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MENTAL HEALTH TREATMENT OF MINORS IN PENNSYLVANIA

WHAT'S INSIDE

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MENTAL HEALTH TREATMENT OF MINORS in Pennsylvania



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The voluntary outpatient mental health examination and treatment of minors in Pennsylvania involves a combination of legal and clinical considerations. One of the issues related to the voluntary outpatient mental health examination and treatment of minors concerns the informed consent required to examine or treat a minor child.

This article reviews the Pennsylvania law associated with the informed consent necessary for the voluntary outpatient mental health examination or treatment of a minor, as well as the clinical issues associated with such interventions. This article also reviews a recent discussion by the Pennsylvania State Board of Psychology regarding this informed consent requirement, along with 2020 amendments to the Minors' Consent to Medical Care statute. Readers have the option of using this home study as a continuing education program worth one (1) hour of continuing education.

Current Legal and Clinical Considerations

In Pennsylvania, the age of majority is 18 (23 P.S. §5101). Prior to age 18, minors have a limited ability to make binding legal decisions. The question arises, therefore, as to whose consent is required for the voluntary outpatient mental health examination or treatment of the less than 18-year-old minor. This issue generally depends on the legal custody and the age of the minor. Presently, a minor child may live in many different family constellations.

For the purposes of this article, we shall consider a family consisting of a mother, a father, and a minor child.

Although this article deals with mental health assessment and treatment, we note that minors any age may seek treatment for the abuse of alcohol and other drugs in licensed facilities without the consent of their parents (71 Pa. C.S.A., §1690.1112). The facility may, but is not mandated to, notify the parents that the minor is receiving alcohol or drug treatment.

When No Court Has Ordered Shared Legal Custody

In 1970, the Pennsylvania legislature adopted the Minors' Consent to Medical Care statute (35 P.S. §10101). This statute held that other than in a number of limited situations, such as if the minor is married, a high school graduate, or emancipated, parental or guardian consent is necessary to provide medical treatment to the less than 18-year-old minor. The statute was silent, however, as to the consent necessary to provide mental health treatment to a minor.


In January 2005, the Minors' Consent to Medical Care statute was amended to

address the voluntary outpatient mental health examination or treatment of a minor (35 P.S. §10101.1). On July 23, 2020, Act 65 of 2020 further amended the statute. Pursuant to the Minors' Consent to Medical Care statute, Mental Health Treatment is defined as follows:

A course of treatment, including evaluation, diagnosis, therapy and Rehabilitation, designed and administered to alleviate an individual's pain and distress and to maximize the probability of recovery from mental illness. This term also includes care and other services which supplement treatment and aid or promote recovery (35 P.S. §10101.1(a)(10)(b)).

This definition, in essence, encompasses what psychologists generally refer to as a psychological evaluation or ongoing psychotherapy.

The Minors' Consent to Medical Care statute distinguishes between minors less than 14 years of age, and minors 14 to 17 years of age. For minors less than 14 years old, the consent of a parent is required prior to instituting the voluntary outpatient mental health examination or treatment



“...a parent may not abrogate the right of a 14 to 17-year-old to seek treatment on their own, even if the court has issued an order of shared legal custody.”

of the less than 14-year-old minor (35 P.S. §10101.1(a)(1)). This statute does not state that such examination or treatment shall be instituted in these situations. Rather, the statute states that such examination or treatment of the less than 14-year-old minor may be instituted with the consent of a parent. As we note below, this provision needs to be read in conjunction with the Grossman decision.

Minors 14 to 17 years of age have two possible avenues of consent. First, if the minor has the capacity to make mental health treatment decisions, 14 to 17-year-old minors may consent to their own examination or treatment, without any parental consent or permission (35 P.S. §10101.1(a)(2)). Second, a parent can consent to the examination or treatment of the 14 to 17-year-old minor, absent the consent of the minor (35 P.S. §10101.1(a)(1)).

On July 23, 2020, several additional

amendments were made to the Minors' Consent to Medical Care statute. One of these more recent 2020 amendments reads as follows:

A minor or another parent or legal guardian may not abrogate consent provided by a parent or legal guardian on the minor's behalf to voluntary... outpatient treatment... (35 P.S. §10101.1(a)(3)).

The meaning of this 2020 amendment is clear as it pertains to minors who are 14 to 17 years old. That is, a parent may not abrogate the right of a 14 to 17-year-olds to seek treatment on their own, even if the court has issued an order of shared legal custody. However, this section is unclear as it pertains to parents. That is, under the prior 2005 version of the statute, the consent of only one parent was required to consent to the voluntary outpatient mental health treatment

of the minor child when there was no court order of shared legal custody. It was assumed that, absent a court order of shared legal custody, the nonconsenting parent could not abrogate the consent of the consenting parent. Under the 2020 version of the statute, this assumption has been codified by more specific language.

However, it is not clear that this amendment was intended to address the issue of consent when a court has ordered shared legal custody. More specifically, it is unclear whether this amendment was added only to clarify the existing rule as it pertains to children aged 14 to 17 seeking treatment on their own, or whether this amendment was also added to grant more substantive rights to the consenting parent.

Moreover, psychologists may need to consider the clinical issues involved. The more recent amendments to the Minors' Consent to Medical Care statute, however, do not



state that the mental health examination or treatment of the minor child shall be instituted following the consent of a parent. Rather, the statute continues to state that the mental health examination or treatment of the minor child may be rendered following the consent of a parent. For this reason, in addition to obtaining the requisite informed consent, the potential treatment provider, prior to instituting any clinical intervention, also must consider and balance the clinical issues associated with the case at hand.

