Confidentiality in Adolescent Health Care

**ABSTRACT:** Confidential care for adolescents is important because it encourages access to care and increases discussions about sensitive topics and behaviors that may substantially affect their health and well-being. Obstetrician–gynecologists and other health care providers who care for minors should be aware of federal and state laws that affect confidentiality. There should be private conversation time between the health care provider and adolescent patient. Generally, parents or guardians and adolescents should be informed, both separately and together, that the information each of them shares with the health care provider will be treated as confidential. Additionally, they should be informed of any restrictions to the confidential nature of the relationship. Obstetrician–gynecologists and other health care providers and institutions that establish an electronic health record (EHR) system should consider systems with adolescent-specific modules that can be customized to accommodate the confidentiality needs related to minor adolescents and comply with the requirements of state and federal laws. If the EHR system does not allow for procedures to maintain adolescent confidentiality, the obstetrician–gynecologist or staff should inform the patient that parents or guardians will have access to the records, and the patient should be given the option of referral to a health care provider who is required to provide confidential care. Obstetrician–gynecologists are encouraged to know their individual systems and institutional policies regarding confidentiality, EHRs, patient portals, and the open access for visit notes. This document has been updated to include information on patient portals, guidance on the release of medical records, examples of ways to safeguard adolescent patients’ confidentiality, and talking points to use with parents and guardians.

**Recommendations and Conclusions**

The American College of Obstetricians and Gynecologists offers the following recommendations and conclusions:

- Confidential care for adolescents is important because it encourages access to care and increases discussions about sensitive topics and behaviors that may substantially affect their health and well-being.
- At the initial visit, the obstetrician–gynecologist should discuss the following issues with the parent or guardian and the patient: 1) the meaning and importance of confidentiality; 2) the scope of confidentiality protection; and 3) the limitations of confidentiality.
- There should be private conversation time between the health care provider and adolescent patient.
- Statutes on the rights of minors to consent to health care services vary by state, and obstetrician–gynecologists and other health care providers should be familiar with the regulations that apply to their practice.
- The maintenance of patient confidentiality may be affected by the widespread adoption and integration of electronic health records (EHRs) in clinical care, which may necessitate a closer evaluation of the unique challenge this presents for providers of adolescent health care.
- Parent or guardian access to the patient’s visit notes through the electronic patient portal poses the potential that confidential and sensitive information may be accessed, resulting in a breach of confidentiality and potentially adverse outcomes for the adolescent patient.
Obstetrician–gynecologists are encouraged to ensure conversation time alone with adolescents to clarify the adolescent’s privileges regarding the release of information and to obtain appropriate and preferred contact method.

Potential for disclosure of laboratory results, prescriptions, and diagnoses may occur with itemized explanation of benefits statements. Being aware of alternate health care referral centers for free or substantially decreased costs may be of benefit for the adolescent if there is a risk of billing disclosure.

Obstetrician–gynecologists and other health care providers should be active in educating their staff and patients regarding the confidentiality of services.

Background
Confidentiality refers to protection of privileged and private information shared during a health care encounter and in medical records that document the encounter (1). Confidentiality for adolescents accessing health care is complex, and concerns about lack of confidentiality can be a barrier to receiving appropriate care (2, 3). Confidential care for adolescents is important because it encourages access to care and increases discussions about sensitive topics and behaviors that may substantially affect their health and well-being (4). Adolescents face considerable potential harms to their health from mental health disorders, interpersonal violence, substance use, and unprotected sexual activity. As adolescents navigate this important developmental period, obstetrician–gynecologists should engage with them and promote best practices that protect adolescents’ vulnerability and assist them in developing autonomy. Providing alone time, apart from a parent or guardian, for discussion between the adolescent patient and health care provider is an important aspect of the health care visit (5). Adolescents are beginning to take responsibility for their health care, and this should be encouraged and supported as they transition to adult patients. The parent or guardian and patient should be aware that these discussions are considered private, not secret, and obstetrician–gynecologists may disclose private information when concerned for the immediate danger of patients to themselves or others, or both, and when reporting is required by public health laws (6). Once confidentiality is breached, it is difficult to regain trust; so, obstetrician–gynecologists should make efforts to avoid the violation of the trust between the health care provider and patient. Many associations of health professionals caring for minors, including the American College of Obstetricians and Gynecologists, the Society for Adolescent Health and Medicine, the American Academy of Pediatrics, the American Academy of Family Physicians, and the North American Society for Pediatric and Adolescent Gynecology, recognize the importance of confidentiality in providing health care for adolescents (7–9). This document has been updated to include information on patient portals, guidance on the release of medical records, examples of ways to safeguard adolescent patients’ confidentiality, and talking points to use with parents and guardians.

