



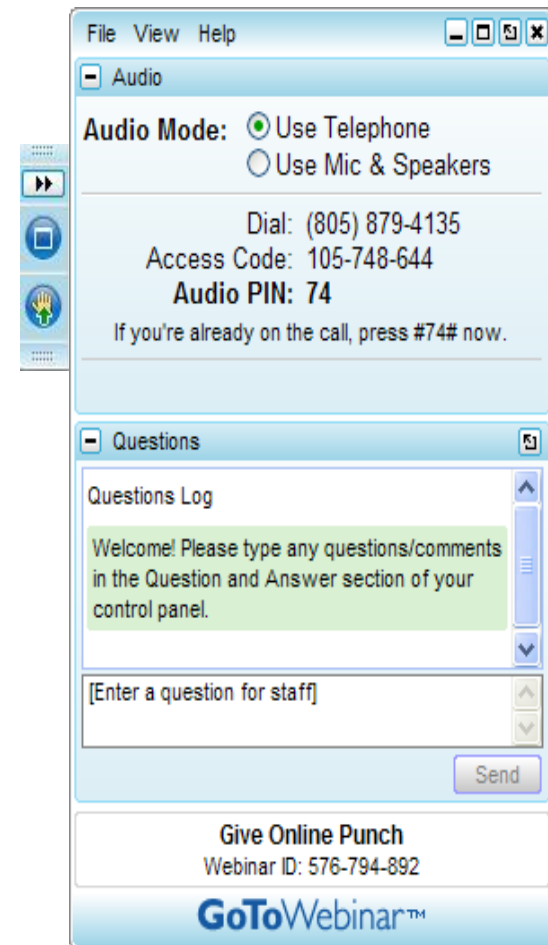
**Confidentiality:
Implications for Access to Sexual and
Reproductive Health Care**

Julie Lewis, Agata Pelka & Julia Quinn

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GoToWebinar Interface

- Maximize/minimize your screen with the chevron symbol
- Telephone participants need to enter their audio pin
- Please share your questions and knowledge!
 - Ask a question using the questions log. We will answer as many questions as possible!



Presentation Outline

- Importance of confidentiality to teens / young adults
- Points of Compromise
 - Consent Requirements
 - Federal laws: HIPAA, Medicaid, Title X & ERISA
- Overview of state laws and confidentiality protections in select Data Project states
 - California, Georgia, Idaho, Massachusetts, Oregon, Pennsylvania, Texas, Washington
- Potential Solutions

Have patients asked you about confidentiality concerns regarding their care or billing of their care?

(A) Yes

(B) No

Tensions with consumer protections

- Consumer protection advocates want more billing transparency to help patients understand service charges, make insurance companies accountable for payment and better inform consumers of their coverage.
- More detailed explanations of benefits (EOBs) are a way to ensure consumer protection, but they compromise confidentiality.

Why is confidentiality important

- Confidentiality is a concern for everyone, but certain populations experience heightened concerns and require particularly strong protections.
 - Individuals seeking sensitive services
 - Individuals with HIV
 - Individuals who experience sexual coercion
 - Individuals who experience domestic violence

Confidentiality is crucial to youth

- In a 2013 Kaiser survey, 71% of women between the ages of 18-24 rated confidentiality as important in accessing sexual and reproductive health care—more than any other age group.
- Deterrent effect contributes to negative health outcomes for teens and young adults.

6 Things Your Gyno Should NEVER Do During an Appointment

Like make you feel bad about your body or your choices, for starters.

6. Your gyno should never violate your confidentiality. While your gyno shouldn't talk to your parents without your consent, the law really depends on what state you live in. The best thing you can do is ask about privacy rules up front, so you'll feel comfortable opening up without fear. And if you use your parents insurance to pay for the visit, a statement might come in the mail describing the services you had. If you're on a parent's or anyone else's health insurance and you're worried about confidentiality, call the insurance company to ask about their privacy policies. They might be able to adjust the statement. And if you're really concerned, look for a **Planned Parenthood**. They'll work with you on the cost of the exam so you don't have to use insurance. "We encourage teens to speak with their parents and involve them in their visit, but understand that that's not always possible," says Dr. McDonald-Mosley. But no matter who your gyno is, your best bet is always to speak up and be honest so you can receive the best healthcare possible for you.

Providers get it! But...

