Confidentiality for Minors

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Disclosure

- No financial interest or disclosures for today’s talk.

Echo – Adolescent Topics that We Covered

- 10/24 – **Overview on Adolescent Substance Use**
- 11/24 – **Adolescent Relationship Violence**
- 12/24 – **Gaming Disorder**
- 1/25 – **Sexually Transmitted Diseases**
- 2/25 – **Eating disorders**
- 3/25 – **Artificial Intelligence and Addiction Technology**
- 4/25 – **How to Make Your Office Adolescent Friendly**
- 5/25 – **Confidentiality for Minors**

Outline

- Confidentiality – when and how to give it
- Applying it with substance use
- How to break confidentiality when you need to

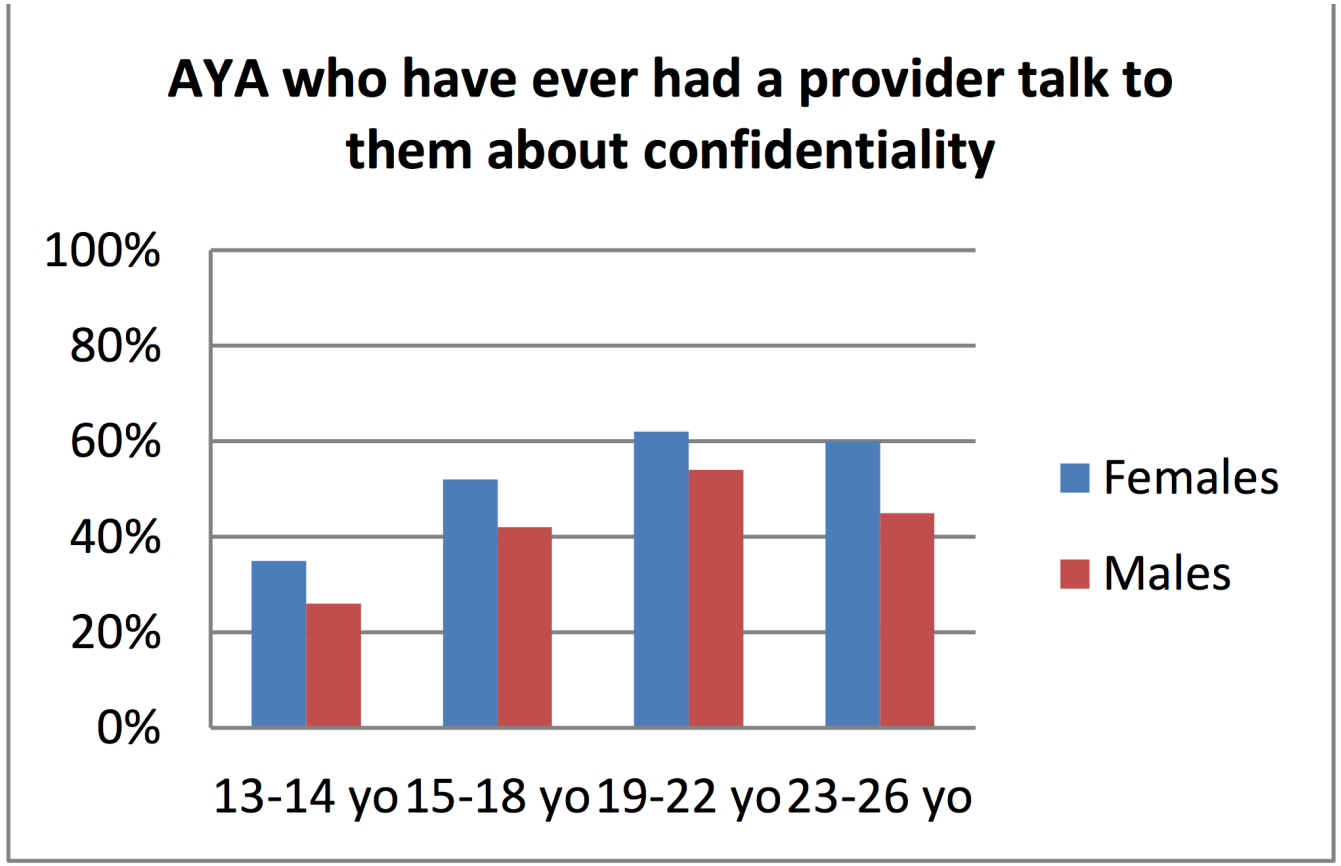
Confidentiality is Important

- 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)