That is, when providing mental health examination and treatment to minors of any age, it often is helpful to have the permission, involvement, and input of both parents, even with older adolescents. Such commitment and input by both parents may be necessary to effectuate a positive clinical outcome in the case at hand. In addition, it is necessary for the treatment provider to remain a neutral party and maintain professional boundaries, especially in cases that involve more contentious or high conflict families.

It is for these reasons, therefore, that the legal ability to institute the mental health examination or treatment of a minor child by the consent of a parent does not answer the clinical question as to whether examination or treatment should be instituted. Rather, this clinical question must be answered on a case-by-case basis.

When a Court Has Ordered Shared Legal Custody

Custody involves the physical custody and the legal custody of the minor child. The physical custody and legal custody of the minor child can be sole or shared between the parents. The written custody agreement or custody court order contain provisions concerning the physical and legal custody of the minor. Therefore, psychologists should know or obtain the custody agreement or the custody court order prior to instituting any mental health examination or treatment of a minor child.

Pennsylvania defines legal custody as the right to make major decisions on behalf of the child, including, but not limited to, medical, religious, and educational decisions (23 P. S. §5322(a)). Section 23 P. S. §5322(a) does not further define what constitutes a

major decision when a court has ordered shared legal custody. The question arises, therefore, as to whether under 23 P. S. §5322(a), the decision to seek the voluntary outpatient mental health examination or treatment of a minor child constitutes making a major decision concerning the child?

In February 2000, a Pennsylvania psychologist underwent a Pennsylvania State Board of Psychology licensing proceeding related to the issue of evaluating a minor child when the parents had shared legal custody. The proceeding involved interpretations of prior Board decisions, American Psychological Association Standards and Guidelines, Pennsylvania custody law, and Pennsylvania case law.

Following a Board finding adverse to the psychologist, the case was appealed to the Commonwealth Court of Pennsylvania, the Pennsylvania appeals court that reviews licensing board determinations. The Commonwealth Court appeal was decided on June 2, 2003 (*Jan C. Grossman v. State Board of Psychology*, 825 A.2d 748). In *Grossman*, the psychologist was retained by a mother's attorney in a 1996 custody matter in which the mother and father shared legal custody of their minor child. At the time of the two meetings with the minor child, the psychologist had obtained consent from the mother to meet with the minor child but had not obtained consent from the father. The psychologist subsequently testified at a custody trial regarding his clinical findings.

In February 2000, a formal complaint was filed against the psychologist. Following an adverse finding against the psychologist, the case was appealed to the Commonwealth Court of Pennsylvania. In its 2003 opinion, the Commonwealth Court found that the psychologist had conducted a psychological evaluation of a minor child when the parents shared legal custody without first obtaining the consent of the child's two legal custodians. The Court opined that the behavior of the psychologist violated the standards of the American Psychological Association.

The Commonwealth Court also based its opinion upon Pennsylvania shared legal custody law and related Pennsylvania appellate decisions involving shared legal custody. One of the bases of appeal in

Grossman concerned the question as to whether a request that a minor child undergo a psychological evaluation, when parents share legal custody, constituted a major decision, thereby requiring the consent of both legal custodians. The Commonwealth Court answered this question in the affirmative. More specifically, the Commonwealth Court found that a decision to obtain a psychological evaluation of a minor child is a major decision that is encompassed within the statutory definition of legal custody.

The Commonwealth Court held, therefore, that the consent of all legal custodians is necessary prior to conducting a psychological evaluation of a minor child when a court has issued an order of shared legal custody. To date, no Commonwealth Court case has overturned this decision. Rather, this decision has been cited in subsequent cases in which psychologists have been found to have transgressed this rule (see, for example, *Laurie S. Pittman, Ph.D. v. Bureau of Professional and Occupational Affairs, State Board of Psychology*, unreported Commonwealth Court opinion, No. 1007 C.D. 2018, filed June 12, 2019).

As outlined above, on January 24, 2005, two years following the 2003 *Grossman* Commonwealth Court decision, the Pennsylvania state legislature amended the Minors Consent to Medical Care statute. For the first time, the Pennsylvania legislature addressed what type of parental consent is necessary for the voluntary outpatient mental health examination or treatment of a minor child. On July 23, 2020, the Pennsylvania state legislature passed additional amendments to the Minors' Consent to Medical Care statute.

This Minors' Consent to Medical Care statute raises a confounding legal question concerning the requirement to have the consent of both parents when legal custody is shared. That is, pursuant to the 2003 *Grossman* Commonwealth Court opinion, if a court has issued an order of shared legal custody, is the consent of both parents required prior to conducting a voluntary outpatient mental health examination or treatment of the minor child? Pursuant to the Minors' Consent to Medical Care statute, however, the consent of only "a" parent is required prior to conducting a voluntary



outpatient mental health examination or treatment of a minor child. And, to confound things further, under the statute, no parental consent is necessary to conduct a voluntary outpatient examination or treatment of greater than 14-year-old minor children capable of providing their own informed consent to treatment.

Minors who are 14 years old or older can consent to an evaluation or treatment on their own behalf and parents may not abrogate that right to seek those services, even when a court has issued an order of shared legal custody. However, when a court has issued an order of shared legal custody, it is not clear whether the consent of both parents is required when a child is under the age of 14 or when a child over the age of 14 does not agree to the evaluation or treatment.

