

Adolescent Health & Confidentiality Teen Legal Rights & Healthcare Access

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Goals of this Presentation

- Discuss basic legal principles of teen legal rights and confidential treatment in the healthcare setting
- Foster discussion through case studies
- Discuss strategies to advocate for increased youth access to confidential health services
- *Briefly* touch on tension between DCF reporting and confidential care – including sexual assault and its impact on mandatory reporting

What's New Is Old ...

- Reproductive health
- Contraception
- STD treatment
- Pregnancy
- Abortion
- Morning After Pill
- Statutory Rape
- Opioids
- Substance Abuse
- Mental Health treatment
- DCF committed kids
- Education vs. Health information
- Healthcare institution policy vs. adolescent rights?
- ????????????????????

Case Study 1

Amber's Pregnancy

- Amber, age 14, confides in you that she thinks she is pregnant.
 - Must you report this sexual activity to DCF?
 - What if you find out later that her partner is 18?
 - Must you inform the parent/legal guardian? May you?
- Amber tells you she wants to carry the baby to term – and that under no circumstances should her mother be told.
 - Does Amber have a right to keep her pregnancy confidential?
- Two weeks later – Amber grabs you and tells you she wishes to terminate the pregnancy through an abortion.
 - May she seek an abortion without “parental” or legal guardian’s consent?
 - Must DCF or a parent/guardian be notified?

Case Study 2

Mark's Dilemma

- Mark, age 16, would like to access contraception with his girlfriend. May they obtain birth control without parental consent?
- If Mark's 15 year old girlfriend seeks a morning after pill from a pharmacy, may she do so without parental consent, and without a prescription?
- What if Mark also confides in you that he would like to seek counseling about "mental health" issues in a confidential fashion.
 - May he do so without parental consent?
 - What if he reports something in confidence that you believe is reportable to DCF as parental neglect? Are you obligated to report the incident or must you keep his revelations secret?

How much do you/will you know?

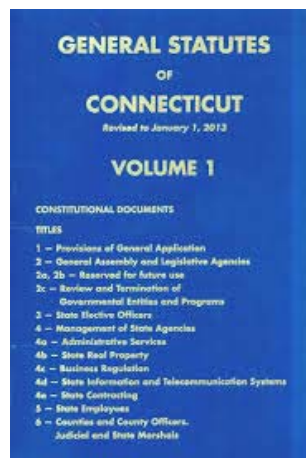
1. What is the ***age of consent*** in Connecticut?
2. Must mandatory reporters report “statutory rape” of a minor to DCF or law enforcement on every occasion?
3. May a 13 year old obtain birth control in Connecticut without parental consent?
4. If a 15 year old girl wishes to terminate a pregnancy through an abortion, must she obtain parental consent – or must her parents be notified of the procedure?
5. A 14 student believes he has contracted an STD – does he need parental consent for testing/treatment?
6. Is there a different standard for honoring confidentiality and for consent for a minor committed to DCF vs. a minor not involved with DCF?

5 Take Home Points

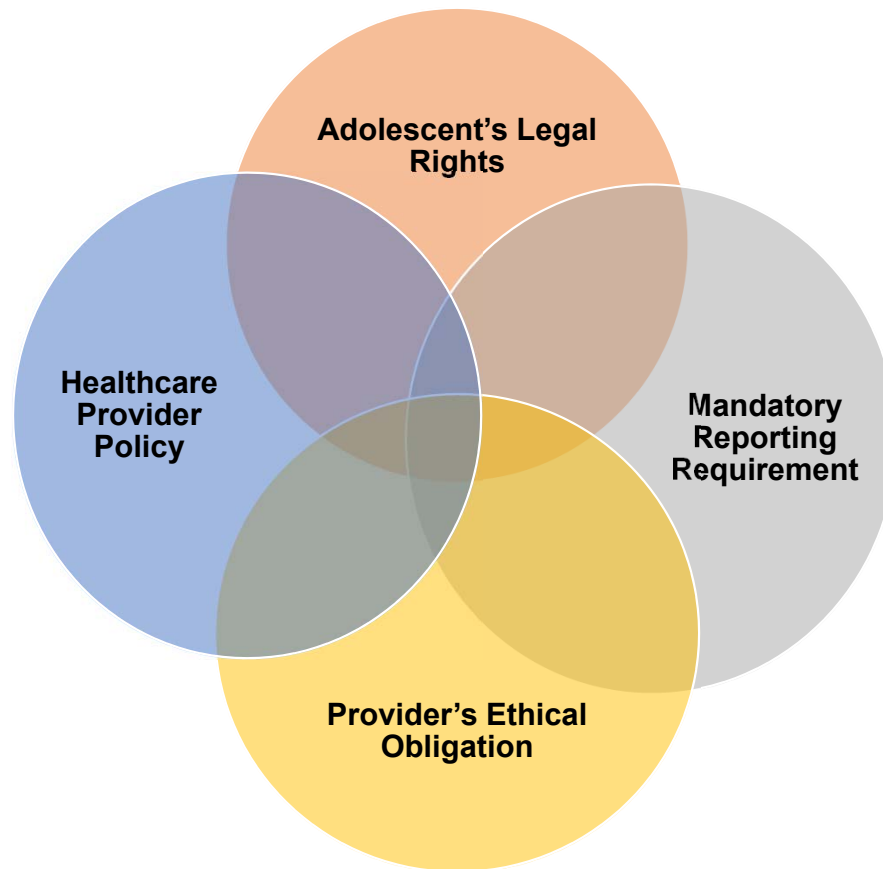
1. Minors under 18 CANNOT generally make routine healthcare decisions for themselves!
2. Minors may make critical healthcare decisions and consent to treatment in FOUR protected areas: Reproductive Health, Mental Health Treatment, Substance Abuse Treatment and HIV/AIDS
3. Parents DO NOT have the right to view confidential healthcare treatment records in the healthcare *or* school health setting absent their child's consent (Common law, Statutory & HIPAA)
4. Children in DCF care (committed to DCF) are treated *no differently* than those with no DCF involvement
5. Once you cross the Connecticut border:



When Worlds Collide



Overview – Treating the Adolescent



Principles of Confidentiality - Definitions -

Who is a minor?

**Anyone under the age of 18
except as otherwise indicated**



Conn. Gen. Stat. § 1-1d

Informed Consent

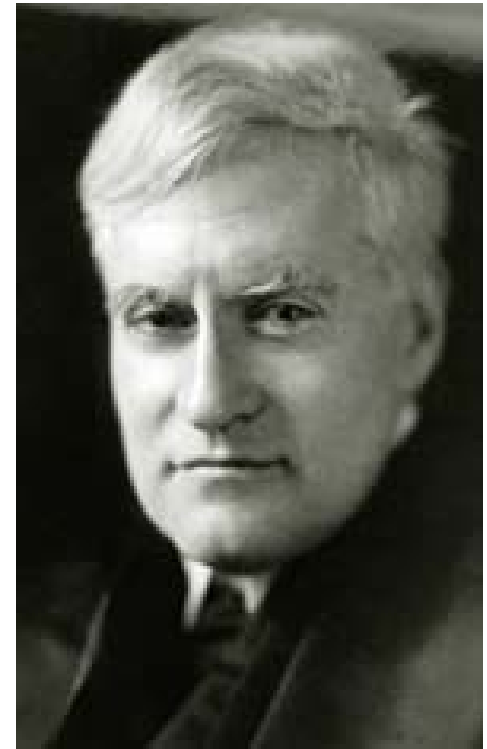
- Agreement or permission accompanied by full notice about the care, treatment, or service that is the subject of the consent. A patient must be apprised of the nature, risks, and alternatives of a medical procedure or treatment before the physician or other health care professional begins any such course. After receiving this information, the patient then either consents to or refuses such a procedure or treatment.
- **General Rule: Minors are not legally capable of providing informed consent for medical/healthcare treatment**

Source: The Joint Commission. 2016. Comprehensive Accreditation Manual glossary.

Informed Consent

Father of Informed Consent

Schoendorff v. Society of New York Hospital
106 N.E. 93 (N.Y. 1914)



Informed Consent

The Immortal Life of Henrietta Lacks

Johns Hopkins Medical Center:

www.hopkinsmedicine.org/henrietalacks/index.html

Obituary in NYTimes

www.nytimes.com/interactive/2018/obituaries/

[overlooked-henrietta-lacks.html](http://www.nytimes.com/interactive/2018/obituaries/overlooked-henrietta-lacks.html)



Mature Minor

Who is a mature minor?

A minor who exhibits the “maturity” of an adult and is therefore permitted to make decisions, traditionally reserved for those who have attained the age of majority, regarding her own medical care.



Connecticut courts have not recognized the mature minor doctrine in any reported case

Case of Cassandra C.



What did Casandra C. mean?

- Connecticut Supreme Court refused to recognize a minor's right to make independent healthcare decisions absent specific exceptions
- Left the door open for a possible recognition in the future given the appropriate facts and evidence ...
- Query the importance of existing pathway for healthcare decision making for 16 & 17 year olds ...

