical decisions for their adult child. It is less common, but possible, that parents are able to obtain legal guardianship of their adult children with mental health problems.

Intellectual abilities should also be considered when making the determination of capacity to consent. Depending on the level of intellectual disability, many adolescents cannot consent to treatment based on their capacity to understand the risks, benefits, and alternatives of the confidential services. These adolescents have to be evaluated by a physician to assess for their capacity to understand pros, cons, and alternatives for the treatments offered. Frequently, parents continue to be involved in reproductive decisions for adolescents with intellectual disabilities.

The degree of autonomy that the adolescent possesses is also crucial in determining the adolescent's competence to consent. By giving the adolescent the ability to make his or her own health-care decisions, the provider is supporting the adolescent's growth as a health consumer.

Relevant Legal Status Laws

Under the law, an adolescent younger than 18 years is generally considered a minor. However, minors younger than 18 years may have acquired legal status under one of the following provisions: mature minor, emancipated minor, incarcerated minor, or a minor in foster care. If a minor's status has been designated as any of these, they may be afforded some of the same legal rights as adults, and this affects their right to obtain confidential health-care.

Mature Minor. A mature minor is generally a minor who has sufficient intellect and autonomy to provide informed consent for medical care. When determining whether an adolescent is a mature minor, one must consider chronological age and developmental maturity, degree of autonomy, ability to adhere to medical care, and the seriousness of the illness versus risks of therapy. Clinicians need to evaluate whether a minor has the capacity to make voluntary decisions and weigh alternatives. For example, if the adolescent has been able to manage previous illnesses and adhere to medications/treatment, then the minor can be deemed competent to consent to their care if state law allows. However, minors generally cannot receive care for routine, nonemergent general health-care without parental consent.

Emancipated Minor. Emancipation, under the law, is defined as a surrender of parental rights to a child. Each state has laws defining circumstances where a minor may be considered emancipated. (14) Such circumstances may include a minor who is married, lives away from parents or legal guardians, is financially independent, is in the military, or whose parent/guardian has renounced their parental rights.

Pregnant and Parenting Teens. Pregnant teens can consent to their own health-care in most states, as well as that of their child. Questions do come up around the rights of teen fathers. Generally, if a teen is listed as the father of a child on the birth certificate, he would have the same parental rights

TABLE 2. **Adolescent Development**

DEVELOPMENTAL STAGE	AGE, Y	PSYCHOSOCIAL CHANGES
Early	~12–14	Concerned about physical appearance, concrete thinking Have difficulty considering long-term consequences of actions
Middle	~15–17	Peers and peer friendships are essential, experimentation stage
Late	~18–21	Decisions and beliefs are less influenced by peers Work toward mutual understanding in relationship with parents

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as the teen mother. However, it is quite variable as to whether a parenting teen can consent for their own health-care, unless it falls into the categories listed previously herein. Providers should reference the laws in their states.

Teens in Foster Care. Many states continue to allow parents or legal guardians to consent for medical treatment of their children after the children have entered into foster care. To streamline the consent procedure, many foster agencies have the parents sign a consent form for routine services, which is available from the child's welfare worker. (15) For teens whose parents are not available or not cooperative, courts make decisions to appoint a guardian or have the welfare commissioner provide consent for services outside of routine care, such as psychotropic medication prescription or surgical procedures. If a teen in foster care requires emergency medical attention and a legal guardian is not available, a physician could provide services without parental consent if their state law allows this. Teens in foster care could consent to confidential services based on their state laws similar to other teens residing in their states and if they have the capacity to consent.

Relevant Federal and State Laws

Another important consideration when determining the possibility of ensuring confidential health-care for minor adolescents are federal and state laws that govern the minor's ability to consent for medical treatment. Federal laws override state laws and, therefore, basic knowledge of both is necessary to decide on the services that could be offered to the adolescent without parental consent (Fig).

Federal Laws. There are few federal laws related to the provision of confidential health-care. A federal privacy rule was established in 2002, based on the 1996 Health Insurance Portability and Privacy Act (HIPAA) to allow the minor children to access their health information if it is related to confidential services or if they receive court approval to obtain those services and, therefore, have authority over their medical records. Parents cannot access these records unless permitted by their minor child (Table 3). (3)

Furthermore, the federal privacy rule ensures confidentiality for all health information to patients 18 years or older. (16) It is important to remember that for these patients, *all* health information must be kept private from parents, unless the adult child consents to disclosure of their health information. Health-care providers sometimes overlook this point because they have cared for the patient throughout childhood and are accustomed to the parent overseeing the child's health-care. The parents of adult children need to be educated about HIPAA, as do the adult children.