In these situations, which rule applies: The Court Order containing a shared legal custody provision, or the Minors' Consent to Medical Care statute which allows "a" parent to consent? From 2003 through the current time, the prevailing rule has been that a court order for shared legal custody of a minor takes precedence over the broader interpretation of the Minors' Consent to Medical Care statute. This interpretation has been relied upon by the state attorneys who prosecute licensing board complaints, as well as by the Pennsylvania State Board of Psychology who have followed the principles contained in the *Grossman* Commonwealth Court decision in imposing discipline upon psychologists. This interpretation has been

applied to a psychological evaluation and psychological treatment of a minor child when parents shared legal custody.

December 2, 2019 Meeting of the Pennsylvania State Board of Psychology

This issue of whether a Court Order containing a shared legal custody provision prevails over the Minors' Consent to Medical Care statute was discussed during the executive session portion of the Pennsylvania State Board of Psychology's December 2, 2019, meeting. Such executive session discussions are held outside the presence of the public. The Board discussed this issue further during the public portion of their meeting. This public discussion is contained in the Final Minutes of the Board's December 2, 2019 meeting (p. 26-28) which can be found on the Pennsylvania State Board of Psychology website.

According to the Final Minutes of the Board's December 2, 2019 meeting, the Board discussed whether the original 2005 amendments to the Minors' Consent to Medical Care statute abrogated the *Grossman* opinion as it applies to the voluntary outpatient mental health examination and treatment of a minor child. This discussion included a comment that the *Grossman* decision was a decision based upon policy that was inconsistent with existing law.

In the Final Minutes of its December 2, 2019 meeting, the Board noted that

the American Psychological Association Ethics Code does not require both parents' consent for a child to receive treatment. The discussion noted that for this reason, the reliance upon the American Psychological Association ethics code in terms of informed consent was misplaced. The discussion noted further that the American Psychological Association Specialty Guidelines on Child Custody evaluations do not require both parents' consent, although it would be below the standard of care to perform a child custody evaluation without obtaining both parents' consent, which is different than assessment and treatment.

The Board also discussed the fact that it cannot give advisory opinions (an advisory opinion is an opinion about a hypothetical situation that has not yet been addressed by the Board either through a court case or through regulation). The Board discussed whether regulatory changes were needed to clarify the Board's scope of authority and discretion, as well as clarifying that the Board's authority is consistent with the scope of the Minors' Consent to Medical Care statute. It was commented that the Board adjudicates facts, and thus further clarification would be an adjudication of law. It was commented further that there was no need to change the regulations, and if it were litigated, ultimately a court would decide.

When discussing the Minor's Consent to Medical Care statute during its December 2, 2019 meeting, the Board did not reference the Pennsylvania legal custody statute, or the Pennsylvania appellate shared legal custody cases that were relied upon in the 2003 Commonwealth Court *Grossman* opinion. In addition, this December 2, 2019 Board discussion occurred prior to the more recent July 23, 2020 amendments to the Minors' Consent to Medical Care statute.

Future Considerations

In light of the December 2, 2019 discussion held by the Pennsylvania State Board of Psychology, coupled with the July 23, 2020 amendments to the Minors' Consent to Medical Care statute, the question arises as to whether there has been a change in the type of consent necessary to institute voluntary mental health examination

or treatment of a minor child when parents share legal custody.

In general, the rules governing the practice of Pennsylvania psychologists emanate from Pennsylvania statutes, Pennsylvania State Board of Psychology Regulations, Pennsylvania State Board of Psychology decisions, and Pennsylvania caselaw. The minutes of a Board meeting are public in nature, and they contain discussions regarding issues or questions that are being considered by the Board. Such discussions, however, generally do not constitute the type of legal authority required to alter an existing rule or requirement.

There also is the legal doctrine of *stare decisis*, the doctrine by which judges are expected to respect precedent that has been established by prior court decisions. As outlined above, no Pennsylvania appellate case has of yet overturned *Grossman*. Based upon the discussion contained in the Final Minutes of the Board's December 2, 2019 meeting, it appears that the State Board of Psychology is exploring the type of parental consent that is necessary to evaluate or treat a minor child when parents share legal custody. Presently, however, there have been no formal changes to the existing rules.

The July 23, 2020 amendments to the Minors' Consent to Medical Care statute state in more specific language that consent of a parent for the voluntary outpatient mental health examination or treatment of a minor child may not be abrogated by another parent. Since this rule was implicit in the prior version of the statute, it is unclear whether the Pennsylvania state legislature intended to clarify the existing rule when no court has ordered shared legal custody, or whether

it was the intent of the Pennsylvania state legislature to overrule the *Grossman* decision that requires joint consent when both parents have shared legal custody.

In this regard, how should a Pennsylvania psychologist proceed? For example, one parent with shared legal custody of a child under the age of 14 may request and consent for a minor child to undergo a psychological evaluation or treatment? Can or should the psychologist proceed with the evaluation or treatment?

