

FOCUS

Adolescent Confidentiality and Teenage Legal Rights

Jay Sicklick, MLPP Director

This month's FOCUS reviews the **Core concepts of adolescent confidentiality and the legal rights of teenagers when receiving comprehensive health care.**

One of the most difficult issues facing medical practitioners is balancing the teenager's right to confidentiality with the need to involve family in the health care process. In addition, the practitioner must balance the child's interest in and need for confidentiality with the legal mandates of reporting child abuse and neglect. This section reviews the basic tenets of adolescent confidentiality, and provides resource information for practitioners who wish to further educate themselves on this important health care matter.

Scenario 1

Imagine a 16-year-old patient comes in to see you and you note that he's extremely depressed. His parents have recently split up, and he is failing three subjects in school. He knows he needs some help to deal with his problem, and he admits that he's been using illegal drugs and drinking frequently over the last several months – a statement that confirms your suspicions derived from your examination.

Scenario 2

Jenny, age 15, comes to your office for advice. She admits to engaging in consensual sexual activity, but she's not sure if she's pregnant. Her parents don't know that she's sexually active. She begs you not to tell her parents, despite the fact that you suspect that Jenny might have contracted a sexually transmitted disease.

These are actual cases presented by adolescent health care practitioners. The scenarios point out the difficult tension that exists when practitioners treat adolescents who demand confidentiality, yet whose care and support are dramatically improved with family involvement.

Basic Confidentiality Rights

What is a minor?

In Connecticut, a minor is an individual who is under the age of 18, except in situations involving abortion rights and inpatient mental health treatment.

Is there such a thing as a "mature minor doctrine" in Connecticut?

No. Connecticut courts have not recognized the mature minor doctrine in any reported case.

What if my patient needs drug or alcohol treatment?

Minors may consent for confidential substance abuse treatment in Connecticut and the confidentiality must be honored unless the minor consents to disclosure.

I suspect that my 14-year-old patient has contracted a sexually transmitted disease (STD). May I reveal this information to his parents?

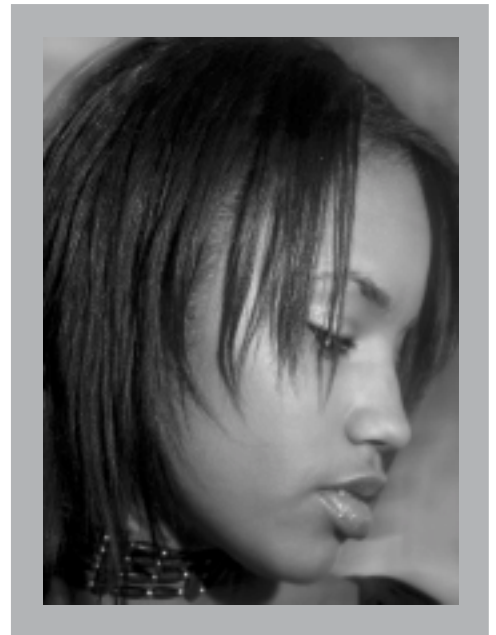
No. The consultation, examination, and treatment of STD's for a minor are confidential and must not be divulged to parents or legal guardians, including

the sending of a bill. Physicians are mandated to report the statistics to the state Department of Public Health, and refer any case of a reported STD to a minor 12 years of age or younger to the state Department of Children and Families.

After further examination, I believe that my minor patient may have been exposed to HIV/AIDS. May I now inform the child's parents?

Once again, the testing of a minor for HIV/AIDS is confidential. The care and treatment, however, of HIV/AIDS must be revealed to the parent/legal guardian unless the physician believes that notification will be detrimental to the minor's care.

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With all of these issues facing my minor patient, I would like her to access outpatient mental health services. Will this treatment be kept confidential?