Title X of the Public Health Service Act is federal legislation that provides grants to organizations to assist with family planning and related preventive health services and requires programs that it funds to provide confidential services for adolescents. (17)(18) Similar rules exist for federally supported substance and alcohol use programs which receive grant funding and review by the Substance Abuse and Mental Health Services Administration. (19) Recipients of Medicaid insurance also have specific federal laws that require confidential protections for adolescents and are used to prevent confidentiality breaches. The HIPAA privacy rules defer to federal law surrounding these programs.

State Laws. Laws around adolescent confidentiality are generally state specific and may be complex. A variety of states give physicians permission to disclose information to parents or guardians that could be considered confidential, such as treatment for STDs. State laws often reflect legislation but also could be based on case law of the courts and statutes. These laws often weigh the tenets of family law (the status of minor children and the responsibilities and rights of parents/guardians) against the rights of the individual.

Most states have laws ensuring confidential care for minors based on the type of medical services requested, specifically, sexual health (STDs, contraception, pregnancy, and pregnancy options), outpatient mental health, outpatient

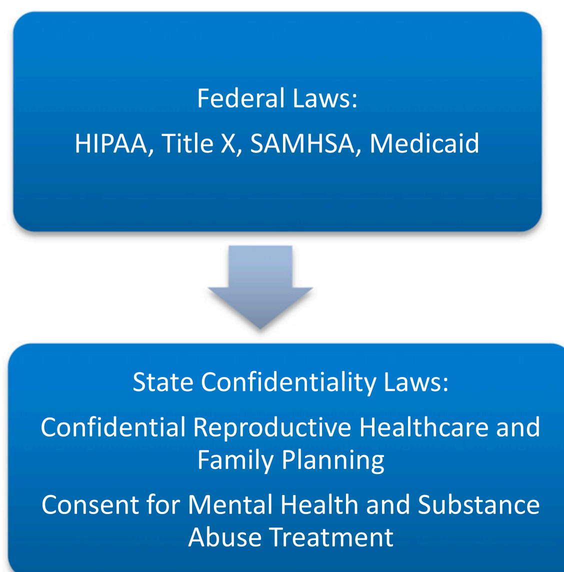

Figure. Laws governing adolescent confidentiality in the United States. HIPAA=Health Insurance Portability and Privacy Act, SAMHSA=Substance Abuse and Mental Health Services Administration.

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TABLE 3. Resources with Information on Federal and State Laws on Confidentiality

RESOURCE	WEBSITE
Centers for Disease Control and Prevention. HIPAA privacy rule and public health: guidance from CDC and the U.S. Department of Health and Human Services.	https://www.cdc.gov/mmwr/preview/mmwrhtml/m2e411a1.htm
Office of Population Affairs. Program requirements for Title X funded family planning projects.	https://www.hhs.gov/opa/sites/default/files/ogc-cleared-final-april.pdf
Electronic Code of Federal Regulations.	https://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=b7e8d29be4a2b815c404988e29c06a3e&rgn=div5&view=text&node=42:1.0.1.1.2&idno=42%20-%20se42.1.2_114
Policy Compendium on Confidential Health Services for Adolescents. 2nd ed.	http://www.cahl.org/PDFs/PolicyCompendium/PolicyCompendium.pdf
State Minor Consent Laws: A Summary. 3rd ed.	https://www.freelists.org/archives/hilac/02-2014/pdftRo8tw89mb.pdf
Guttmacher Institute. State policies in brief: an overview of minors' consent law. 2018	https://www.guttmacher.org/state-policy/explore/overview-minors-consent-law
What can parents do? A review of state laws regarding decision making for adolescent drug abuse and mental health treatment. *J Child Adolesc Subst Abuse.* 2015;24(3):166–176.	

