

19. Administrator for a Group Home Asks a Physician for Access to a Teenager's Medical Records



A youth with a delinquency offense is referred from the local juvenile court to a group home for adolescents. The administrator of the group home sees in the youth's records that she had tested positive for tuberculosis when she was taken into custody. At that point, she was given a chest x-ray, which the youth says was clear.

The administrator calls the physician who performed the medical evaluation and explains that she needs to see both the youth's chest x-ray results and the remainder of her medical records to ascertain whether the youth is contagious for tuberculosis before the administrator can agree to have the youth placed in the group home. The administrator also asks if the physician notified the youth's school about the fact that she tested positive for tuberculosis.

Who has the information?

The physician.

Who wants the information?

The administrator of the group home.

What information does the requester want?

The youth's chest x-ray results and other medical records.

What does the requester want to do with the information?

She wants to determine whether the youth is contagious before agreeing to place her in the group home.

Which laws are relevant in this situation?

HIPAA.

What do the laws permit, and what do they prohibit?

In general, HIPAA requires parental authorization to disclose the protected health information of a minor. However, if under state law a youth is allowed to consent to testing and treatment for tuberculosis, including an x-ray, and the youth gave such consent, then the youth may authorize disclosure of those records.

HIPAA also allows health care providers to release the health information of an individual to correctional institutions if the institution needs the information to provide health care to the individual and to ensure the health and safety of others in the institution. Correctional institutions include facilities that have custody of juvenile offenders, such as the group home in this case example.

What can the group home do to protect its residents from this potential risk?

OBTAIN CONSENT

The group home administrator should check if under state law a youth is allowed to consent to testing and treatment for tuberculosis, including an x-ray, and if so whether this youth gave such consent. If both conditions apply, the administrator can ask the youth to sign an authorization to disclose her x-ray results and medical records to the group home.

OBTAIN A COURT ORDER

If the group home administrator is unable to obtain a signed consent, she may seek a court order from the delinquency court to order the physician to disclose the records to the group home.

PURSUE THE CORRECTIONAL INSTITUTION EXCEPTION TO HIPAA

The group home administrator can try to convince the physician to release the records under the correctional institution exception to HIPAA. But since the exception makes it discretionary on the part of the health care provider to release the records, the physician is not obliged to disclose them.