- In a 2011 Guttmacher survey, case studies of FQHCs highlighted how a lack of guidelines and providers' confusion over relevant laws present a challenge in offering confidential care to adolescents.
- 93% of FQHCs employed at least one confidentiality measure, 59% used three or more. However, only 5% used all 5 of the practices evaluated.

Measures to provide confidentiality

- Provide written or verbal information to patients that explains their right to keep sexual and reproductive health information confidential (81%)
- Limit access to records to adolescents themselves and other formally designated individuals (84%)
- Maintain separate medical records for family planning (10%)
- Utilize a security block on electronic medical records to prevent unintended disclosures without patient approval (43%)
- Maintain separate contact information for communications regarding family planning care (50%)

Disclosures due to consent requirements

Consent for Minors

- States have special parental involvement requirements for minors seeking:
 - Contraception
 - Abortion
 - STI testing/care
 - HIV testing/care
 - Prenatal care

Do adults ever have to receive consent from a spouse or policyholder before receiving a sensitive reproductive health service?

(A) Yes

(B) No

Disclosures in insurance: documents & medical information

Are plans always required to send an Explanation of Benefits?

(A) Yes

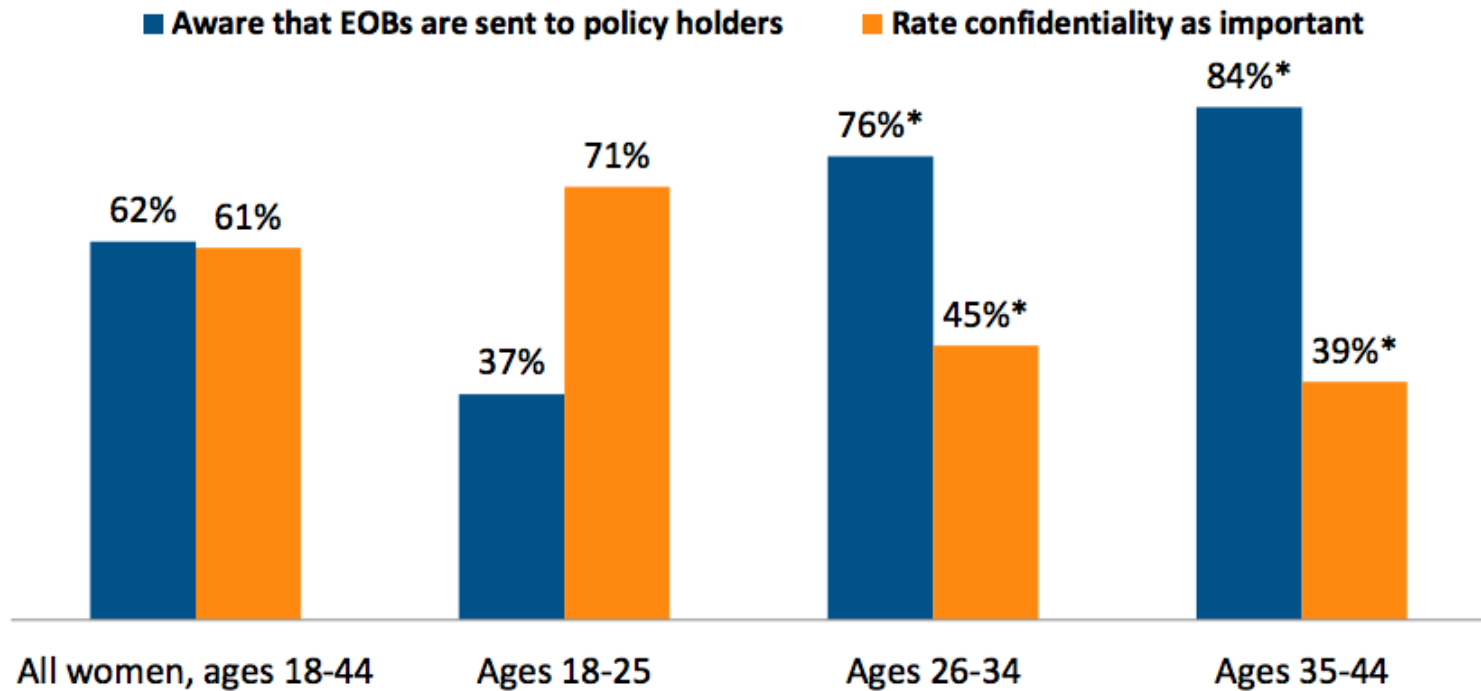
(B) No

Confidentiality for individuals insured as dependents

- Insurance communication practices, such as the issuance of **Explanation of Benefits (EOBs)**, inadvertently compromise youth confidentiality.
- Few existing laws directly address the confidentiality problems that arise during the health insurance billing and claims process.
 - The issuance of EOBs is generally either **presumed or mandated** by state law.