Thus, there is the question as what, if any, legal jeopardy the psychologist may be placed in when examining or treating a minor child pursuant to the consent of one parent when the parents share legal custody. That is, will the Pennsylvania prosecuting attorneys who review and file licensing board complaints continue to file complaints based upon the 2003 *Grossman* decision, or will they alter their decisions based upon the Minors' Consent to Medical Care statute and the Board's December 2, 2019 discussion? If a formal board complaint or a malpractice suit is filed against a psychologist for assessing or treating a minor child with the consent of only one parent when a court has ordered shared legal custody, will the psychologist be able to present a successful defense to a *Grossman* violation based upon the Minors' Consent to Medical Care statute and the Board's December 2, 2019 discussion?

Unfortunately, these questions remained unanswered. PPA has attempted to receive answers to these questions from the State Board of Psychology, but given the prohibition on issuing advisory opinions, the Board has refused to respond to these questions. Psychologists, therefore, will

need to proceed in their own manner until there are more definitive answers to these outstanding issues. More specifically, even when a psychologist determines that it would be clinically appropriate to assess or treat a minor child with the consent of only one parent when parents share legal custody, the legal jeopardy of the psychologist remains unclear. As discussed by the Board during its December 2, 2019 meeting, if such a case were litigated, ultimately a court would decide.

In this regard, one or more legal test cases may be necessary to answer these outstanding questions. The practice of psychology should not be conducted defensively. Rather, the practice of psychology should judiciously balance the mandated rules and the clinical needs of the case at hand. Nonetheless, our responsibility is to alert our members to potential legal problems in their practices. Some conscientious psychologists may conclude, given the wording in Act 65 of 2020 and the minutes of the Board meeting on December 2, 2019, that they can treat children under the age of 14 with the consent of one parent when a court has ordered shared legal custody. However, we cannot assure psychologists that a future State Board of Psychology would share that interpretation. Therefore, pending further legal clarification, guidance, and a possible test case, it may be prudent for psychologists to consider adhering to the joint consent requirements contained in the *Grossman* decision prior to instituting voluntary outpatient mental health examination and treatment of a minor child under the age of 14 when parents share legal custody. ▮



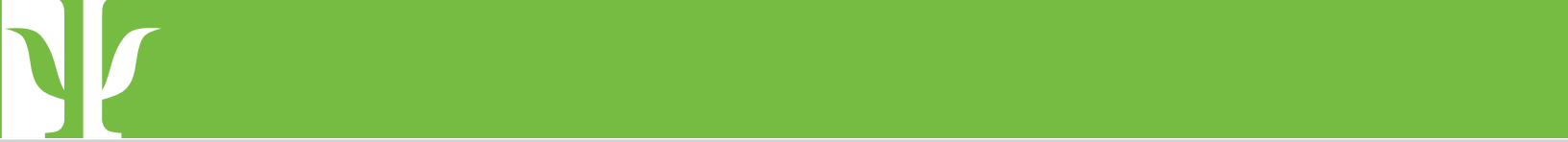
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Fall Conference MAX - September 24 - 25, 2021

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Normandy Farm - Blue Bell, PA
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RELEASE OF A MINOR'S VOLUNTARY OUTPATIENT MENTAL HEALTH TREATMENT RECORDS to Outside Third Parties

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The release of outpatient records depends on who consented to treatment, although there are some narrow exceptions. Consent for the treatment of minors in Pennsylvania, in part, is governed by the Minors' Consent to Medical Care statute. In 2005, the Minors' Consent to Medical Care statute was amended to include a section concerning the consent necessary for the voluntary outpatient mental health examination or treatment of minors (35 P.S. §10101.1). This amendment also addressed the release of the voluntary outpatient treatment records of a minor (35 P.S. §10101.2). Further amendments to the statute were passed on July 23, 2020.

Pursuant to 35 P.S. §10101.1(1), a parent can consent to the mental health examination or treatment of their less than 18-year-old old minor child, absent the consent of the other parent or the minor. Minors aged 14 to 17 who have the capacity to make treatment decisions can consent to their own mental examination or treatment, absent the consent of either parent (35 P.S. §10101.1(2)) [1].

The amendments to the Minors' Consent to Medical Care statute also instituted changes concerning the release of a minor's voluntary outpatient mental health records to outside third parties. These changes are summarized below, and illustrative vignettes are offered to help explain the rules

Release of Records to a Third Party of a Minor Under the Age of 14 to a Third Party

The Minor's Consent to Medical Care statute does not explicitly address the consent necessary to release to outside third parties the mental health treatment records for a minor under the age of 14. The generally accepted principle, however, is that when a parent of a child under the age of 14 consents to treatment, that parent controls the release of the minor's treatment records to an outside third party.

The 2003 Commonwealth Court Grossman decision concerned the consent necessary to

conduct a psychological evaluation of a minor child when parents share legal custody (*Jan C. Grossman v. State Board of Psychology*, 825 A.2d 748). This decision held that, when parents share legal custody, joint consent is necessary to conduct a psychological evaluation of a minor child. The 2003 Commonwealth Court Grossman decision did not specifically address the consent necessary to conduct treatment of a minor when parents share legal custody.

From 2003 through the present time, however, the Pennsylvania State Board of Psychology, as well as by the state attorneys who prosecute licensing board complaints, have interpreted this decision as requiring joint consent prior to treating a minor child when parents share legal custody. In this regard, if joint consent is required to



treat a minor under the age of 14 when the parents or guardians have shared legal custody, joint permission is required to release to an outside third party the treatment records of the less than 14-year-old minor when parents share legal custody.