alcohol and substance abuse, and diagnosis and treatment for sexual assault. (20) These laws are based on the need for privacy inherent to these categories of health-care, as well as the normative adolescent development of autonomy, as described previously herein. All states, generally, allow for the provision of confidential services for minor adolescents for the prevention, screening, diagnosis, and treatment of STDs and sexual assault. There may be exceptions related to the screening, prevention, and treatment of HIV infection and AIDS, as well as vaccinations (human papillomavirus, hepatitis B, hepatitis A). Most states require parental consent for treatment of HIV/AIDS, as well as immunizations. The minor's permissibility to access confidential care for contraception, prenatal care, care for their own child, mental health, and outpatient alcohol and substance abuse varies among states but in many cases is permissible, albeit with some restrictions. Only 2 states and the District of Columbia allow minors to consent for termination of pregnancy. If a state does not allow a minor to consent to termination of a pregnancy, a system of judicial bypass must exist so that a minor may petition the court for the ability to consent for termination of pregnancy. This may be a difficult process for an adolescent and requires access to a legal advocate and psychosocial support. The Alan Guttmacher Institute maintains a current listing, by state, of what reproductive health-care services may be provided confidentially. (20) State laws provide the ability for adolescents or their parents to provide consent for inpatient and outpatient substance use disorder and mental health treatment and vary widely. A study by Kerwin et al (21) in 2015 found that one-third of the states have inconsistent laws on the consent requirements for mental health vs substance abuse treatment, including 15% of the states allowing only the minor to consent for drug use treatment.

Privacy of Health Information

Exceptions to Confidentiality. There are circumstances when a minor's confidentiality cannot be maintained and the health-care provider is mandated to disclose private information. Providers must be aware of their state's legal requirements, such as reporting child abuse. Clinical and professional judgment is essential when assessing patients for abuse and exploitation. Moreover, if an adolescent is deemed to be harmful to self or others, confidentiality must be broken. It is essential that these limits of the provision of confidential health-care be discussed with adolescents and parents/guardians as part of the general discussion on adolescent confidentiality.

Another exception to the assurance of confidentiality is the diagnosis of STDs such as gonorrhea, chlamydia, syphilis, and HIV that are in the category of reportable diseases.

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It is required that positive results are reported to local departments of health and, ultimately, the Centers for Disease Control and Prevention (CDC). This is in the interest of public health and allows the health department to assist in the notification and treatment of sexual partners so that these infections become less transmissible to the general population.

Additionally, there is no authorization required for the automatic release of information to health insurance plans or health-care providers who are involved in the care of the patient. (3)(22)

Electronic Health Record. Adolescents and young adults have the highest rate of Internet use and, therefore, are most likely to benefit from medical information becoming available electronically. (23) They are also the group that needs the most protection in this electronic generation. In 2009, the Health Information Technology for Economic and Clinical Health Act was issued by the US Department of Health and Human Services to increase HIPAA protections and improve the delivery of health-care through health information technology use. (24) This has led to a more widespread use of electronic health records (EHRs), which are systems that allow the sharing of information within a health-care organization and include clinical visit notes, test results, and problem and/or medication lists. In 2012, almost 4 of every 5 pediatricians were using an EHR. (25) The American Academy of Pediatrics, SAHM, and American College of Obstetricians and Gynecologists have published policy statements emphasizing the importance of adolescent confidentiality protections in EHRs and advised that the protections should be guided by the established federal and state laws (Table 3). (26)(27)(28)

An additional challenge to the provision of adolescent confidential services has been the rollout of the meaningful use requirements by the Centers for Medicare and Medicaid Services in the Department of Health and Human Services in 2010. Meaningful use requirements are used to monitor health providers' improvements in EHR utilization and are used for reimbursement purposes. (29) One of the requirements is the provision of a clinical summary printout after each medical visit. In the case of an adolescent who comes in with a parent and is seen for part of the visit alone, some of the laboratory tests, medications ordered, and problems added to the problem list could pose a risk to confidentiality protections. Strategies that could be used to prevent breaches in confidentiality include the restriction of the confidential diagnoses, medications, and laboratory tests from the clinical summary printout for adolescents younger than 18 years and distribution of the summary directly to patients older than 18 years.

Another meaningful use requirement is to allow patients or their representatives access to a secure Internet portal that contains their health information, including diagnostic test results, problem lists, and medications and/or opportunity to communicate with their physicians through a secure e-mail. This provides a challenge to protection of confidentiality, while also being an important tool that could be set up to allow for direct and improved communication between adolescents and their providers.

