LGBTQ Youth: Providing Care, Protecting Confidentiality

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Continuing Medical Education Disclosure

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Supporting LGBTQ Youth: Providing Affirmative and Inclusive Care Across the Spectrum of Gender and Sexual Identity

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Learning Objectives

At the end of this presentation, learners will be able to:

1. Understand concepts of sexual and gender identity in a developmental context
2. Identify the unique challenges and health disparities experienced by lesbian, gay, bisexual, transgender, queer (LGBTQ) children and adolescents
3. Become familiar with strategies to create affirming and competent clinical spaces, history taking, physical exam, screening, and communication with LGBTQ youth and their families
4. Access additional resources for improving the health and well-being of young LGBTQ patients
Fenway’s Roots

Fenway Health
- Independent 501(c)(3) FQHC
- Founded 1971
- Mission: To enhance the wellbeing of the LGBT community as well as people in our neighborhoods and beyond through access to the highest quality health care, education, research and advocacy
- Integrated primary care model, including HIV services and transgender health

The Fenway Institute
- Research, Education, Policy
LGBT Education and Training

The National LGBT Health Education Center offers educational programs, resources, and consultation to health care organizations with the goal of providing affirmative, high quality, cost-effective health care for lesbian, gay, bisexual, and transgender (LGBT) people.

- Training and Technical Assistance
- Grand Rounds
- On-Line Learning
  - Webinars and Learning Modules
  - CEU and HEI Credit
- Resources and Publications
Why is caring for LGBT youth important to your practice?

- Unfortunately, many LGBT youth are at higher risk for poor health outcomes.
- Health risks are not due to an individual’s sexual orientation or gender identity, but rather result from the stigma and isolation they face in light who they are.
- As a provider, you can play a major role in changing this experience.
- Since 5-10% of individuals identify as LGBTQ you certainly care for these youth in your practice.
What’s in a word?
The Genderbread Person v3.3

Gender is one of those things everyone thinks they understand, but most people don’t. Like inception. Gender isn’t binary. It’s not either/or. In many cases it’s both/and. A bit of this, a dash of that. This tasty little guide is meant to be an appetizer for gender understanding. It’s okay if you’re hungry for more. In fact, that’s the idea.

Identity

- Woman-ness
- Man-ness

Attraction

- Feminine
- Masculine

Expression

- Female-ness
- Male-ness

Plot a point on both continua in each category to represent your identity, combine all ingredients to form your Genderbread.

4 (of infinite) possible plots and label combos.

For a bigger bite, read more at http://bit.ly/genderbread

Sexually Attracted to

- Nobody
- Women/Females/Femininity
- Men/Males/Masculinity

Romantically Attracted to

- Nobody
- Women/Females/Femininity
- Men/Males/Masculinity

In each grouping, circle all that apply to you and plot a point, depicting the aspects of gender toward which you experience attraction.
Gender Identity and Gender Expression

- **Gender identity**
  - A person's internal sense of their gender (do I consider myself male, female, both, neither?)
  - All people have a gender identity

- **Gender expression**
  - How one presents themselves through their behavior, mannerisms, speech patterns, dress, and hairstyles
  - May be on a spectrum
The T in LGBT: Transgender

- Transgender
  - Umbrella term
  - Gender identity not congruent with the assigned sex at birth
  - Alternate terminology
    - Transgender woman, trans woman, male to female (MTF)
    - Transgender man, trans man, female to male (FTM)
  - Non-binary, genderqueer
    - Gender identity is increasingly described as being on a spectrum
More Terminology

- “LGBTQQI2SAA”
  - Lesbian, Gay, Bisexual, Transgender, Queer, Questioning, Intersex, 2-Spirit, Ally, Asexual

- Terms evolve along with cultural trends
  - ‘Queer’ is now widely used by youth as a label of their sexual orientation and/or gender identity
  - ‘Queer’ and ‘genderqueer’ or ‘gender expansive’ reject binary categorizations of gender and sexuality – may be seen as more fluid

