Protecting Patient Confidentiality: What you Need to Know

Emily Elman, Reproductive Health Program
Liz Thorne, Adolescent and School Health Program

February 18, 2016
Agenda

• Confidentiality: background and implications
• HB 2758: overview of Oregon’s new law
  – What it does
  – What it doesn’t do
• Implementing the law: nuts and bolts
• Supporting your clients
• Available resources
• Questions and TA needs
Poll – Where do you work?

- Local county health department
- School-based health center
- Reproductive health/family planning clinic (e.g. Planned Parenthood)
- Federally-qualified health center
- Other
Confidentiality Described

- Fundamental principle in health care
- Who is impacted?
  - Adolescents
  - Young adults
  - Dependents on family health insurance policies (children, spouses, domestic partners)
- Privacy concerns around:
  - Mental health
  - Substance use
  - Sexual and reproductive health
  - Experiences of violence
Implications

**PRIVACY PROBLEMS**

 Teens are far more likely than older women to cite confidentiality as the reason they are not planning to use their insurance coverage to pay for the care they receive at reproductive health–focused health centers.

<table>
<thead>
<tr>
<th>Age Group</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 20</td>
<td>31%</td>
</tr>
<tr>
<td>20–29</td>
<td>15%</td>
</tr>
<tr>
<td>30 and over</td>
<td>4%</td>
</tr>
</tbody>
</table>

*Source: reference 5.*

Guttmacher, 2013
Impact on Providers

A 2015 survey of health care providers in Oregon found:

- 32% reported redirecting care to another provider or setting
- 38% reported avoiding coding and/or billing for services
- 41% reported a financial impact on their health center/practice because they cannot or do not bill a clients insurance (private or OHP)
The Tangled Landscape

- ACA - upping the ante
- Federal law
  - HIPAA
  - ERISA
  - Title X
- State law and regulations
- Agency/corporate policy
- Professional ethical obligations
- Best practice recommendations
HB 2758: Oregon’s New Law

What the law **DOES**:

- Requires **commercial** health insurance carriers to permit any member the right to request that protected health information be sent directly to them instead of the person who pays for their health insurance
- Standardized request form
- Types of communication covered include:
  - An explanation of benefits (EOB)
  - Name and address of provider, description of services provided, or other visit information
  - Claim denial
  - A request for additional information about a claim
  - A notice of a contested claim
HB 2758: Oregon’s New Law

What the law does **NOT** do:

- Apply to clients with Oregon Health Plan (Medicaid).
- Suppress an EOB or other communication. Only redirects it to another location.
- Impact deductible or out-of-pocket maximum amounts.
- Impact communication generated by **providers**.
- Change access to information on online patient portals.
Important Points to Consider and Share

- **7 Days**
- **30 Days**
Important Points to Consider and Share

Client should confirm with insurance company that request has been received and processed.

If the confidential communication request has not been processed, information about the visit may be sent to the policy holder.
Questions?
Insurance Division Website

http://tinyurl.com/ORPatientPrivacy

Patient right to privacy

Oregon law guarantees you the right to have protected health information sent directly to you instead of to the person who pays for your health insurance plan (the primary account holder). You can have this information shared with you directly through a number of different ways:

- Email
- Telephone
- At a different mailing address

To make this request, complete, sign, and send this form to your insurer. You can send it by mail, fax, or email. Contact your insurance company to find out where to send your form.

Download the Oregon Request for Confidential Communication form.

PLEASE NOTE: If you change insurance companies, you must make a new request to the new insurance company. Until your request is processed, the insurance company may continue to send your protected health information to the person who is paying for your health insurance.

What is protected health information?

Protected health information is individually identifiable health information your insurer has or sends out in any form. Confidential communication of protected health information covered under this request includes:

- The name and address of a provider, a description of services provided, and other visit information
- An explanation of benefits notice
- Information about services, and any amount that you owe

Key links:

- Information for health care providers
- Links to insurer confidentiality information
Confidential Communication Request Form

OREGON
REQUEST FOR CONFIDENTIAL COMMUNICATION

You have the right to have protected health information sent to you instead of the person who pays for your health insurance plan. You can ask to be contacted:
- At a different mailing address
- By email
- By telephone

To make this request, complete, sign, and send this form to your insurer. You can send it by mail, fax, or email. To find contact information for your health insurance plan, visit http://www.oregon.gov/HEALTH/Insurance/Pages/Confidential-Communications.aspx.

Please note: It can take up to 30 days from the date your insurer receives your hard-copy request to process it. Requests made by telephone, by email, or over the Internet must be implemented by your insurer within seven days of receipt.

Name of your health insurance company

Your name

Your date of birth
Your insurance member # (if available) Your insurance group # (if available)

Please tell us how we should contact you. 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 must contact you through at least one of the communication methods noted below:

☐ Email to the following email address:

☐ U.S. Mail at this address:

☐ Text to the following phone #

☐ Message through online insurance patient portal:

☐ Phone call to the following number

IMPORTANT! The following two sections MUST be completed:

1. If a communication cannot be sent in the above selected formats, or if you want information by U.S. mail, provide the address below:

2. Is there a phone number or email to use if there are questions regarding this request?

Signature

Date

PLEASE NOTE: If you change insurance companies, you will need to make a new request to the new insurance company. Until your request is processed, the insurance company may continue to send your protected health information to the person who is paying for your health insurance.

A maximum of 10 2004-05259
Website Tour

http://tinyurl.com/ORPatientPrivacy
Supporting Your Patients

• Ensure all clinic staff are aware of and understand the new law.
• Incorporate discussions about confidentiality and the new law throughout the patient’s visit.
• Consider clinic processes to assist patients in requesting confidential communication.
• Have hard-copy versions of the form available throughout the clinic.
Helping Protect Patient Privacy

- Develop/maintain clear clinic policies on confidentiality (including its limits and ways in which to communicate policies to patients)
- Map patient experience to identify gaps where sensitive information could be inadvertently disclosed
- Routinely ask patients how they would like to be contacted
- Understand CCO policies regarding communications to members
Questions

• Confidential communication request process
• Your role
• Challenges
Available Resources

• Protecting Patient Privacy: The Oregon Confidential Communication Request and What Providers Need to Know
• Client education poster for clinics in process
• Minor Rights: Access and Consent to Health Care
• California Keep It Confidential www.myhealthmyinfo.org
• Confidential and Covered, National Family Planning and Reproductive Health Association (NFPRHA) www.confidentialandcovered.com
What are YOUR TA Needs?
Thank You!

Emily Elman, MPH
Reproductive Health Policy and Research Specialist
emily.l.elman@state.or.us

Liz Thorne, MPH
Adolescent Health Policy and Assessment Specialist
elizabeth.k.thorne@state.or.us
971-673-0377