In their position paper, the SAHM recommends that medical providers be aware of their current EHR settings and actively advocate and improve protections for adolescents in their health-care system. (28) The SAHM also suggests the development of separate portals for adolescents and their parents, with limited exceptions for adolescents with serious medical illnesses and those with intellectual disabilities. An additional recommendation is the distinction between health information exchanges, which are designed to allow for medical information sharing between medical facilities, and the EHR, located in a single medical system. At the time of health information exchange creation, settings should be incorporated to prevent the release of sensitive information to other medical centers unless directly approved by the adolescent so that this information is not inadvertently shared with parents. (28)

Additionally, the automated reminder service that has been introduced by many pharmacies for patient convenience could pose a risk to confidentiality for adolescents and should be discussed at the time of medication prescription. (30) Possible solutions include providers offering teens the option of speaking with their parents about the medication being prescribed, checking with the pharmacy regarding their use of automated reminders, or sending the prescription to a different pharmacy than the one used by the family.

Billing. If an adolescent chooses to obtain confidential services, he or she needs to be aware of the possible breaches to confidentiality at the time of billing and payment by their health insurer. Explanation of benefits (EOB) is a letter that is mailed to the primary insurance policyholder, generally the parents, at the time of the payment for the claim and includes information about the person who received the medical services and the services obtained during that visit. The intention of the EOB letter is to prevent billing fraud and provide patients with detailed information about what was paid by the insurance policy and what is the financial responsibility of the policyholder. (31) For adolescents, EOB

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letters could disclose sensitive information to their parents. Some states have started to address this issue in their insurance law in an attempt to prevent EOBs from being mailed out for certain, confidential services, with the modification of the law to include the opportunity for confidential communication. Confidential communication refers to the ability of owners of health information to ask for the EOB to not be mailed or to be sent by an alternative means, such as e-mail. California was the first state to enact this law, which went into effect in 2015. Similar laws/regulations are pending or have been approved into law in Oregon, Massachusetts, Maryland, and Washington. New York has enacted a law that has removed the requirement for the EOB to be sent if only a copayment was required that was paid at the time of the visit and the claim is fully paid, unless requested by the policyholder. (32)

The laws preventing release of EOBs are relatively new and not all-encompassing, so adolescents need to be educated about this possibility of breach of their confidentiality in the case of an EOB being mailed to their home, and adolescents should be counseled about alternative ways of obtaining confidential services. Many college health services and school-based clinics provide low cost or free care for reproductive, mental health, and substance abuse services. In addition, Title X–funded health programs, including Planned Parenthood, are centers where adolescents may obtain confidential screening for STDs and contraceptive management without billing concerns. Another alternative is a subsidized health insurance plan for family planning services that is available in 20 states in the United States as an expansion of Medicaid services. (33) Other options include the provision of reduced cost visits, or adolescents could be offered to pay for the services out of pocket to avoid the EOB letter.

Summary

For the 16-year-old girl who is requesting sexually transmitted disease (STD) testing:

- Based on evidence quality D, all states allow for confidential STD testing, but there are some states that may require the physician to disclose to parents any positive results, and you will need to reflect on the laws guiding practices in your state.
- Based on evidence quality D, she should be notified about the possibility of an explanation of benefits letter being sent to her home because of office billing and laboratory testing, thus possibly disclosing some sensitive information, and she should be notified of the alternative ways available for her to pay for these services, including information on how to obtain a subsidized health insurance plan if available in your state to maintain confidentiality.
- Based on evidence quality D, if your state does not offer subsidized health insurance plans you may need to refer her to Planned Parenthood or a public health clinic. Alternatively, you can counsel her on having her partner share some of the cost of her laboratory testing and subsidize the fee for her office visit.
- Based on evidence quality D, ensure that your office electronic health record has protections for adolescents and that no sensitive diagnoses, tests, or medications are printed on the after-visit summaries that could be easily seen by her parents. Moreover, ensure that you have designed your patient portal to disable release of laboratory results of adolescents younger than 18 years.
- Based on evidence quality D, with all these safeguards, you are able to assure your minor adolescent patient that her sensitive information will not be released to her parents without her permission. You encourage her to discuss her health with her parents. However, if she cannot, you can still provide confidential care for her reproductive and mental health.

References for this article are at http://pedsinreview.aappublications.org/content/40/10/508.