- Non-traditional pronouns
  - Some refer to selves as: yo, ze, zhe, hir, they
Terminology Matters: Language Validates Identity

- Terms are constantly changing
- Sometimes difficult to know what is appropriate or could be offensive
- Dealing with this issue in a caring and thoughtful way is very important since for many young people how we use language validates their identity
- Ask in an open and respectful way which term(s) and pronouns are preferred
Developmental Challenges Specific to LGBTQ Youth

- Establishing a comfortable sense of sexual identity and/or gender identity
- Deciding when and to whom to “come out” to
- Coping with external homo/transphobia (bullying, harassment)
- Coping with internal homo/transphobia
- Finding supportive peers, role models, family members
LGBTQ Youth Face Health Disparities

Keeping Context in Mind

Stigma, discrimination and marginalization of LGBTQ youth creates stressors, which can help to explain increased health risk behaviors and behavioral health issues.

IOM 2011; Rosario et al 2009
Barriers to Accessing Health Care

- Some youth have difficulty finding LGBTQ-welcoming health care organizations.
- Some youth delay seeking care because they believe providers will not understand LGBTQ needs.
- LGBTQ youth are more likely to be homeless, and/or estranged from family which may lead to other barriers including:
  - Lack of transportation
  - No insurance or coverage under family member not supportive of identity.
Creating a Welcoming Space from the Front Door

- Starts before youth enters your exam room
- Consider displaying LGBT positive/inclusive messages in windows and on posters
- Forms and materials reflect diversity of LGBT people and their relationships
- Train registration staff to provide respectful, non-judgmental service regardless of identity
Creating a Welcoming Space from the Front Door

- Train all staff on LGBT health and competencies
- Offer single stall, gender-neutral bathrooms
- Include gender identity and sexual orientation in non-discrimination policies
- Develop office policy that respects adolescents’ legal right to confidential care
- Research Safe Space or Safe Zone training
The Clinical Visit
The Goals of LGBTQ Adolescent Health Care

Same as for all adolescents:

- To promote healthy development
- To promote social and emotional well-being
- To promote and ensure physical health
Discussing Identity on their Terms

- Youth may not disclose their sexual and gender identity to their clinician (that’s okay)
- Youth sometimes reject labels, and may see their sexual or gender identity as fluid
- Let patients use their own terminology for their identity, even if it does not match their sexual behaviors
Taking a Strength-based Psychosocial History: SSHADESS

- HEADS mnemonic used to screen for most causes of morbidity and mortality in teens
- SSHADEESS reorders to discuss easier things first and is strength-based
  - Strengths
  - School
  - Home
  - Activities
  - Drugs
  - Emotions/Depression
  - Sexuality
  - Safety
- Confidentiality
Discussing Sexual Health and Sexual Identity

- Practice, practice- If you are uncomfortable asking, youth may not be comfortable giving honest answers
- Avoid assumptions
  - Address pregnancy prevention with women based on sexual history
- Be specific and complete- Consider using Attraction / Behavior / Orientation framework
Sexual Risk Counseling

- Address STI/HIV and pregnancy risks based on sexual activity, not identity
  - Identity and behavior do not always align
  - Teen pregnancy does occur in lesbian and bisexual girls and is also an issue for gay and bisexual boys
    - In fact recent study showed higher risk of pregnancy among LGBT youth
  - Lesbians and bisexual girls may be less likely to use contraceptives

Saewyc et al 2008; Travers et al 2011
Safety, Violence & Victimization – Screening

- Ask generally how things are at home, school, and with peers, and also about “feeling safe” in these settings. Have resources and referrals on hand.
  - How are things going at home or at school?
  - Do you feel safe when you are at home?
  - Do you feel safe in your neighborhood and at school?
  - Has anyone ever picked on you? Can you tell me about it? Was this because you are LGBTQ?
  - At any time, has anyone hit, kicked, choked, threatened, forced him or herself on you sexually, touched you in a sexual way that was unwanted, or otherwise hurt or frightened you?
Physical Exam/Touch