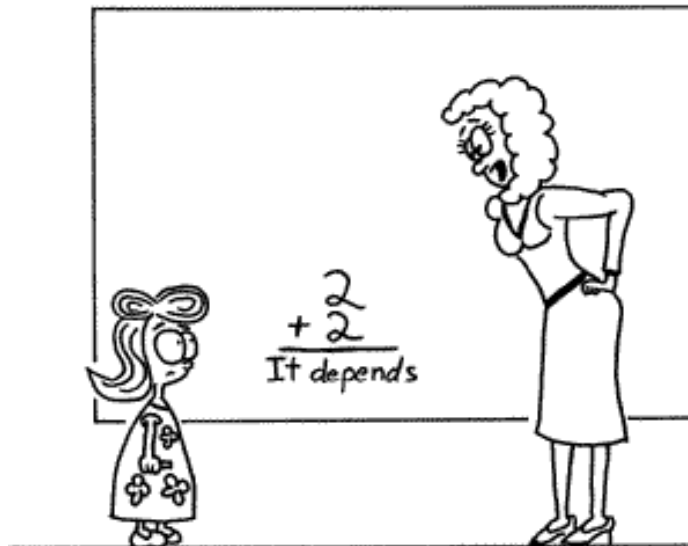
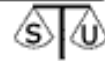
Emancipation

- The legal process available by which a 16 or 17 year old minor achieves adult status
- Statutory but common law examples, while rare, have been reported

There Ought to be a Law!

Stu's Views

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"Suzie, this is math, not the law."

Legal Background: Statutory vs. Common Law Sources



Types of Medical Conditions/Treatments

- Reproductive Healthcare
- Drug and Alcohol Treatment
- Mental Health Treatment – Outpatient and Inpatient
- Testing and Treatment of HIV and AIDS



Children in DCF Care

No difference in a minor's right to confidential treatment AND right to consent for child committed to DCF vs. non-DCF involved child.

NONE!



Reproductive Health Care: Treating the Adolescent Confidentially!

- Birth Control
- Pregnancy
- Counseling
- Abortion
- Sexually Transmitted Diseases



Contraception



Contraception

- Available to minors
- Confidentially and without parental consent
- Source: Constitutional

Contraception

Query: What if a 12 year old seeks to obtain contraception?

- Would the 12 year old be entitled to obtain the contraception?
- Is there a reporting requirement for this event?
- What do you need to know, if anything, to proceed ahead with a report to the hotline on this activity?

Pregnancy



Pregnancy

- A minor does not need permission from a parent to receive a pregnancy test and the parents do not need to be notified of the test
- A minor may decide whether or not to carry the pregnancy to term
- A minor may consent to gynecological examinations without parental consent
- SOURCE: Constitutional

Abortion and Termination of Pregnancy



Abortion and Termination of Pregnancy

- Any minor in Connecticut may obtain an abortion without parental consent or notification, although an abortion, for anyone, may only be performed before the viability of the fetus, except when it is necessary to save the life or health of the mother
- Minor = *under the age of 16 for purposes of terminating pregnancy*
- Specific requirements for minors include counseling, informed consent. etc.
- Source: Statutory - Conn. Gen. Stat. § § 19aa-600, 601, 602

“Morning After” Pill

- Protected under auspices of “birth control”
- Mandated for all hospitals in case of rape or incest
- FDA permits minors to obtain w/out prescription



Abortion and Termination of Pregnancy

Breaking News Interlude:

NATIONAL INSTITUTE OF FAMILY AND LIFE ADVOCATES, DBA NIFLA, ET AL. v. BECERRA, ATTORNEY GENERAL OF CALIFORNIA, ET AL. (2018)

- State of California may not require religiously oriented “crisis pregnancy centers” to supply women with information about how to end their pregnancies
- Justice Clarence Thomas, writing for the five-justice conservative majority, accepted the free-speech argument, ruling that the First Amendment prohibits California from forcing the centers, which oppose abortion on religious grounds, to post notices about how to obtain the procedure
- Ruling prompted city of Hartford to suspend anticipated ordinance that would have penalized pregnancy centers for providing clients with misleading or deceptive information about services they provide