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TABLE 1: MARYLAND HEALTH CARE CONSENT LAWS FOR MINORS[*]

Maryland Minor Consent Laws Based on Status			
Status	**Minor Consent**	**Scope/Limitations**	**Citations**
Age of majority[†]	< 18 – No ≥ 18 – Yes	Age of majority is 18	Md. Ann. Code art. 1, § 24
Married minor	Yes	Married minor may consent for medical or dental treatment	Md. Code Ann., Health-Gen. § 20-102
Pregnant minor	Yes	Pregnant minor may consent to treatment or advice about pregnancy other than sterilization	Md. Code Ann., Health-Gen. § 20-102
Minor parent	Yes	Minor parent has same capacity as adult to consent to medical or dental treatment	Md. Code Ann., Health-Gen. § 20-102
Minor living apart	Yes	Minor living apart from parent may consent to medical or dental treatment	Md. Code Ann., Health-Gen. § 20-102
Minor in detention	Yes	Minor in detention may consent to initial medical screening & physical examination after admission to a detention center	Md. Code Ann., Health-Gen. § 20-102
Maryland Minor Consent Laws Based on Services			
Service	**Minor Consent**	**Scope/Limitations**	**Citations**
Emergency services	Yes	Minor may consent for medical treatment if life or health of the minor would be affected adversely by delaying treatment to obtain consent of another individual	Md. Code Ann., Health-Gen. § 20-102; see also Md. Code Ann., Health-Gen. § 5-607
Contraceptives/ family planning	Yes	Minor has same capacity as adult to consent for treatment for or advice about contraception other than sterilization (Note: See Table 2 re Title X Family Planning)	Md. Code Ann., Health-Gen. § 20-102
STD care	Yes	Minor has same capacity as adult to consent for treatment for or advice about venereal disease (Note: See Table 2 re Title X Family Planning)	Md. Code Ann., Health-Gen. § 20-102
HIV testing	Yes	Voluntary written informed consent of the individual to be tested is required for an HIV test, except in specified circumstances	Md. Regs. Code tit. 10, §18.08.07
Pregnancy care	Yes	Minor may consent for treatment for or advice about pregnancy	Md. Code Ann., Health-Gen. § 20-102
Abortion	Yes, with limitations	Notice to a parent or guardian required unless physician finds it may lead to physical or emotional abuse, minor is capable of informed consent, or notice would not be in minor's best interest	Md. Code Ann., Health-Gen. § 20-103
Mental health – outpatient	Yes	Minor age 16 or older may consent for consultation, diagnosis, & treatment of mental or emotional disorder by physician or clinic; minor may not refuse care for which parent/guardian consents	Md. Code Ann., Health-Gen. § 20-104
Alcohol/drug abuse	Yes	Minor may consent for medical treatment for or advice about drug abuse or alcoholism, or psychological treatment if life or health of minor would be adversely affected by delaying treatment to obtain the consent of another individual; minor may not refuse inpatient psychological treatment for drug abuse or alcoholism for which parent/guardian consents	Md. Code Ann., Health-Gen. § 20-102
Treatment or examination for sexual assault	Yes	Minor has same capacity as adult to consent for physical examination & treatment of injuries from or evidence of alleged rape or sexual offense	Md. Code Ann., Health-Gen. § 20-102

[*] This table contains only brief summary information about the laws; more detailed information and selected excerpts of the laws are contained in Appendix A.
[†] Parent consent is generally required for minors under age 18 unless one of the exceptions in the minor consent laws apply; young adults age 18 or older generally may consent for themselves.