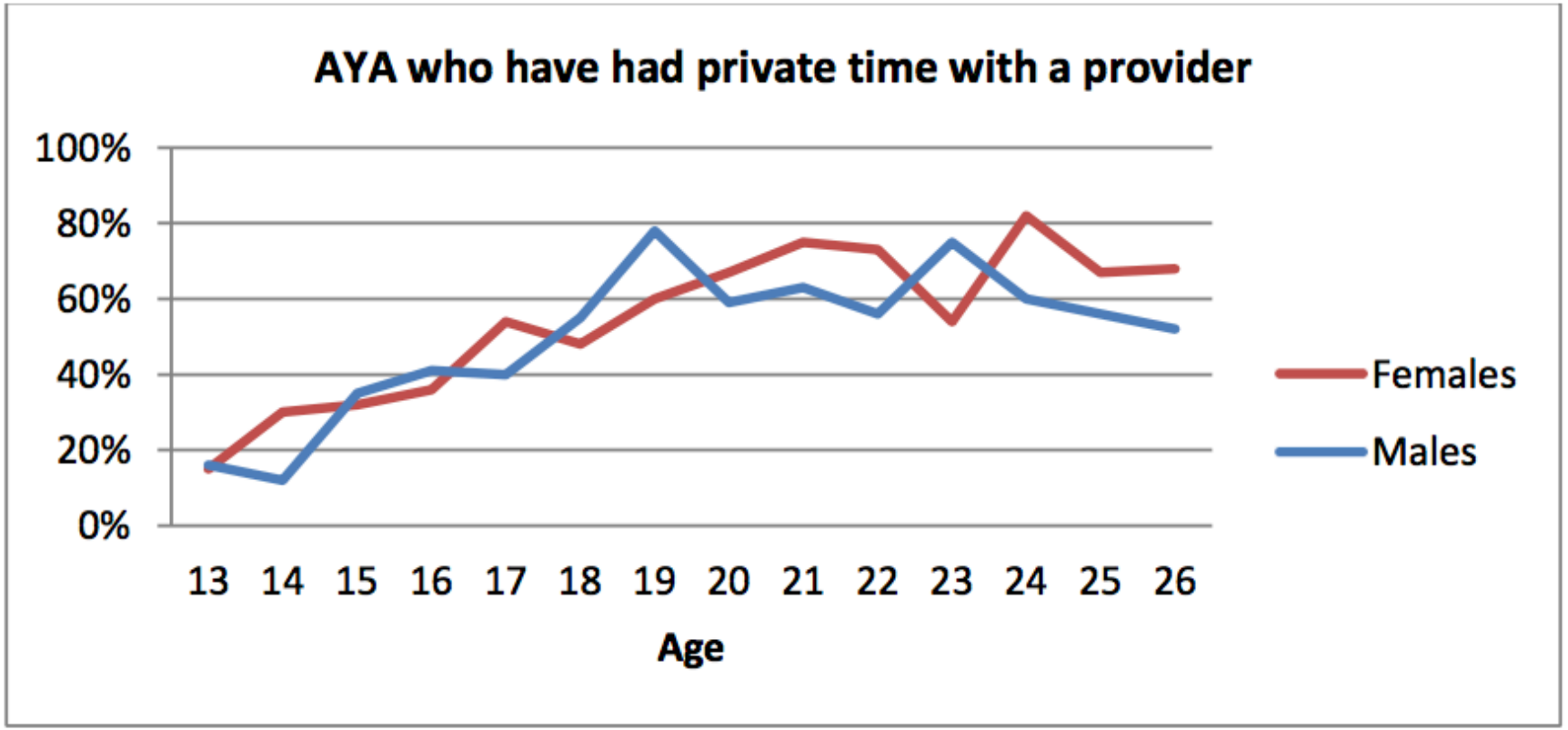
- How do you state your confidentiality policy ??