Sexually Transmitted Diseases



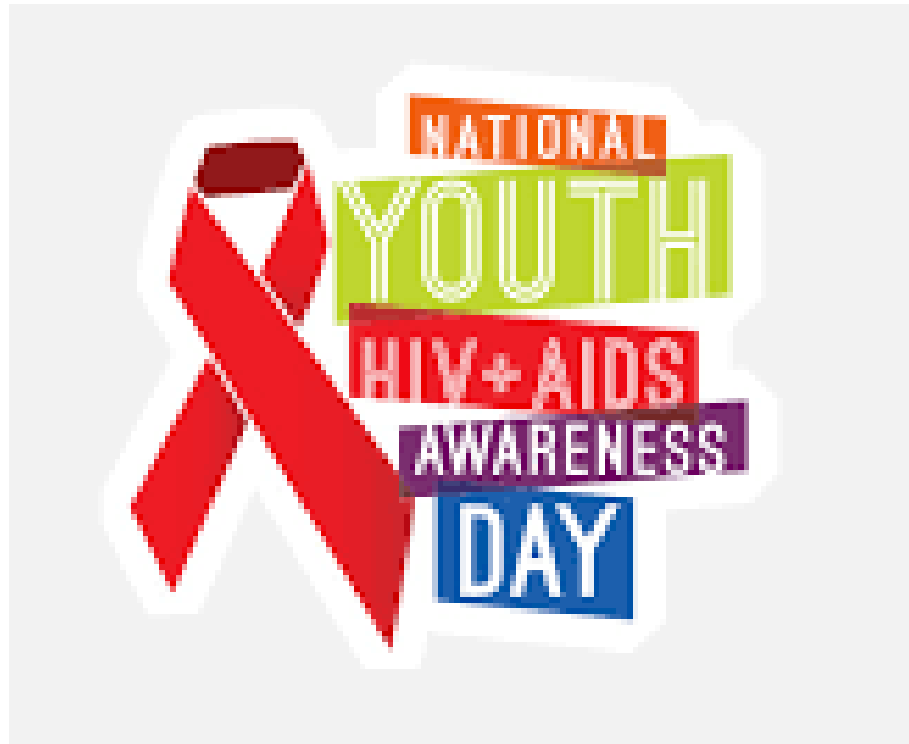
Conn. Gen. Stat. § 19a-216

Sexually Transmitted Diseases

- Confidential
- Reporting
 - Under 12
 - DPH
 - Minor bears \$

Conn. Gen. Stat. § 19a-216

HIV & AIDS



Conn. Gen. Stat. § 19a-216

Beyond Sexual Healthcare: Minors' Access to Services

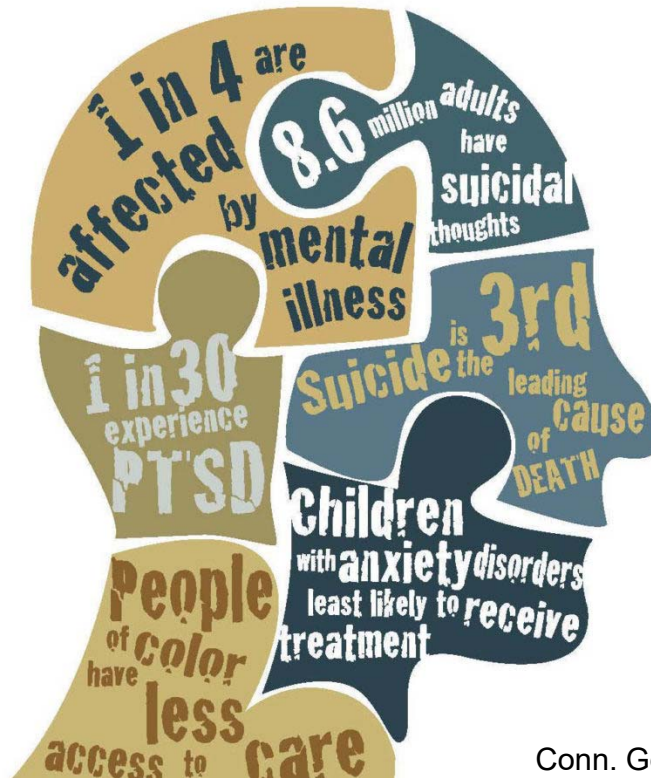
- Substance Abuse Care and Treatment
 - Guaranteed confidential – but minor bears cost of care and treatment
 - OPIOIDS
- Outpatient Mental Health Treatment
 - Up to 6 sessions confidentially – must meet specified criteria
 - Minors personally liable for care and treatment
- Inpatient Mental Health Treatment
 - Adult patients = 16 and over
 - 14 and 15 can self-admit with 24 hour window

OPIOIDS and Substance Abuse



Conn. Gen. Stat. § 19a-216

Mental Health Treatment: Outpatient



Conn. Gen. Stat. § 19a-14c.

Reporting and Confidentiality: The Rules

- When to Report
- Does Statutory Rape = Mandatory Report?
- Betrayal of Trust vs. Legal Duty
- What is an Adult for “Consent”

What is Statutory Rape?