TABLE 2: MARYLAND & FEDERAL CONFIDENTIALITY LAWS FOR MINORS*

Maryland Confidentiality Laws for Minors		
	Scope of Protection/Limitations	**Citations**
Disclosure to parents	Physician or member of the medical staff is permitted but not required to give a parent, guardian, custodian, or spouse of a parent information about treatment needed by minor or provided to minor for which minor may consent, except information about abortion; physician permitted to do this without the consent or over the objection of the minor (Note: See "Federal Confidentiality Laws" below for regulations for drug and alcohol programs)	Md. Code Ann., Health-Gen. §§ 20-102, 20-104
Disclosure of health information	Disclosure of a patient's health information & medical records generally requires the authorization of the patient, including a minor patient who consents to own care, except in specified circumstances	Md. Code Ann., Health-Gen. §§ 4-301, 4-305
Disclosure and use of records of alcohol & drug abuse treatment	Disclosure & use of records of individuals served by alcohol & drug abuse treatment programs are governed by federal regulations on confidentiality of alcohol & drug abuse patient records, 42 C.F.R. Part 2	Md. Code Ann., Health-Gen. § 8-601
Child abuse reporting	Health care practitioners & other professionals are required to report reasonable suspicions that a child has been abused; any other individual who has reason to believe a child has been abused is also required to report; definition of reportable abuse includes physical & emotional abuse by a parent or person responsible for the child & sexual abuse by any person.	Md. Code Ann., Family §§ 5-701, 5-704, 5-705
Federal Confidentiality Laws for Minors		
	Scope of Protection/Limitations	**Citations**
HIPAA Privacy Rule – minor as individual	A minor who consents, or whose parent accedes to confidentiality, is an "individual" with control over their own protected health information (PHI)	45 C.F.R. § 164.502(g)(3)
HIPAA Privacy Rule – parent as personal representative	Parents are not necessarily the personal representative when minors have consented to their own care; parent may not be personal representative if minor subject to domestic violence, abuse, neglect, or endangerment	45 C.F.R. § 164.502(g)(3) and (5)
HIPAA Privacy Rule – parents' access	Parents' access to PHI when minor is the "individual" depends on other state and federal laws; parents' access may be denied if health care professional determines it would cause substantial harm to minor or another individual	45 C.F.R. §§ 164.502(g)(3), 164.524(a)(3)(iii)
FERPA	Information about health services provided by a school may be included in a students' "education records" and subject to FERPA, not HIPAA; parents have access to minors' education records	20 U.S.C §1232g, 34 C.F.R. Part 99; 45 C.F.R. § 160.103
Title X Family Planning	Information about family planning services received at Title X funded sites is confidential and may only be disclosed with the minor's permission or if required by law	42 C.F.R. § 59.11
Medicaid	Adolescent minors who are eligible for Medicaid may receive confidential family planning services funded by Medicaid	42 U.S.C. §§ 1396a(a)(7), 1396d(a)(4)(C)
Drug & alcohol—"substance use disorder"—programs	In federally assisted programs, consent for disclosure must be obtained from minor who is authorized under state law to consent for alcohol or drug abuse treatment; disclosure to parents may occur only if minor lacks capacity for rational choice due to extreme youth, physical incapacity, or substantial threat to minor or another	42 C.F.R. § 2.14

* This table includes information about selected state and federal confidentiality laws that pertain to minors' health information. It contains only brief summary information about the laws; more detailed information is included in Appendix A and Appendix B.

TABLE 3: MARYLAND & FEDERAL CONFIDENTIALITY LAWS FOR YOUNG ADULTS[*]

Maryland Confidentiality Laws for Young Adults		
	Scope of Protection/Limitations	**Citation**
Confidentiality of medical records	Detailed protections apply to the health information & medical records of patients	Md. Code Ann., Health-Gen. §§ 4-301 – 4-309
Medical records - disclosure	Disclosure of a patient's health information & medical records generally requires the authorization of the patient except in specified circumstances	Md. Code Ann., Health-Gen. §§ 4-301, 4-305
Medical records - access	Patients have a right to access & correct their medical records	Md. Code Ann., Health-Gen. § 4-304
Mental health records - disclosure	Additional detailed requirements govern the disclosure of numerous categories of mental health records	Md. Code Ann., Health-Gen. § 4-304
Disclosure and use of records of alcohol & drug abuse treatment	Disclosure & use of records of individuals served by alcohol & drug abuse treatment programs are governed by federal regulations on confidentiality of alcohol & drug abuse patient records, 42 C.F.R. Part 2	Md. Code Ann., Health-Gen. § 8-601
Federal Confidentiality Laws for Young Adults		
	Scope of Protection/Limitations	**Citation**
HIPAA Privacy Rule - generally	Individuals have access to and some control over disclosure of their own protected health information (PHI)	45 C.F.R. §§ 502, 524, 528
HIPAA Privacy Rule – special confidentiality protections	Individuals may request restrictions on the disclosure of their PHI and that communications regarding their PHI occur in a confidential manner	45 C.F.R. §§ 164.502(h), 164.522(a)(1), and 164.522(b)(1)
FERPA	Information about health services provided by a school may be included in a students' "education records" and subject to FERPA, not HIPAA; parents do not have access to education records of young adults age 18 and older	20 U.S.C §1232g, 34 C.F.R. Part 99; 45 C.F.R. § 160.103
Title X Family Planning	Information about family planning services received at Title X funded sites is confidential and may only be disclosed with the patient's permission or if required by law	42 C.F.R. § 59.11
Medicaid	State Medicaid plans are required to include protections for confidentiality of applicants' and enrollees' information	42 U.S.C. § 1396a(a)(7)
Drug & alcohol—"substance use disorder"—programs	Consent for disclosure must be obtained from an individual who seeks treatment from a substance abuse disorder provider or program; disclosure without the patient's consent may occur only in very limited circumstances such as bona fide medical emergencies or with a court order	42 C.F.R. Part 2