Addressing Patients and Parents or Guardians About Confidentiality
Although confidentiality routinely is practiced in adult medical care, this standard may be perceived differently by a parent or guardian when it involves the health care concerns of the adolescent. At the initial visit, the obstetrician–gynecologist should discuss the following issues with the parent or guardian and the patient: 1) the meaning and importance of confidentiality; 2) the scope of confidentiality protection; and 3) the limitations of confidentiality (1). See Box 1 and ACOG Committee Opinion No. 758, Promoting Healthy Relationships in Adolescents, for potential talking points when discussing confidentiality with parents, guardians, and patients (10).

There should be private conversation time between the health care provider and adolescent patient. The American College of Obstetricians and Gynecologists recommends that a chaperone be in the room during the physical examination, as well as during diagnostic studies such as transvaginal ultrasonography (11). Patients should have autonomy regarding parent or guardian presence during examination, but a parent or guardian should not take the place of a chaperone (12). If a patient declines a chaperone, it should be explained that the chaperone is an integral part of the clinical team whose role includes assisting with the examination and protecting the patient and the physician. Any concerns the patient has regarding the presence of a chaperone should be elicited and addressed if feasible. If, after counseling, the patient refuses the chaperone, this decision should be respected and documented in the medical record (11).

Patients should be informed that there are laws protecting their confidentiality in the health care setting. However, there are some circumstances when it is necessary for the obstetrician–gynecologist to share private information with a parent or guardian or others. Adolescents should be made aware of specific instances when private information may be disclosed, such as suicidal or homicidal ideation or acts, life-threatening drug misuse, and an eating disorder causing bodily harm (1). Shared decision making between patient, parent or guardian, and health care provider, when possible, is the goal in order to optimize the adolescent’s medical care (13). Obstetrician–gynecologists who treat adolescent patients should provide resources for parents and caregivers and encourage continued parental involvement (10). Obstetrician–gynecologists should emphasize to the parent or guardian that confidentiality is important to foster a safe and trusting environment for adolescents to discuss their concerns and health care.
Box 1. Talking Points for Discussing Confidentiality With Parents and Guardians

As your adolescent’s doctor and as the parent (or guardian), we have two roles here. First, we want to make sure that adolescent patients have access to health care to make sure that they are healthy and safe. Second, we want to make sure that they have had the opportunity to learn to talk with a doctor by themselves so that when they are young adults, they are prepared to communicate and advocate for what they need.

Why is confidentiality vital?
Adolescents gain more ownership over their own health. We encourage adolescents to be active participants in their health care as a step toward becoming adults and to take on more responsibility. As part of comprehensive health care, it is our practice to ask parents to wait outside for part of the interview and to encourage the adolescents to discuss their own interests and concerns.

Why is conversation time alone so important?
- It provides a safe space to ask questions: Talking to adolescents one-on-one also gives adolescents a chance to ask questions or give information they may feel self-conscious about. Adolescents often have questions or concerns that they may feel embarrassed to talk about in front of their parents or guardians.
- It builds trust: Experimenting with a range of behavior is common among adolescents and young adults. Often, the behavior is not disclosed to parents or guardians. While gaining the adolescents’ trust, we still encourage them to discuss issues with their parents or guardians.