We don’t always talk about confidentiality



AAP, Adolescent Health Consortium, 3/7/17

We don’t always give them private time



AAP, Adolescent Health Consortium, 3/7/17

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**.

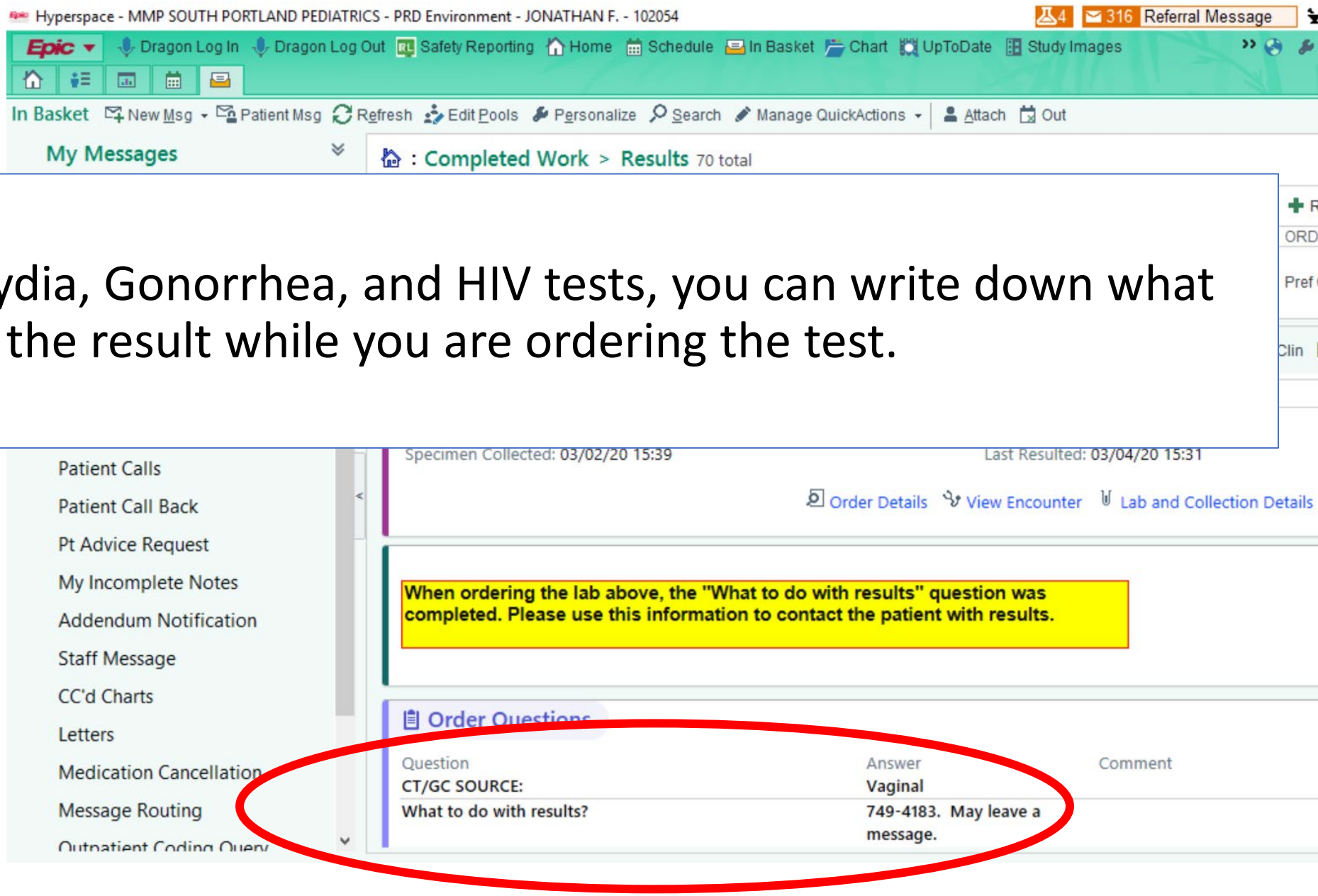
- How do you protect confidentiality?
- How do you outline the visit?