[*] This table includes information about selected state and federal confidentiality laws that pertain to young adults' health information. It contains only brief summary information about the laws; more detailed information is included in Appendix B.

Adolescent Addendum-Quiz & Discussion

1. Minors' consent laws permit individuals under 18 years old to consent to certain health care services. **Why do these laws exist?**

A) To derail parents' efforts to control their children's lives
B) To dissuade health care providers from providing any care for teenagers by making it unnecessarily awkward and confusing
C) To remove barriers to care that prevent minors from accessing timely, appropriate care for a variety of sensitive health issues

Removing barriers to care is the primary intent of minor consent laws. This can be overshadowed by parental and provider misgivings or misconceptions about minor consent. It can help to remember this if you feel stuck between the law and what you feel is the best course clinically for your patient.

2. Which of these patients can **consent to their own care** for the issue in question?

A) A 14yo male requesting STI testing
B) A 16yo girl desiring contraception

All states and DC allow all minors to consent to STI services. 46 states and DC allow all or some minors to consent to STI services, the remaining 4 have no specific policy or case law. Note the definition of "minor" can vary, and only certain classes of minors may be covered. In MD, all minors (<18yo) can consent to STI or contraception management. Physicians "may but need not notify" parents over the objection of the teenage patient.

C) A 16yo girl requesting a 1st trimester elective termination of pregnancy

Details of consent for elective abortion vary by state (and can vary by trimester). It's important to know the specific requirements of the state(s) in which your patients live. Tricare does not cover the cost of elective terminations, and these services are not offered in the military health care system Hyde Amendment. Patients considering this option should be informed of community-based resources. www.prochoice.org and http://www.plannedparenthood.org have search tools for local abortion services (*not accessible through firewall*). Planned Parenthood also has teen friendly info about contraception and pregnancy options.

D) A 16yo teen mother requesting IUD placement

Contraception options that are more invasive may not be covered under minor consent laws and thus may require parental consent. In MD, the law states minors may consent for "contraception other than sterilization". There may be separate institutional policy about parental consent for placement procedures for subdermal or IUD contraception.

E) A 16yo male needing drug treatment without his parents' knowledge or involvement

This module centers on navigating consent and confidentiality issues when providing sexual health care, but don't forget that this complexity plays out similarly in other sensitive health areas, like mental health and substance abuse. Strictly speaking, this patient does not require parental consent to receive treatment. However, optimizing his care will likely involve collaboration with parents or other trustworthy adults, and breaking confidentiality may be justified by degree of self-harm or limited capability to progress clinically without parental involvement.