Nonetheless, during its December 2, 2019 board meeting, the State Board of Psychology discussed the consent necessary to treat a minor when the parents have shared legal custody. This discussion can be found in the Final Minutes of the Board's December 2, 2019 meeting (p. 26-28, available on the Board's website). This discussion, along with the July 23, 2020 amendments to the Minors' Consent to Medical Care statute, have raised questions regarding whether the consent of only one parent, or the consent of both parents, is necessary to examine or treat a minor child when parents share legal custody.

To date, there have been no formal regulatory changes or overriding Pennsylvania appellate court decisions addressing the consent necessary to initiate voluntary outpatient mental health treatment of a less than 14-year-old minor when parents share legal custody. As described in the accompanying article the 2020 amendment stated that "A minor or another parent or legal guardian may not abrogate consent provided by a parent or legal guardian on the minor's behalf to voluntary inpatient or outpatient treatment," although it is not clear whether the restriction on abrogation applies when parents have shared legal custody. Pending such formal changes or overriding Pennsylvania appellate court decisions that clarifies that issue, therefore, it would appear prudent that if joint parental permission

is required to initiate voluntary outpatient mental health treatment of the less than 14-year-old minor when parents share legal custody, then joint parental permission is required to release to an outside third party the treatment records of the less than 14-year-old minor when parents share legal custody.

Release of Records to a Third Party of a Minor Aged 14 to 17 Who Consented to Treatment

Pursuant to 35 P.S. §10101.2(d), a minor, who is 14 years of age or older, and who has consented to their own voluntary outpatient mental health treatment, controls the release of their treatment records to outside third parties. Since the amendments to the Minor's Consent to Treatment Statute in 2005, and despite the contrary implications contained in the 2003 *Grossman* decision, this release of records principle has been applied to children who are 14 years or older even if the parents have shared legal custody.

Release of Records to a Third Party of a Minor Aged 14 to 17 Whose Parent or Parents Consented to Treatment

When a parent or both parents consent to the treatment of a 14 to 17-year-old minor, the parent or parents have a limited ability to release the voluntary outpatient mental health treatment records of the 14 to 17-year-old minor to an outside third party. These rules are contained in the Minors' Consent to Medical Care statute. Despite

the contrary implications contained in the 2003 *Grossman* decision, these rules have been applied when parents share legal custody by the Pennsylvania State Board of Psychology and the state attorneys who prosecute licensing board complaints.

This statute has three main provisions. First, the parent or parents who are providing consent to mental health treatment of a minor 14 years of age or older has the right to access information necessary for providing consent to the minor's mental health treatment, including symptoms and conditions to be treated, medications and other treatments to be provided, risks and benefits, and expected results (35 P.S. §10101.2(a)(3)(c)).

Second, the consenting parent or parents who are providing consent to mental health treatment of a minor 14 years of age or older may consent to the release of the minor's mental health records and information to the primary care provider if, in the judgment of the minor's current mental health treatment provider, such release would not be detrimental to the minor (35 P.S. §10101.2(a)(3)).^[2]

Third, the consenting parent or parents who are providing consent to mental health treatment of a minor 14 years of age or older may consent to release of the minor's medical records and information, including records of prior mental health treatment for which the parent has provided consent, to the minor's current mental health treatment provider (35 P.S. §10101.2 (a)(1)). In all other situations, even if a parent has provided the consent necessary to treat the 14 to 17-year-old minor, the consent of the 14 to 17-year-old minor is necessary to release the minor's records to outside third parties.

Practical Considerations Related to Confidentiality in the Treatment of 14 to 17-Year-Old Minors

Pursuant to the Minors' Consent to Medical Care statute, it is assumed that the parent or parents who consent to the treatment of the less than 14-year-old minor also control the release of the records of the less than 14-year-old minor. Pursuant to this interpretation, the parent or parents

who consented to the treatment of the less than 14-year-old minor also can access the records of the less than 14-year-old minor.

The Minor's Consent to Medical Care statute, however, limits a parent's ability to access the records of the 14 to 17-year-old minor. That is, even when a parent or parents consented to the treatment of the 14 to 17-year-old minor, the parent or parents are limited in their ability to access treatment information, other than information necessary to continue to provide informed consent to treatment (35 P.S. § 10101 (a)(3)(c)). In this regard, the Minor's Consent to Medical Care statute grants the 14 to 17-year-old minor broad control over their voluntary outpatient mental health treatment records, even with respect to access by the minor's own parents.

From a clinical perspective, this confidentiality rule may appear to place counterproductive constraints upon the treatment of the 14 to 17-year-old minor. That is, from a clinical perspective, the psychologist may believe that measured disclosure of treatment information to the parents may be indicated as part of the overall treatment strategy.

In such situations, the psychologist, prior to instituting treatment, can discuss confidentiality issues with the 14 to 17-year-old minor and the minor's parents as part of the informed consent process. For example, the psychologist might discuss the need to provide the parents with occasional treatment updates or explore the psychologist's ability to disclose treatment information to the parents that is more serious in nature. Or, depending on the treatment intervention anticipated, the psychologist can discuss the need for more frequent information exchange as part of family therapy. If the minor agrees that the psychologist will be allowed to disclose certain information as a necessary part of treatment, this agreement should be documented as part of the initial informed consent procedure. If the minor disagrees with this request, the psychologist then must decide if treatment should proceed under the minor's terms and conditions. A decision to proceed under the minor's terms and conditions should be consistent with the proposed treatment plan and should be documented clearly as part of the informed consent procedure. [3]

Release of Records for Treatment Initiated Prior to Age 14 After the Minor Reaches the Age of 14

As noted above, a minor 14 years old or older controls the release of records if the minor was 14 years old at the initiation of treatment. The Minors' Consent to Medical Care statute, however, is silent regarding the release of records where treatment was initiated prior to the minor turning 14 years of age, but, at the time of the records request, the minor is 14 years old or older.