- Assess for abuse/forced sex prior to invasive exam
- Exam can be particularly traumatic for trans youth who may not identify with their anatomy
- Explain why and how you will examine sensitive areas
- Consider deferring sensitive parts of exam while building trust to make youth more comfortable
- Suggest strategies to increase comfort
  - Listen to music or hold someone’s hand during a pelvic exam
Supporting Youth Who Are Coming Out

- **Safety First.** May not be right time if risk of violence or lost housing/financial support
- Who to tell first? Help youth pick someone whom they trust and will be supportive
- Help youth understand that feelings will change over time and initial bad reactions do not mean they will be that way forever
- Consider role-play to practice and formulate back-up plan if reaction different from expected
Addressing Concerns of Parents of LGBT Youth

▪ Common questions
  ▪ “Did I do something to cause this?”
  ▪ “What about having children?”
  ▪ “It’s going to be hard for him/her”
▪ Focus on the positive and provide resources and support
▪ Be clear that studies show that parental love and support lead to better physical and mental health outcomes
Provider Resources

- AAP Reaching Teens Strength-Based Communication Strategies To Build Resilience and Support Healthy Adolescent Development: http://ebooks.aappublications.org/content/reaching-teens-strength-based-communication-strategies-to-build-resilience-and-support-healthy-adolescent-development
- AAP Policy Statement - Office-Based Care for Lesbian, Gay, Bisexual, Transgender, and Questioning Youth: http://pediatrics.aappublications.org/content/early/2013/06/19/peds.2013-1282
- World Professional Association of Transgender Health: http://www.wpath.org
- AAP Section on LGBT Health and Wellness: https://www.aap.org/en-us/about-the-aap/Committees-Councils-Sections/solgbt/Pages/home.aspx
- GLSEN Safe Space Kit: http://www.glsen.org/safespace
Practice Guidelines

- The Endocrine Society, 2009
  - Recommend that adolescents who fulfill eligibility and readiness criteria undergo treatment to suppress pubertal development
  - Suppression of puberty should start after the first signs of puberty, no earlier than Tanner 2-3
  - For those meeting eligibility and readiness criteria, start cross-sex hormones no earlier than 16 years old
    - Many center individualize treatment at earlier ages

Resources for LGBT Youth and Families

- Family Acceptance Project: familyproject.sfsu.edu
- Parents and Friends of Lesbians and Gays: www.pflag.org
- It Gets Better Project: www.itgetsbetter.org
- The Trevor Project (suicide prevention): www.thetrevorproject.org
- Gay Straight Alliance Network: www.gsanetwork.org
- Gay Lesbian & Straight Education Network: www.glsen.org
- KidsHealth: www.kidshealth.org
- TransYouth Family Allies: www.imatyfa.org
Hotlines for Support, Referrals

- Lesbian, Gay, Bisexual and Transgender Helpline
  617-267-9001
  Toll-free: 888-340-4528

- Peer Listening Line
  617-267-2535
  Toll-free: 800-399-PEER

- National Suicide Prevention Lifeline
  [http://www.suicidepreventionlifeline.org](http://www.suicidepreventionlifeline.org)
  1-800-273-8255
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LGBTQ Youth
Protecting Confidentiality

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Learning Objectives

- Explain consent & confidentiality laws related to sexual & reproductive health care and other health services for minors & young adults
- Explore application of the minor consent laws to LGBTQ youth
- Explore confidentiality issues related to sexual orientation & gender identity for LGBTQ minors & young adults
Overview

- Series of confidentiality webinars on SBHA website
- Rationale & research findings re confidentiality
- Legal requirements for consent – state laws
- Legal requirements for confidentiality – state & federal laws
- Relationship between consent & confidentiality
- Special disclosure issues
- Considerations for LGBTQ youth
Parents & Adolescents