Figure 42

Many young women place a high value on confidentiality, but are unaware that private plans can send EOBs to parents



NOTES: Includes women who are ages 18-25 and older women who are privately insured or are covered as a dependent.
EOB - Explanation of Benefits. Important includes Very and Somewhat Important. *Indicates a statistically significant difference from ages 18-25, $p < .05$

SOURCE: Kaiser Family Foundation, 2013 Kaiser Women's Health Survey.



Can an Explanation of Benefits be sent directly to the patient rather than the policyholder?

- (A) Yes
- (B) No

Title X

- Requirement to protect confidentiality
 - Historic and mission oriented commitment to confidentiality
 - Explicit in statute, program guidance, and case law
 - Extends to any individual receiving family planning services
- Requirement to seek payment from third parties
 - Program guidance and statute
 - However, also required to make reasonable efforts to collect charges without jeopardizing patient confidentiality.

HIPAA

- When minors are allowed to consent to their care, **HIPAA** protects their information from disclosure.
 - If there is no other applicable law, the provider has discretion.
- But HIPAA allows disclosure for “treatment, payment, or health care operations.”
 - Individual may request protection of information, but provider/insurer not required to comply unless they pay in full.
 - Providers must accommodate requests to send communications by alternative means or to alternative locations, while health plans are required to accommodate such requests if reasonable and the individual “clearly states that the disclosure of all or part of [the] information could endanger the individual.”

Can a clinic bill a patient for a service without specifying on the bill what service was provided?

- (A) Yes
- (B) No

Medicaid

- **Medicaid** requires family planning services to be provided to minors on a confidential basis.
- While federal Medicaid law does not mandate that EOBs be sent, it does require verification that billed services were provided and requires MCOs to send notices when claims are denied in whole or in part.
- Disclosures may occur when states try to secure payments for services from third parties.

ERISA

- ERISA is the Employee Retirement Income Security Act of 1974
- Section 1133 of ERISA (29 U.S.C. § 1133) requires that a notice of a denial of benefits sent to a plan participant or that participant's beneficiary provide specific reasons for the denial
- Section 1133 also requires that the employee benefit plan provide such plan participant or beneficiary a reasonable opportunity for a full and fair review of the decision to deny the claim

Confidentiality Laws in Data Project States: Sensitive Services

- Minors may consent to all contraceptive services in CA, GA, ID, MA, OR, and WA;
 - PA allows HS grads and minors 14 years and older to consent
 - TX has some of the most restrictive laws in the nation
- In all of the above states, minors may consent to STI services, prenatal care, and adoption services without parental consent
- In California, Oregon, and Washington, there is no parental involvement requirement for abortion services

Confidentiality Laws in Data Project States: Generally

- California and Texas state law require that an EOB be sent; Texas specifies the recipient
- Notice of denial of claims
 - Sent to insured/beneficiary: California*, Georgia, Idaho, Texas
 - Sent to health care provider: California, Idaho, Texas
 - Sent to claimant: California, Georgia, Washington
 - States that require explanation of the denial: **Idaho**, Massachusetts, Oregon, Pennsylvania, **Texas**, Washington
- Requests for additional information

Confidentiality Laws in Data Project States: Generally

- Payment of Claims
 - Made to insured/policy-holder: Georgia, Idaho, Massachusetts, Oregon, and Pennsylvania
 - Made to provider: Georgia, Texas
 - Made to claimant: Pennsylvania, and Washington
 - Explanation required: Idaho and Massachusetts
- Divorce and Child Custody Issues
 - Who can file claims? Receive notices? Receive payment?
- Acknowledgment of Claims

New Concerns About Confidentiality

- California: 7 new parental notification initiatives on the ballot for 2016
 - Exception for abuse victims is illusory
- Texas: Law now in effect restricting judicial bypass
 - In October 2015, the Texas OIG raided several Planned Parenthood clinics and demanded thousands of pages of confidential patient information and billing records

Are plans required to comply with requests to keep information confidential?