Other points:
- We may have to disclose private information to protect a patient’s safety.
- The staff is always available to discuss health problems or answer questions. We want to work with you to help your adolescent make the best choices for a healthy future.

Box 2. Legal Principles and Definitions of Adolescents’ Rights to Receive Health Care Independently

Mature minor: An adolescent younger than the age of majority who, even if living at home as a dependent, demonstrates the cognitive maturity to give informed consent. The capacity of an adolescent to consent for health care as a mature minor is influenced by the minor’s developmental maturity, previous experience with illness, the gravity of the current illness, and the risks of proposed therapy. The right of a mature minor to consent to medical care without previous parental or guardian consent has been recognized in many states.*

Emancipation: A legal procedure whereby minors become legally responsible for themselves, and their parents or guardians are no longer responsible (financially or otherwise). The minor can consent to medical, dental, or psychiatric care. Statutes vary by state, but minors may become emancipated when they marry, serve in active duty in the U.S. military, or obtain a declaration from the court.

Health Insurance Portability and Accountability Act (HIPAA) of 1996: When Congress passed HIPAA in 1996, the law was known primarily for its provisions that provide stronger health insurance protection for people leaving jobs and people with preexisting medical conditions. Over time, however, regulations have been developed to protect the privacy and security of certain health information. The privacy rule, which is based on requirements contained in HIPAA, provides protection against parents’ or guardians’ access to protected health information for the following circumstances: adolescents aged 18 years and older; emancipated minors; minors who can legally consent to services or receive services without parental or guardian consent or notification according to state or other applicable law; or when a parent or guardian assents to an agreement of confidentiality between the minor adolescent and health care provider.


Provision of Health Care to Adolescent Patients

Although laws vary by state, all minors have a right to some confidential health care. All states and the District of Columbia allow minors to consent to sexually transmitted infection (STI) testing and treatment without parental permission (14). Other states have consent laws that include substance misuse treatment, pregnancy prevention and care, and, sometimes, abortion services, mental health care, and emergency care. Adolescents also have rights to receive health care independently under legal principles such as mature minor and emancipated minor (Box 2). Obstetrician–gynecologists should not misinterpret consent required to provide health care services with consent required to provide education and counseling; that is, even when consent is required by a parent or guardian for provision of contraception, an obstetrician–gynecologist may still provide counseling about contraceptive options. It is important for obstetrician–gynecologists to be aware of their individual state and local laws.

Electronic Health Records

The maintenance of patient confidentiality may be affected by the widespread adoption and integration of EHRs in clinical care, which may necessitate a closer

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evaluation of the unique challenge this presents for providers of adolescent health care. The United States continues to move toward a nationwide health information network that will allow health care providers to obtain quick access to patient medical information through EHRs. Although there are multiple benefits of EHRs, these benefits may conflict with the protection of confidentiality.

In practice, the major issue that faces health care providers and patients is the health care provider’s ability to provide confidential care using EHRs, such as when parents or guardians have the ability to access some of their adolescent’s health information when comprehensive health services are provided and billing systems generate statements that detail confidential services (eg, problem lists, laboratory tests, or prescriptions). The Health Insurance Portability and Accountability Act (HIPAA) privacy rule, however, defers to state and other federal applicable laws about disclosure of protected health information for unemancipated minors that may allow health care providers’ discretion regarding parental or guardian access to a minor’s protected health information (15).

Security measures and enhanced EHR standards should be adopted at the systems level to prevent breaches of patient confidentiality. With appropriate safeguards, EHRs may offer more security than traditional paper-record systems. However, there may be substantial cost to these safeguards, and constant reevaluation of protection is imperative. Obstetrician–gynecologists and other health care providers and institutions that establish an EHR system should consider systems with adolescent-specific modules that can be customized to accommodate the confidentiality needs related to minor adolescents and comply with the requirements of state and federal laws (16). If systems of EHRs have already been established, procedures to maintain adolescent confidentiality should be implemented where appropriate (17).