Based upon the language of the Minors' Consent to Medical Care statute, it appears reasonable to assume that once the minor reaches age 14, the minor controls the release of their past and ongoing treatment records, regardless of the age at which treatment was initiated. This interpretation is consistent with the treatment rights that were granted to the 14 year and older minor pursuant to the 2005 and 2020 amendments to the Minors' Consent to Medical Care statute.

Illustrative Vignettes

The following vignettes describe potential clinical situations associated with the release of information concerning the treatment of minors.

Martha and Jonathan Kent seek treatment for their 14-year-old son, Clark. The treating psychologist, Dr. Phineas Potter, recommended family therapy. Dr. Potter obtained the consent of the mother, father, and 14-year-old Clark, and proceeded with family therapy. Dr. Potter explained to everyone the nature of family therapy and how information would be exchanged during treatment. Dr. Potter explained that, when she conducts family psychotherapy, all parties are considered to be patients.

Dr. Potter instituted family therapy consisting of joint sessions involving the mother, father, and 14-year-old minor. Although Dr. Potter may exchange information between the parties as part of family therapy, given the age of the minor, the consent of all three parties would be necessary prior to releasing the family

therapy records to an outside third party.

Dr. Jor-El received a request for records for a former patient, Lana Lang. The original consent to treatment was provided by Lana's mother, and treatment ended when Lana was 13 years old. Lana now is 16 years old. Dr. Jor-El advised the requesting party that a release of information executed by Lana was necessary prior to responding to the records request.

Lana presently is over the age of 14. Regardless of the age and manner by which treatment was initiated, the authors recommend that Lana now controls the release of her records.

- [1] The Minors' Consent to Medical care statute, originally passed in 1970, allowed minors under the age of 18 to receive medical treatment if their parents consented to treatment or if they were legally emancipated, had graduated from high school or were married. The amendments to the 1970 law permit minors aged 14 to 17 to seek mental health treatment on their own, but they do not rescind the portion of the law allowing minors who are legally emancipated, married or high school graduates to seek treatment on their own.
- [2] The Minor's Consent to Medical Care statute does not define "primary care provider." In the past, primary care providers have been considered to include general practitioners, family physicians, pediatricians, and nurse practitioners who provide primary care, as well as specialists who act in the role of a primary care provider.
- [3] The Trust has a sample informed consent document for child psychotherapy that may be downloaded and modified to comply with Pennsylvania State Board of Psychology Rules and regulations (<https://parma.trustinsurance.com/Resource-Center/Document-Library>; see informed consent form with child/adolescent addendum). **NR**



PROFESSIONAL LICENSE RENEWAL FOR PSYCHOLOGISTS IN PENNSYLVANIA

THE DEADLINE TO RENEW YOUR LICENSE IS NOVEMBER 30, 2021

Renewal notices from the *PA State Board of Psychology* will be sent out to licensees via EMAIL about 60 days prior to the license renewal deadline for 2021. This email will include the link to renew your license, your user ID, and your personal Registration Code. If you have changed your email address since the 2019 renewal, please contact the *State Board of Psychology* to make sure they have your most up to date email address on file.

All 2021 license renewals must be completed online. Paper renewal applications are not available.

Renewal notices are only being mailed to those licensees who do NOT have an email address on file with the State Board of Psychology

Specific licensing questions should be directed to the State Board of Psychology:
(717) 783-7155 or ST-PSYCHOLOGY@pa.gov

The PA State Board of Psychology is a government entity responsible for licensing and disciplining psychologists in the Commonwealth. PPA is a membership organization that is separate and apart from the State Board of Psychology.

PENNSYLVANIA PSYCHOLOGY LICENSE RENEWAL CHECKLIST

30 credits required

- 3 credits for Ethics - The word "ethics" must be part of the title, or the certificate must state that the programs specifically meets the requirements for ethics credits
- 2 credits for Child Abuse Recognition and Reporting (Act 31)
- 1 credit for Suicide Prevention (Act 74)

During the 2021 renewal period only, the limit on the number of home study and distance learning continuing education hours has been lifted. For this renewal period, psychologists can meet all of the continuing education requirements through home studies and/or distance learning programs.

If you have more than 30 continuing education credits, you may carry over up to 10 credits of CE into the next renewal period. Credits for the specific requirements listed above must be completed each renewal period.

Credits for psychologists must come from:

- An APA approved provider/course
- A provider approved by the State Board of Psychology
- An accredited college or university with semester hours, related to the practice of psychology
- AMA courses related to the practice of psychology that include an evaluation of learning objectives. It is commonly referred to Category I CE.

Visit www.papsy.org/CE for more information on PPA's continuing education, including Frequently Asked Questions

This resource is provided to you as a benefit of your PPA membership.