- Does discovery of statutory rape require provider to report the activity to DCF?
- If a crime is committed – do mandatory reporters have to report it?
 - Statutory Rape
 - Adolescent confesses to a “crime?”

Reporting and Confidentiality: The Rules

DCF Reporting Guidelines

- Child under 13: **must report to DCF/police**
- Child 13-15 engaged in consensual sexual relationship w/partner 21 & over:
must report to DCF/police
- Child b/t 18 in non-consensual/coerced sexual activity:
must report to DCF/police
- Child b/t 13-15 engaged in consensual sexual relationship w/partner under 21:
not mandated to report *per se*
- Child under 18 engaged in sexual relations with family member:
must report to DCF

Case Study 1: Amber's Pregnancy

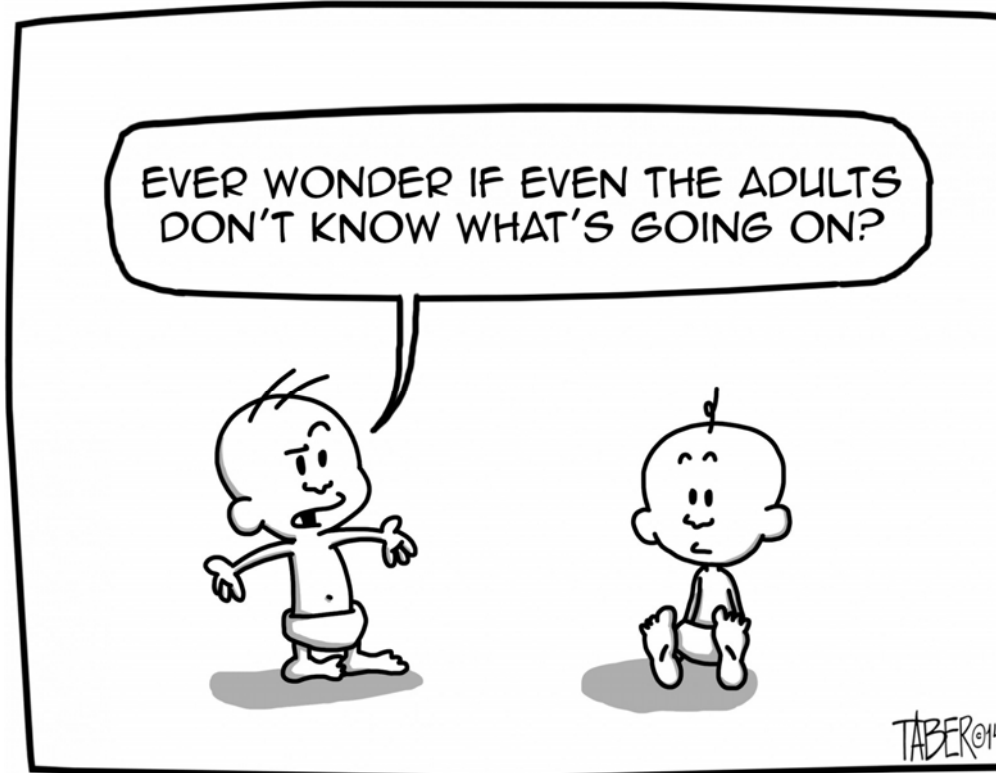
- Amber, age 14, confides in you that she thinks she's pregnant
 - Must you report this sexual activity to DCF?
 - What if you find out later that her partner is 18?
 - Must you inform the DCF social worker/parent? May you?
- Amber tells you she wants to carry the baby to term – and that under no circumstances should her mother be told
 - Does Amber have a right to keep her pregnancy confidential?
- Two weeks later – Amber grabs you and tells you she wishes to terminate the pregnancy through an abortion
 - May she seek an abortion without “parental” or legal guardian's consent?
 - Must DCF or parent be notified?

Case Study 2

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Questions?



Resources

- Center for Children's Advocacy: www.cca-ct.org (860) 570-5327
- DCF Web Site: www.state.ct.us/dcf
- DCF Care Line: (800) 842-2288
- Fed Govt. - Administration for Children & Families: www.acf.hhs.gov
- MLPP: www.ccmckids.org/mlpp (860) 570-5327
- CCMC – SCAN Program (860) 545-9995
- Yale Child Study Center (203) 785-2513

Resources

- DCF: www.state.ct.us/dcf
- DSS: www.ct.gov/dss
- End Hunger CT: (860) 560-2100
- Planned Parenthood of CT: www.ppct.org
- Conn. AIDS Resource Coalition: www.ctaidscoalition.org/fairfield.htm

Questions?

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