It is important to note that the EHR for general health care visits may contain information pertaining to care, such as a social history or sexual behavior history, that was provided under minor consent or mature minor provisions. In such circumstances, it may be appropriate to restrict access to such sensitive information obtained during portions of the visit while allowing other portions to be viewable by parents or guardians. Optimally, obstetrician–gynecologists should ensure that medical record information, including EHR information, for care provided under minor consent or mature minor provisions is considered confidential and should not be disclosed to parents or guardians without adolescent consent. Statutes and regulations regarding medical record information should be updated to ensure this standard is achieved. Similar recommendations are supported by the American Academy of Pediatrics and the Society for Adolescent Health and Medicine (18). If the EHR system does not allow for procedures to maintain adolescent confidentiality, the obstetrician–gynecologist or staff should inform the patient that parents or guardians will have access to the records, and the patient should be given the option of referral to a health care provider who is required to provide confidential care.

**Patient Portals**

Patient portals are mechanisms within the EHR system that provide patients with electronic access to their personal health record. Patient access varies widely across institutions and by the type of EHR used by the health care provider. Most EHRs have the capability for patients to view any combination of appointments, medication lists, allergies, most recent vital signs, laboratory values, health care provider notes, and communication between patient and health care provider. A 2016 study demonstrated that, when given the opportunity, adolescents’ use of EHRs afforded enhanced medical care and, although they accessed the portal less for laboratory results, appointments, or prescriptions, adolescents did engage in frequent confidential communications with their health care providers through patient portals (4). Many institutions struggle to meet the current standard for providing access to and maintaining the confidentiality of sensitive portions of the medical record as required by the Centers for Medicare and Medicaid Services (4). Most EHRs were not designed to provide item-specific control over parental or guardian access and release of adolescent health care information. Additionally, it is costly for vendors to develop and maintain the levels of mandated confidentiality because the laws regarding confidentiality vary by state (4).

OpenNotes is a national initiative that encourages patient access to visit notes written by their health care providers (19). This initiative has been shown to potentially increase patient activation and engagement, as well as patient satisfaction, trust, and safety, and to improve the patient–physician relationship (20, 21). However, there is concern that it may result in important confidentiality breaches for adolescent patients. If notes automatically submit to EHRs, issues regarding sexuality, gender identity, substance use, mental health, and STIs may be included. Parent or guardian access to the patient’s visit notes through the electronic patient portal poses the potential that confidential and sensitive information may be accessed, resulting in a breach of confidentiality and potentially adverse outcomes for the adolescent patient. Hospitals and office-based systems that currently use or are initiating OpenNotes should take steps to ensure that adolescent confidentiality is protected. Measures to ensure protection will vary based on the EHR system capabilities and institution-specific policies. The OpenNotes toolkit (22) offers resources for institutions that choose to provide patient access to
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In order to ensure the privacy of the adolescent is not violated under HIPAA, obstetrician–gynecologists and other health care providers should educate their patients about what information is released when a request or release of records is sent to a health care provider, including if a parent or guardian requests a release of information or a patient requests a release to the parent or guardian. An example of how to address this request: the health care provider can review the record to ensure there is no violation of confidentiality (eg, information on sexual activity, STI screening, or gender identity) and then contact the patient directly to make sure that the patient approves of the information contained before its release. Any concern for a HIPAA violation should be addressed by individual health care systems. Similar caution should be assumed when releasing information to other health care providers. Obstetrician–gynecologists should be aware of how the process of the release of medical records of minors is addressed by their institution.