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.



Case #3

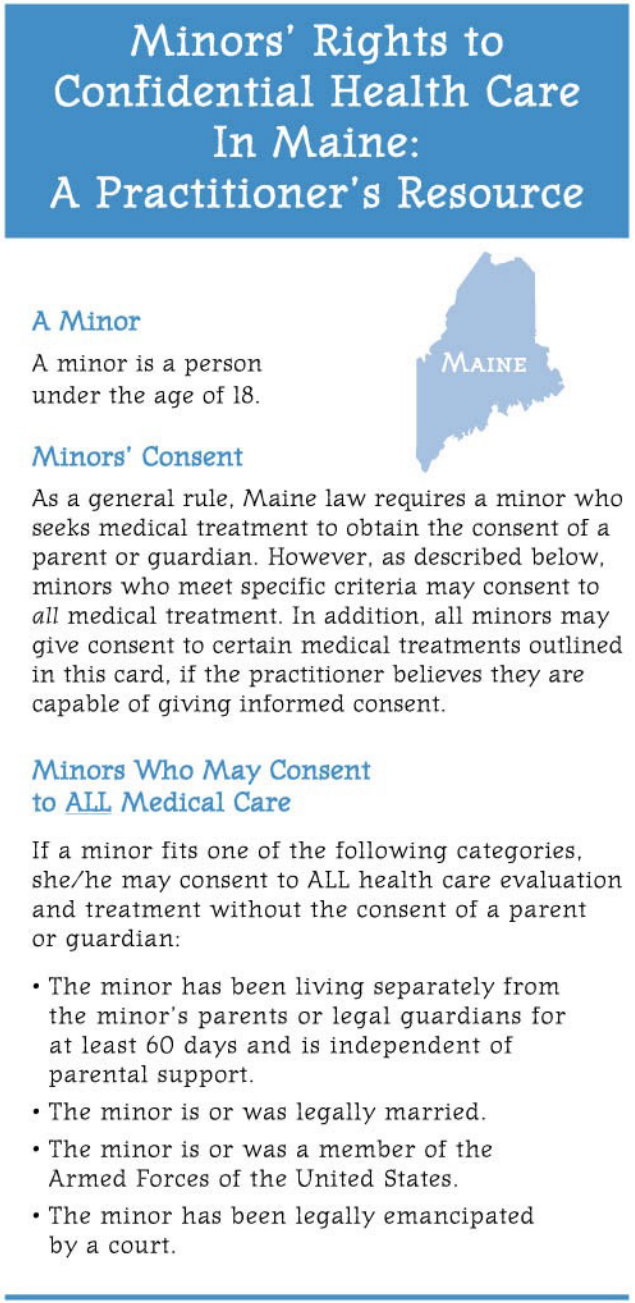
- **17** year old female with abdomen pain.
  - You interview her alone and she says she wants Birth Control.