The articles selected for 2 CE credits in this issue of the Pennsylvania Psychologist are sponsored by the Pennsylvania Psychological Association. PPA is approved by the American Psychological Association to sponsor continuing education for psychologists. PPA maintains responsibility for this program and its content. During this renewal period only, the limit on the number of home study and distance learning continuing education hours has been lifted. For this renewal period, psychologists can receive all of the continuing education through home studies or distant learning programs. If you have more than 30 continuing education credits for this renewal period, you may carry over up to 10 credits of continuing education into the next renewal period.

You may complete the response form at the end of this exam, making certain to match your answers to the assigned question numbers. Each question has only one right answer. Be sure to fill in your name and address, sign your form, and return the answer sheet to the PPA office with your CE registration fee (made payable to PPA) of **\$50 for members (\$100 for nonmembers) and mail to:**

Continuing Education Programs
Pennsylvania Psychological Association
5925 Stevenson Avenue, Suite H
Harrisburg, PA 17112

To purchase and complete the test online, visit our online store at papsy.org. Passing the test requires a score of at least 70%. If you fail, you may complete the test again at no additional cost. We do not allow more than two attempts at the test.

Allow three to six weeks for notification of your results. If you successfully complete the test, we will mail a confirmation letter to you. The response form must be submitted to the PPA office on or before July 31, 2023.

Learning objectives: The articles in this issue will enable readers to (a) assess and explain current issues in professional psychology and (b) describe and act on new developments in Pennsylvania that affect the provision of psychological services.

Minor's Consent to Treatment

1. **According to the Minor's Consent to Medical Care statute, children of any age may seek treatment on their own without parental consent if the minor**

- a. Is married
- b. Become legally emancipated
- c. Has graduated from high school
- d. All the above

2. **According to the 2005 amendments to the Minor's Consent to Medical Care statute, mental health treatment is defined to include**

- a. An evaluation done to maximize recovery from a mental illness
- b. Therapy or rehabilitation services
- c. Services that supplement therapy or promote recovery
- d. All the above

3. **According to the Minor's Consent to Medical Care statute, children who are 14 years of age or older may NOT consent to mental health treatment.**

- TRUE
- FALSE

4. **According to the Minor's Consent to Medical Care statute, parents may consent to treatment for children who are 14 to 17.**

- TRUE
- FALSE

5. **According to the Minor's Consent to Medical Care statute, children who are 14 to 17 years old can consent to treatment on their own.**

- TRUE
- FALSE

6. **In the Grossman decision, a psychologist was disciplined for _____ without the consent of both parents when the court had ordered shared legal custody.**

- a. Treating a child
- b. Evaluating a child for purpose of developing a treatment plan
- c. Evaluating a child who was involved in contested custody care
- d. None of the above

7. **Following the Grossman decision, the State Board of Psychology interpreted the Grossman decision as requiring psychologists to get the consent of both parents when treating children who are under the age of 14 if there is a court order of joint legal custody.**

- TRUE
- FALSE

8. **In Pennsylvania, the right to legal custody means that the parent can direct the child's**

- a. Health care
- b. Religious upbringing
- c. Education
- d. All the above

9. **The State Board of Psychology is NOT permitted to issue advisory opinions, which are opinions on hypothetical questions that have not been addressed in regulations or through a court case before the Board.**

- TRUE
- FALSE

Release of Minor's Voluntary Outpatient Treatment Records

10. When a child under the age of 14 is accepted into treatment, the parents control the release of information for children.

TRUE
FALSE

11. When a child who is 14 years old or older consents to treatment, the child controls the release of information for themselves.

TRUE
FALSE

12. When a child who is 14 years old or older is accepted into treatment based on the consent of the parents, the child controls the release of information except that the consenting parent(s) can

- a. Consent to the release of information from past treatment providers to the current psychologist
- b. Consent to the release of information to the child's current primary care provider
- c. Receive limited information about treatment necessary to make an informed decision about future treatment
- d. All the above

13. The Minor's Consent to Treatment statute is silent on how psychologists should handle confidentiality in family therapy.

TRUE
FALSE

14. The authors believe that psychologists can conduct family therapy and/or have clinically relevant exchanges of information with parents are part of treatment if this is explained to all parties during the informed consent process.

TRUE
FALSE

15. Mr. and Mrs. Windor requested treatment for their 14-year-old son at a private psychology practice, and the 14-year-old minor subsequently signed the informed consent for treatment. The parents have requested a copy of their son's psychotherapy notes be forwarded to the child's primary care provider. The psychologist can

- a. Send this information if the parents sign the appropriate release
- b. Only send this information if the son signs the appropriate release
- c. Not send this information under any circumstances
- d. None of the above

16. Mr. and Mrs. Tudor have consented to treatment for their 13-year-old son at a private psychology practice. The parents have requested that the psychologist forward a copy of the child's psychotherapy notes to the child's primary care provider. The psychologist can

- a. Send this information if the consenting parents sign the appropriate release
- b. Only send this information if the boy gives his consent
- c. Not send this information under any circumstances
- d. All the above

17. Mr. Stuart and Ms. Stine were never married. They jointly consented to treatment for their 15-year-old son. The parents are seeking information to determine whether their child is progressing in treatment and whether treatment should continue. The psychologist

- a. Must receive permission of the child before releasing any information to the parents
- b. May release information to the parents concerning symptoms and conditions to be treated, medications and other conditions to be provided, risks and benefits, and expected results
- c. Release all information to the parents even if the child does not give consent
- d. Release all information to a past treatment provider who can then release the information to the parents

18. When a child in treatment turns 14, it is recommended that the psychologist obtain a release from _____ before releasing notes of treatment that took place before the child turned 14.

