Adolescent Substance Abuse Confidentiality Issues

Adolescent Substance Abuse Program
Center for Adolescent Substance Abuse Research
Boston Children’s Hospital

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This module is a part of a curriculum designed to introduce clinicians to adolescent Screening, Brief Intervention and Referral to Treatment (SBIRT), and provide them with tools and knowledge to efficiently and effectively address adolescent substance use in the primary-care setting. The curriculum is intended to build upon the core SBIRT Overview module, and includes:

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Learning objectives

• Review legal aspects of the adolescent substance abuse care.
• Review practical issues of the adolescent substance abuse care.
• Discuss how to help teen to invite parents to participate in his/her care.
Teen seeking treatment

- Anna is a 15 yo girl who presents for evaluation and treatment of opioid dependence.
- She would like to try Suboxone.
- She does not want her parents to know about her treatment.
Can minors consent to treatment for substance abuse without parental knowledge or consent?

• Governed by state rules
• In 42/50 states minors can consent to outpatient counseling for substance abuse without parent consent
• States differ in the types of services included

Practical issues

- Insurance carrier may notify parent if insurance is under their name.
- May be difficult for teen to manage treatment requirements without parent knowledge.
- Teens respond better to treatment when parents are involved.*

Clinical pearls

- Screen for domestic violence.
- If possible make parent involvement a treatment goal.
- Remember, minor’s consent is needed.
Teen identified by screening

- Brian is a 16 year old boy who presented for an annual physical.
- After you discussed confidentiality you do a routine SBIRT screen. He tells you that he smokes marijuana daily.
- You would like him to see a psychologist for further evaluation.
Practical issues

• Use of marijuana is usually not considered an acute risk.

• Sharing information with parents could threaten your therapeutic relationship and ability to follow him further.

• But, teens who are referred for evaluation or treatment of substance use disorders are unlikely to follow through on their own.
Clinical pearls

• Ask if parents are aware of drug use. If so, inviting parents into conversation may be easy.
• Ask permission to share information with parents. Adolescent who discloses heavy drug use may be looking for help.
• Side with the teen when presenting information: “Brian has been very honest with me and told me that he uses marijuana. He has agreed to see a psychologist to talk about this further; I will give you the referral information so that you can help coordinate”.
• Note: No disclosure is permitted unless/until he consents.
Parent requests to see medical record

- Sara is a 17 year old healthy girl who you follow for primary care.
- She drinks alcohol a few times a year but has never been drunk.
- She used marijuana on one occasion but has decided not to use again.
- Her mother wants to review her medical records.
Legal issues

HIPPA

HIPAA rules allow for parents to have access to the medical records for their minor children except:

1. When a minor has consented to the care and the consent of the parent is not required.
2. When a minor obtains care at the direction of a court.
3. When a parent agrees that a health care provider and minor may have a confidential relationship.
Legal issues
Federal Confidentiality Regulations

• For substance abuse programs, federal confidentiality regulations ("42 CFR Part 2") supersede HIPPA.

• 42 CFR part 2 specifies how records, including medical records, pertaining to substance abuse must be protected and serve as a cornerstone practice for substance abuse treatment programs across the country.

• If federal confidentiality rules apply, a minor must sign the consent form for a program to release information to his or her parent or guardian.

When do Federal Confidentiality Laws apply?

Federal confidentiality rules supersede HIPPA for substance abuse treatment programs defined below:

(a) An individual or entity (other than a general medical care facility) which holds itself out providing, and provides, alcohol or drug abuse diagnosis, treatment or referral for treatment; or

(b) An identified unit within a general medical care facility which holds itself out as providing, and provides, alcohol or drug abuse diagnosis, treatment or referral for treatment; or

(c) Medical personnel or other staff in a general medical care facility whose primary function is the provision of alcohol or drug abuse diagnosis, treatment or referral for treatment and who are identified as such providers.


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<th>42 CFR Part 2</th>
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<td>Programs may not use or disclose any information about any patient unless the patient has consented in writing (on a form that meets the requirements established by the regulations) or unless another very limited exception specified in the regulations applies. Any disclosure must be limited to the information necessary to carry out the purpose of the disclosure.</td>
<td>The Privacy Rule permits uses and disclosures for “treatment, payment and health care operations” as well as certain other disclosures without the individual’s prior written authorization. Disclosures not otherwise specifically permitted or required by the Privacy Rule must have an authorization that meets certain requirements. With certain exceptions, the Privacy Rule generally requires that uses and disclosures of PHI be the minimum necessary for the intended purpose of the use or disclosure.</td>
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Clinical pearls

- Review your confidentiality policy with parents.
- Assure parents that their daughter has been screened and no further assessment is recommended at this time.
- Discuss benefits of maintaining confidentiality versus risks of breaking confidentiality.
Parent confidentiality

• Mrs. Smith accompanies her 15 year old son to a well child appointment. She asks to speak to you alone, and requests a drug test as part of a routine physical.

• You explore her concerns and she says she saw something about him using marijuana on Facebook.

• She has not told him and asks for you to keep the information confidential.
The American Academy of Pediatrics recommends that physicians refrain from ordering urine testing on competent adolescents without their knowledge and consent.

Practical issues

- Drug testing has significant limitations. A negative drug test would not rule out drug use.
- A positive drug test would support a history of drug use, but would not distinguish between single time and chronic or heavy use.
- Obtaining a drug test without consent may make it difficult to work with the adolescent in the future and could damage the relationship between child and parent.
Clinical pearls

• Encourage parents to discuss what they saw on Facebook.
• Interview the teenager alone to take a substance use history.
• If recent substance use is denied, consider suggesting a drug test to “prove it” to parents.
Acknowledgements

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