**Explanation of Benefits**

Explanation of benefits statements (health care billing and insurance claims sent by insurance carriers) are an additional challenge to confidentiality. Adolescents should be aware that certain insurance carriers itemize explanation of benefits statements (7). Potential for disclosure of laboratory results, prescriptions, and diagnoses may occur with itemized explanation of benefits statements. Being aware of alternate health care referral centers for free or substantially decreased costs may be of benefit for the adolescent if there is a risk of billing disclosure. Obstetrician–gynecologists should work with their health care organizations to be able to provide confidential billing. In certain instances, specific billing modifiers used with preventative services provided under the Patient Protection and Affordable Care Act will generate nonitemized explanation of benefits statements.

**Suggestions for Protecting Adolescent Confidentiality Within Institutions**

Obstetrician–gynecologists are encouraged to know their individual systems and institutional policies regarding confidentiality, EHRs, patient portals, and the open access for visit notes. The following are examples of how some institutions have provided protection to adolescents; they are not applicable to all institutions or systems:

- For patients ages 12–17-years old, manage or restrict parental or guardian access to provider notes.
- Require a parent or guardian code word to access an adolescent’s patient portal.
- Allow parental or guardian access to the EHR to expire at the age state law requires confidentiality. When a patient turns 18 years old, allow EHR systems to reset the patient as an adult. This will allow patients to create their own direct access to their record, rather than through a parent or guardian.
- For patients ages 18 and older, require a signed release of information for a parent or guardian to ask health questions about the adolescent by telephone.
(Health care providers should be cognizant of potential coercion by parent or guardian to maintain access.)

- Review individual cases and provide proxy access for parents of adolescent patients with disabilities when appropriate.
- House confidential information in a separate section of the EHR that is not open access.
- Flag a portion of the visit note as "confidential" in order for those sections to be omitted from access by a parent or guardian.
- Add sensitive information into the prose of the visit note that is not included in billing or hospital searchable data.
- Do not include specific laboratory data or counseling in after-visit summaries.
- Identify the patient's preferred route of contact. Identify the adolescent's cell phone number at check-in (in addition to collecting the parent or guardian's cell phone number). An email address may be helpful for contacting the patient. However, the obstetrician–gynecologist should exercise extreme caution when using a personal patient email address to relay medical information because email servers may not be secure (6).
- Implement systemwide changes: train front desk personnel and medical staff who work with EHRs and answer office phone calls to be aware of and advocate for the confidentiality of adolescent patients as they transition into the adult health care system (Box 3).

Box 3. Training and Preparing Staff on Questions of Adolescent Confidentiality

It is helpful to conduct staff sensitivity training on the following topics:

1. Comfort with issues regarding adolescent sexuality
2. Knowledge about confidentiality issues, including state and local laws
3. How to provide relevant information to parents or guardians and patients about private conversation time with the adolescent patient and obstetrician–gynecologist
4. How to identify appropriate contact information for the adolescent patient (eg, personal cell phone) and parents or guardians for future follow-up
5. How to set up a “code word” to ensure the identity and security of the adolescent patient
6. Comfort with lesbian, gay, bisexual, transgender, or questioning (LGBTQ) issues and pronoun (“she”, “he”, “they”) usage

**Conclusion**

Obstetrician–gynecologists and other health care providers who care for minors should be aware of federal and state laws that affect confidentiality. Statutes on the rights of minors to consent to health care services vary by state, and obstetrician–gynecologists and other health care providers should be familiar with the regulations that apply to their practice. Useful sources of information on state laws include the Guttmacher Institute (14) and the Center for Adolescent Health & the Law (23). When feasible, obstetrician–gynecologists and other health care providers should work with government agencies and legislative bodies to eliminate or mitigate the effect of laws that unduly restrict confidential health services for minor adolescents.

Obstetrician–gynecologists and other health care providers should be active in educating their staff and patients regarding the confidentiality of services. Generally, parents or guardians and adolescents should be informed, both separately and together, that the information each of them shares with the health care provider will be treated as confidential. Additionally, they should be informed of any restrictions to the confidential nature of the relationship. Limiting parental or guardian access to information about certain personal issues such as sexuality, substance abuse, and mental health concerns allows adolescent patients to be more comfortable talking with their health care providers about these issues.

**References**