  - 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

MAINE

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

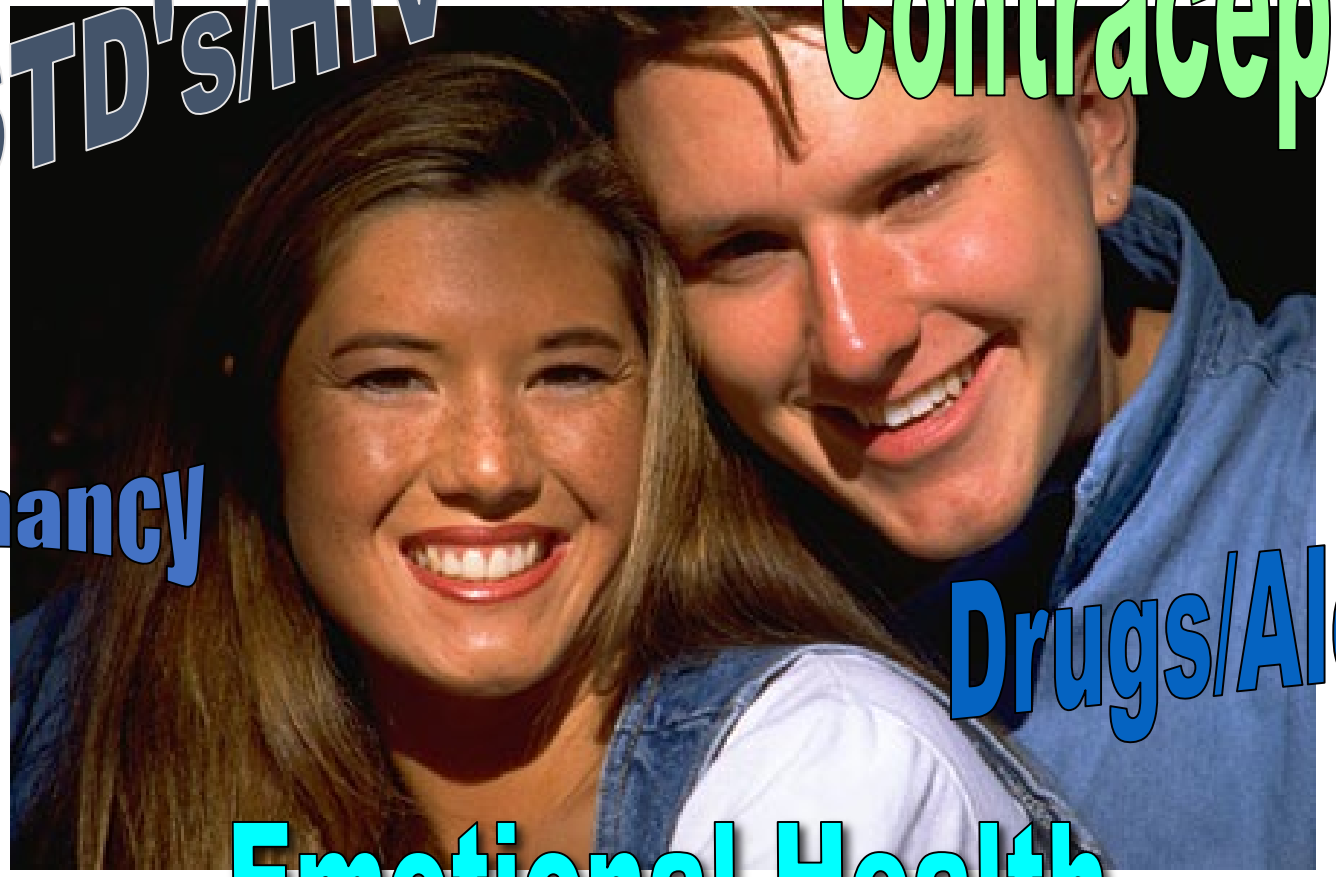
Center for Adolescent and Young Adult Health, MCMH

ACLU of Maine

Family Planning Association of Maine

Maine Family Planning

Maine Laws for Teens



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, injectible, 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.

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.

Neinstein. Adolesc Health Care: A Practical Guide.

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.

Neinstein. Adolesc Health Care: A Practical Guide.

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

Neinstein. Adolesc Health Care: A Practical Guide..

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.

Electronic Medical Record – common questions

- MaineHealth - EPIC
  - What can parents see in a minor's chart (12+)? All but labs.
  - Can a minor see their own chart? YES. Minors (12+) All but growth charts.
  - Is there a way for the parent to have access to the ENTIRE medical record? YES
    - Minors can give or rescind a parent's access to their entire medical record
    - The system can give parent global access when a minor has significant developmental disabilities.
  - Can I block one visit from the parent, minor, or both?
    - Yes. But one needs to block the visit from all or from no one.
  - Can I block parts of the minor's record, but not everything? CARES Act – Yes
    - With "Special Concerns Note", one can segment the visit so that some is blocked and some isn't.

How does Confidentiality Apply to Substance Use?

When to keep/break confidentiality

- Is the minor improving or working toward it?
- Is the drug being used super dangerous?
- Will involving parents improve the situation?

Discussion