(A) Yes

(B) No

State Efforts to Protect Confidentiality

- No EOB to the policyholder unless expressly authorized by patient
 - **Washington (for minors)**; Colorado (for dependent adults)
- No EOB for sensitive services (upon request)
 - **California (for minors)**; Washington (for adults)
- No remaining balance, no EOB sent to policyholder
 - New York, Wisconsin & **Massachusetts**
- No EOB for STI screenings/treatment
 - Connecticut, Delaware, Florida

California

KEEP IT CONFIDENTIAL.

If you are covered under another person's health plan in California—like your parent's or spouse's—your health information will not be kept private unless you...

TAKE ACTION.

It's easy: **Submit a [Confidential Communication Request](#) to your health plan provider today.**

TAKE 3 SIMPLE STEPS.

1 Know your health plan and policy number

2 Contact your health plan

3 Submit a confidential communications request

The Confidential Communication Request form is available for download in [English](#) and [Spanish](#).

FIND YOUR HEALTH PLAN

Select a Plan 

FOR PROVIDERS

You can do this if you:

- Get sensitive services like birth control, STD/pregnancy tests or mental health care
- Think you could be at risk if your private health information about any health care service was shared

SHARE THESE RESOURCES



Questions?

DOWNLOAD
CONFIDENTIAL COMMUNICATIONS
REQUEST FORM

NEED HELP?

KEEP IT CONFIDENTIAL.

Confidential Communications Request

As of January 1, 2015, California law* requires insurers to honor this request

TO: _____
Name of Your Health Insurance Company

FROM: _____
Your Name

Your Date of Birth Your Insurance Member #

I am contacting you to request: (Please mark one or both statements below)

_____ All medical information about the sensitive services I receive using my health insurance including where and when I receive health care be sent directly to me and not to my family members. ("Sensitive services" include sexual and reproductive health care, mental health, sexual assault counseling and care and treatment for alcohol and drug use.)

_____ All information about the health care I receive using my health insurance including where and when I receive care be sent directly to me and not to my family members because disclosure of all or part of this information could lead to harm or could subject me to harassment or abuse. (You will never be asked to explain why you feel this way.)

I request that communications containing any of the above information be sent to me as available as follows:

(Please mark the way(s) that are safe for you to receive information. If you mark more than one way, put a "1" next to your first choice, "2" next to your second choice and so on. Your health plan is required to contact you through at least one of the communication methods noted below.)

_____ Email to the following email address: _____

_____ Message through my online insurance patient portal: _____

_____ Text to the following telephone #: _____

_____ U.S. Mail at the address below

_____ Other (please describe): _____

IMPORTANT! The following two sections MUST be completed:

1. If a communication cannot be sent in the above selected format(s) and/or I prefer receiving information by U.S. mail, please use the address below:

2. Is there a phone number or email we can use to contact you if we have questions regarding this request?

This request is valid until I submit a revocation or a new request.

Signature: _____ Date: _____

*As of January 2015, California law obligates health insurers to honor a Confidential Communications Request (CCR) when the CCR requests that "sensitive services" information, as defined in the law, be kept from the policyholder, or when the CCR requests confidentiality of all health service information because disclosure of the information to the main policy holder could lead to harm or harassment. Under California law, when a CCR is submitted, health insurers must send communications directly to the insured individual noted above and NOT the holder of the policy. To comply with California law, health insurers must implement CCRs within 7 days of their receipt by electronic transmission or 14 days of receipt by first class mail. See Cal. Civ. Codes 56.05 and 56.107 and Cal. Insurance Codes 791.02 and 791.29.

Possible Approaches and Solutions

- **Medicaid: Alternatives to EOBs?**
 - Federal regulations do not require Medicaid managed care plans to use EOBs
- **New Laws and Regulations**
 - State laws that ensure confidentiality for dependents seeking medical care may be useful models for a comprehensive approach
 - Adopting an “opt-in” approach for EOBs
- **Ways to prevent inadvertent disclosures**
 - Ask patients for alternative contact information
 - Alternate methods of payment



THANK YOU

1444 I Street NW, Suite 1105
Washington, DC 20005
ph: (202) 289-7661
fx: (202) 289-7724
nhelpdc@healthlaw.org

3701 Wilshire Blvd, Suite #750
Los Angeles, CA 90010
ph: (310) 204-6010
fx: (213) 368-0774
nhelp@healthlaw.org

101 East Weaver Street, Suite G-7
Carrboro, NC 27510
ph: (919) 968-6308
fx: (919) 968-8855
nhelpnc@healthlaw.org

www.healthlaw.org