Yes. A minor is entitled to six sessions of outpatient mental health treatment if seeking adult consent would cause the minor to reject such treatment, the treatment is clinically indicated, the failure to receive such treatment would be seriously detrimental to the minor's well-being, the minor knowingly and voluntarily sought such treatment, and the provider deems the minor mature enough to participate in such treatment.

In a recent visit, we discovered that my 15-year-old patient is pregnant. She mentioned that she would like to consider the option of seeking an abortion. Is she entitled to confidential treatment in that scenario?

Yes. A minor in Connecticut may obtain an abortion without parental consent, although an abortion for anyone may only be performed before the viability of the fetus, except when it is necessary to save the mother's life.

What if she decides to carry her baby to term – may I inform the child's legal guardian about the impending birth?

No – not without the minor's permission. A minor does not need parental permission to obtain a pregnancy test, nor must they inform their parents/legal guardian about the pregnancy. Pursuant to DCF policy, however, minors engaged in sexual activity who are 12 years of age or younger must be reported to the DCF Care Line (800-842-2288).

Would a pregnant minor automatically require me to report the pregnancy to the state DCF?

No, unless the sexual activity is non-consensual activity, or the child has been abused or neglected in some other fashion. In addition, any minor between the ages of 13 and 15 who engages in

sexual activity with a partner 21 years old or greater must be reported to DCF.

Where may I learn more about confidentiality and the legal rights of teenagers?

Practitioners may call the Center for Children's Advocacy at (860) 570-5327 to order copies of the Center's comprehensive publication, Adolescent Health Care: The Legal Rights of Teens. Individual questions regarding these issues may be addressed to the MLPP's director, Jay Sicklick, by calling the Center's main number or by sending an e-mail to jsicklic@law.uconn.edu.

Center to Host Training Seminar on Bullying

The Center for Children's Advocacy will hold an important advocates' training session focusing on the legal issues surrounding bullying later this month. The training, which will be held on Wednesday, June 30, 2004 from 8:15 – 10:00 a.m. in the Janet Blumberg Hall at the University of Connecticut School of Law, will focus on the advocates' role in dealing with clients who have been bullied. The legal ramifications of bullying, including a review of the recently enacted Connecticut statute on bullying, will be examined, as well as presentation of strategies for dealing with students who have been bullied in the schools. Call the Center for Children's Advocacy at (860) 570-5327 to reserve your place at the training, or for any inquiries. Attendance at the training is free.

We Want to Hear from You!

Please submit questions for the next edition of the Medical-Legal Partnership Project newsletter to jsicklic@law.uconn.edu or, call Jay Sicklick at 860-570-5327.

For information about the Medical-Legal Partnership Project, please check the MLPP website at www.ccmckids.org/mlpp or, check the CCA website at www.kidscounsel.org

MLPP Hires New Staff Attorney

The MLPP's community expansion continues with the hiring of a new project staff attorney. The Center for Children's Advocacy is proud to announce that it has hired Gladys Idelis Nieves to fill the role of the project staff attorney located at the Connecticut Children's Medical Center ("CCMC"). Ms. Nieves, who began her duties at CCMC on May 17, 2004, will direct the MLPP site at CCMC by continuing the project's work on individual cases, multidisciplinary education and training of the medical staff, and systemic advocacy on issues that affect children's health.

Previously, Ms. Nieves held the position of staff attorney at the Legal Aid Society in the Bronx Family Court. While working in New York, she represented abused and neglected children, as well as teenage clients in the child welfare system. Prior to her tenure at Legal Aid, Ms. Nieves worked as an attorney in private practice with the New York law firm of Pryor, Cashman, Sherman & Flynn, where she served as a litigation associate.

Ms. Nieves is a graduate of Yale University, and the New York University School of Law, where she was the recipient of a Law Foundation Scholarship, and president of the Latino Law Students Association. She also served as a staff editor of the New York University Review of Law & Social Change. She is a native of Meriden, and she can be reached at the CCMC office at (860) 545-8581, or e-mail gnieves@ccmckids.org.