- Voluntary communication
  - Supportive parents
  - Adolescent disclosure
- Mandated communication
  - Dysfunctional families
  - Adolescent autonomy
- Interests of adolescents & parents
- Heightened risks & challenges for some LGBTQ youth
Confidentiality Protection: Rationale

- Avoid negative health outcomes
  - Protect health of adolescents
  - Protect public health
- Encourage adolescents to seek needed care
- Supported by research findings
Research Findings:
Focus of Privacy Concerns

- Many adolescents have privacy concerns
- Adolescents & young adults are concerned about disclosure of information to their parents related to
  - Sexual behaviors
  - Substance use
  - Mental health
- LGBTQ youth have additional concerns about disclosure of
  - Sexual orientation
  - Gender identity
Research Findings: Effect of Privacy Concerns

- Privacy concerns can influence:
  - Whether youth seek care
  - When youth seek care
  - Where youth seek care
  - How openly youth talk with health care provider
Relationship of Consent & Confidentiality

- “Consent & confidentiality”
- Confidentiality & disclosure in consent laws
- Linkage
  - Clinical practice
  - Ethical guidelines
  - Professional policies
  - State & federal laws
History of Minor Consent Laws

- Earliest laws enacted in 1950s
- Expansion in 1960s & 1970s
- Stability in 1980s
- Attempts to limit in 1990s & beyond
Minor Consent Laws: 50 States & DC

- Exceptions to parental consent for minors
  - Minor consent laws
  - Treatment without prior consent (e.g. emergencies)

- Minor consent laws in all states
  - Minor’s status
  - Services minor is seeking
Consent Laws Based on Status

- Emancipated minor
- Minor over a certain age
- Mature minor
- Minor living apart from parents or homeless minor
- Married minor
- Pregnant minor
- High school graduate
- Minor in the armed services
- Incarcerated minor
Consent Laws Based on Services: Pregnancy Related Care

- “Pregnancy related care”
- Minors usually may consent
  - Contraceptive services
  - Prenatal & maternity care
- Minors often may not consent
  - Sterilization
  - Abortion, without a court order re maturity or best interest
Consent Laws Based on Services: STD, HIV, MH, & Substance Use

- STD/VD (prevention), diagnosis, & treatment
- Reportable disease (prevention), diagnosis, & treatment
- HIV/AIDS testing & treatment
- Drug or alcohol counseling & treatment
- Outpatient mental health services
- Diagnosis & treatment for sexual assault
Consent Issues for LGBTQ Youth

- **Status**
  - LGBTQ not specified as status in minor consent laws
  - Many LGBTQ youth occupy status covered by minor consent laws

- **Services**
  - LGBTQ services not specified in minor consent laws
  - Many LGBTQ youth need services covered by minor consent laws
Confidentiality Laws

- State Laws
- Federal Laws
- Intertwined, especially by HIPAA Privacy Rule
State Confidentiality Laws

- State constitutional right of privacy
- Minor consent
- Medical confidentiality & medical records
- Patient access to health records
- Professional licensing
- Evidentiary privileges
- State funding programs
- Education records
Federal Confidentiality Laws

- Federal constitutional right of privacy
- Federal funding programs
  - Title X
  - Medicaid
- Regulations for federal drug & alcohol programs
- HIPAA Privacy Rule
- FERPA
- Importance of state laws in application of federal laws
HIPAA Privacy Rule: Minors as Individuals

- Minors are treated as “individuals” under HIPAA Privacy Rule in 3 circumstances:
  - Minor has the right to consent and has consented; or
  - Minor may obtain care without parental consent and the minor, a court, or someone else has consented; or
  - Parents accede to confidentiality agreement between minor and health care provider.
HIPAA Privacy Rule: Rights of Minors as Individuals