- a. A court
- b. Both parents
- c. The minor patient
- d. Either parent



CONTINUING EDUCATION ANSWER SHEET

The Pennsylvania Psychologist, Special Edition 2021

Please circle the letter corresponding to the correct answer for each question.

- | | | | |
|------------|------------|-------------|-------------|
| 1. a b c d | 6. a b c d | 11. T F | 16. a b c d |
| 2. a b c d | 7. T F | 12. a b c d | 17. a b c d |
| 3. T F | 8. a b c d | 13. T F | 18. a b c d |
| 4. T F | 9. T F | 14. T F | |
| 5. T F | 10. T F | 15. a b c d | |

Home Study Continuing Education Program

Consent for Treatment and Record Release for Minors in Pennsylvania

Two Continuing Education Credits for Psychologists

PLEASE COMPLETE AND RETURN WITH THE COURSE ANSWER SHEET.

Using the scale below, check the appropriate number after each statement to indicate the degree to which you agree or disagree with the statement.

	(Strongly Agree)		(Strongly Disagree)		
	1	2	3	4	5
1. The home study description was accurate.	[]	[]	[]	[]	[]
2. I acquired new knowledge and/or skills.	[]	[]	[]	[]	[]
3. The teaching format/length was suitable to the content.	[]	[]	[]	[]	[]
4. The objectives (listed below) of the course were met.	[]	[]	[]	[]	[]
5. The concepts were well explained.	[]	[]	[]	[]	[]
6. This home study met or exceeded my expectations.	[]	[]	[]	[]	[]
7. I would recommend this home study to others.	[]	[]	[]	[]	[]

Learning Objectives

As a result of this continuing education, I was better able to describe the rules governing Minor's consent to treatment in PA

The release of minor's treatment information records in PA

How much did you learn from this CE program?

Strongly Disagree

Strongly Agree

1 2 3 4 5

1 2 3 4 5

1 – Very Little 5 – great deal

1 2 3 4 5

Comments or suggestions for future issues _____

Please print clearly.

Name _____

Address _____

City _____ State _____ Zip _____ Phone () _____

Email _____

Signature _____ Date _____

**A check or money order for \$50 for PPA members (\$100 for nonmembers) must accompany this form. Mail to:
Continuing Education Programs, PPA, 5925 Stevenson Avenue, Suite H, Harrisburg, PA 17112**

Now available online, too! Purchase the quiz by visiting our online store at papsy.org. The store can be accessed from our home page. Please remember to log in to your account in order to receive the PPA member rate!

The Pennsylvania Psychologist

Calendar

SEPTEMBER 23 – 25, 2021

PPA Fall Conference MAX

Lancaster Marriott at Penn Square

Lancaster, PA

Hybrid Event (In-Person and Virtual)

FRIDAY, OCTOBER 8, 2021

PPA Fall Conference MINI

Normandy Farm

Blue Bell, PA

(In-Person)

MAY 18 – 21, 2022

PPA2022 Convention

Kalahari Resorts and Convention Center

Pocono Manor, PA

Home Study CE Courses

Act 74 CE programs

Essential Competencies when Working with Suicidal Patients—1 CE

Four Ways to Enhance Your Suicide Assessments (Webinar)—1 CE

Talking about Suicide: The Patient's Experience and the Therapist's Experience (Webinar)—1 CE

The Assessment, Management, and Treatment of Suicidal Patients: 2020—3 CE

The Essentials of Managing Suicidal Patients: 2020—1 CE

The Essentials of Screening and Assessing for Suicide among Adolescents—1 CE

The Essentials of Screening and Assessing for Suicide among Adults—1 CE

The Essentials of Screening and Assessing for Suicide among Older Adults—1 CE

The Essentials of Treating Suicidal Patients—1 CE

Act 31 CE Programs

Pennsylvania Child Abuse Recognition and Reporting—2 CE Version

Pennsylvania Child Abuse Recognition and Reporting—3 CE Version

Pennsylvania Child Abuse Recognition and Reporting (Webinar)—2 CE

General

*Ethical Issues with COVID-19 (Webinar)**—1 CE

*Ethical Responses when Dealing with Prejudiced Patients (Webinar)**—1 CE

*Ethics and Self-Reflection**—3 CE

*Foundations of Ethical Practice: Update 2019**—3 CE

Integrating Diversity in Training, Supervision, and Practice (Podcast)—1 CE

Interdisciplinary Collaboration in Assessing Capacity in the Elderly (Webinar)—1 CE

Introduction to Working with Chronic Health Conditions—3 CE

*Legal and Ethical Issues with High Conflict Families**—3 CE

Mental Health Access in Pennsylvania: Examining Capacity (Webinar)—1 CE

*Record Keeping for Psychologists in Pennsylvania**—3 CE

Telepsychology Q&A (Webinar)—1 CE

Why the World is on Fire: Historical and Ongoing Oppression of Black African American People in the United States (Webinar)—1.5 CE

***This program qualifies for contact hours for the ethics requirement as mandated by the Pennsylvania State Board of Psychology.**

Act 74 CE Programs qualify for the suicide requirement mandated by the Pennsylvania State Board of Psychology.

Act 31 CE Programs have been approved by the Department of Public Welfare and the Pennsylvania Department of State to meet the Act 31 requirements.

Visit PPA's online store for a full listing of our home studies.

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