3. **True or False?**

	True	False
Adolescents are unlikely to seek care for sexual health issues if confidentiality and privacy are not assured.	**X**	
If an adolescent patient is having sex, he/she is capable of consenting for their own medical care. Even if they have the skills necessary to consent independently, adolescents may use them selectively when making decisions. The influence of non-cognitive factors (impulsivity, different priorities, less risk aversion) also makes it difficult for them to be safely, completely independent in their capability to consent. Adults can provide valuable support of understanding and decision making – parents, non-family adult confidantes, healthcare providers.		**X**
Parents need to know what kind of questions providers may ask their teenager in a private interview. It's useful for both the teen and parent to understand the purpose of confidentiality, and limits of confidentiality and parental consent, prior to the private interview. Parents don't like to be caught by surprise or to feel undermined.	**X**	
Barriers to education about sexuality and sexual health often exist within families, in school, and in the health care setting. Parents and providers' discomfort level with discussing sexual health or other sensitive health topics can be a barrier to teens' receiving reliable information. In the absence of good (or any) guidance, teens may turn to other, less credible sources.	**X**	
Maintaining confidentiality interferes with parents' ability to raise their child by inhibiting communication. Confidentiality assurance is necessary to enable independent health seeking/health management behaviors that will be required in adult life. Practicing independence for the first time in clinic is a safer environment for this transition to occur.		**X**
Even if state law protects a teenager's confidentiality about a particular matter, HIPAA federal law grants guardians access to their health information. In general, HIPAA defers to states' provisions for confidential care of minors. This is more complicated in practice, and it is largely up to providers to maintain policies and practices that will prevent unintended breaches of confidentiality from follow up care, medical or insurance records.		**X**
Adolescents typically avoid discussing personal issues with their parents because they don't value their opinion. Adolescents tend to report placing high value on parents' values opinions. Communication is often hampered by opposing views, embarrassment, or fear of disapproval or reprobation. Teens also report that their doctor's opinion is just as important as their parents' or peers.		**X**
In the state of Maryland, it is against the law to disclose health information to parents without the teenager's consent, if this information is related to a health condition for which the teen is medically-emancipated. In MD, physicians *may but are not required to notify* parents of adolescents' health information related to pregnancy, contraception, STI, AIDS/HIV, drug/ETOH abuse, outpatient mental health, sexual assault, care while in a detention center. For abortion service, they *must* notify unless certain waiver criteria are met. For general medical care, they *must* notify unless emergent intervention is required.		**X**

Adolescent Addendum Board Review:

1. You are seeing a 15-year-old girl for her first health supervision visit to your practice. In explaining your practice's policies, you discuss confidentiality.

Of the following, you are MOST likely to state that

A. adolescents are more likely to seek health care for sensitive issues if they believe that their parents will be informed

B. billing policies of an outpatient or inpatient facility are always confidential in regard to sexually transmitted disease infection testing for adolescents

C. **if an adolescent poses a threat to self or others, confidentiality can be broken**

D. parents have access to all of an adolescent's health information through the Health Insurance Portability and Accountability Act of 1996 (HIPAA)

E. state laws mandate that adolescents in all states may receive confidential treatment for alcohol and other drug use disorders

2. A 16-year-old girl who attends boarding school in your community comes to your office because she is feeling depressed. You see her alone for the visit, and she relates that she feels suicidal at this time and has a plan to kill herself.

Of the following, the BEST description of your obligation to alert her parents to her situation is

A. no parental notification is necessary because she is a mature minor

B. no parental notification is necessary because she is an emancipated minor

C. parental notification is necessary due to billing issues

D. **parental notification is necessary due to her serious threats of self-harm**

E. parental notification is prohibited by the Health Insurance Portability and Accountability Act

3. A 16-year-old girl presents to the emergency department (ED) after sustaining a left ankle injury while playing basketball. Physical examination reveals a swollen left ankle. She is unable to bear weight. The initial impression is that this is likely a sprain, but a fracture cannot be ruled out. A urine pregnancy test is ordered before obtaining a radiograph. The ED physician receives a telephone call from the laboratory that her urine pregnancy test result is positive, and radiography is deferred.

Which of the following is the ED physician's next best step in the management of this patient?

A. Call her mother and notify her that her daughter is pregnant.

B. Call her mother and ask her to have the patient call the physician back.

C. Call her mother and ask her to follow up with the ED physician the next day and give her the pregnancy test results of her daughter in person.

D. **Break the news only to the patient, and encourage her to discuss the results with her mother.**

E. Send the patient to her pediatrician without giving her the results.

4. A 14-year-old girl is brought to the clinic by her mother after getting a call from school that she is skipping classes to be with her 21-year-old boyfriend. The mother is worried that her daughter is having sex. When interviewed alone, the patient seems withdrawn but denies everything.

In addition to testing her for pregnancy, which of the following is the most appropriate next step in the management of this patient?

A. Tell the patient with the mother in the room that a sexual relationship between a 21-year-old and a 14-year-old is illegal in your state and refer her for counseling.

B. Send her to the ED to get a sexual assault examination because she is younger than 16 years and you are concerned about statutory rape.

C. Refer her to the child abuse center for further evaluation.

D. No follow-up is needed because the child denies everything.

E. **Call the clinic social worker and discuss the best option for the patient according to state laws.**

In MD sex between a 14 or 15 year old and anyone at least 4 years older is a "4th degree sexual offense."