- Minor acting as “the individual” can exercise rights re “protected health information”

- Right of the individual
  - Access to information
  - Control over disclosure
  - Request special privacy protections
    - Restrictions on disclosure
    - Confidential communications
    - Relationship to endangerment
HIPAA Privacy Rule: Special Privacy Protections

- Individuals may request restrictions on disclosure
  - Providers & health plans not required to comply unless
    - Agree to do so
    - Care is paid in full

- Individuals may request confidential communications by alternative means or at alternative locations
  - Providers must grant reasonable requests, may not require endangerment
  - Health plans must accommodate reasonable requests if individual claims endangerment
HIPAA Privacy Rule: Disclosure to Parents

- If state or other law requires it, provider must disclose
- If state or other law prohibits it, provider may not disclose
- If state or other law permits it, provider has discretion to disclose
- If state or other law is silent or unclear, provider has discretion to grant or withhold access
HIPAA Privacy Rule: Disclosure to Others

- Disclosure without authorization
  - Treatment
  - Payment
  - Health care operations
  - Other exceptions (e.g. child abuse reporting)

- Disclosure with authorization
  - To anyone else
  - Authorization of young adult
  - Authorization of parent?
  - Authorization of minor?
Confidentiality Protections: State Minor Consent Laws

- Explicit protection of confidentiality in minor consent laws
- Reference to minor consent laws in other statutes
- Grant of discretion to physician or health care professional to disclose information
  - Disclosure if necessary to protect health of minor
  - No disclosure if minor’s health would be harmed
Special Disclosure Issues

- Parental notification/consent requirements
- Child abuse reporting statutes
- Disclosure requirements when minor is dangerous to self or others
- Billing & health insurance claims
Parental Notification/Consent

- Services outside minor consent laws require parental consent which limits confidentiality
- Most states require parental notification or consent for abortion with judicial bypass and emergency exceptions
- Some minor consent laws require parental notification but contain exceptions if health of minor would be harmed
Child Abuse Reporting

- Every state has child abuse reporting laws
  - Physical abuse
  - Emotional abuse
  - Sexual abuse, exploitation, and/or assault

- Some laws only apply if perpetrator is parent or caretaker

- Some laws require reporting of voluntary sexual activity of minors, depending on
  - Definition of sexual abuse, exploitation, or assault
  - Age of partners
  - Other factors
Danger to Self or Others

- Legal & ethical obligation of health care provider to disclose
- “Tarasoff” standard developed from case law
  - Articulated threat to identified other person
- Obligation to disclose to law enforcement, parents
Billing & Health Insurance Claims

- Federal & state laws require certain disclosures
  - Explanation of Benefits (EOB)
  - Denial of claim
- States developing protections
  - Building on HIPAA Privacy Rule
  - Redirection of EOBs, other communications
  - Controlling content of communications
  - Protections for adult dependents and/or minors
  - Broader definitions of endangerment
Conclusion

- LGBTQ youth share consent & confidentiality concerns with other adolescents & young adults
- Special considerations for LGBTQ youth
  - Disclosure of sexual orientation & gender identity
  - Heightened risk for specific health concerns, suicide
  - Heightened risk for harm at home, other settings
Resources: Consent & Confidentiality


Q&A

Type your questions into the “Q&A” box on the right hand side of your screen.

Be sure to send to the “Webinar Host” so the question can be read aloud.

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SCHOOL-BASED HEALTH ALLIANCE
Redefining Health for Kids and Teens
References


References


Durso LE, Gates GJ. Serving our youth: Findings from a national survey of service providers working with lesbian, gay, bisexual, and transgender youth who are homeless or at risk of becoming homeless. Los Angeles: The Williams Institute with True Colors Fund and the Palette Fund; 2012.


References

For more information we suggest the following resources:
Dowshen, N, Garofalo, R: Optimizing Primary Care for LGBTQ Youth. Contemporary Pediatrics October 2009