

**Adolescents and the Law:
Arizona Audio Conference
January 15, 2009
12:00 pm – 1:30 pm MST**

AGENDA

Welcome and Introduction

Renée Marshall, Center for Health Training

Consent

- **Best Practices**

Confidentiality and Exceptions to Confidentiality

- **Best Practices**

Child Abuse Reporting

- **Best Practices**

Questions and Answers

Close

Speakers:

Erica Monasterio, MSN, FNP

Rebecca Gudeman, JD, MPA

Adolescents and the Law: Arizona

January 15, 2009
12:00-1:30 p.m. MST

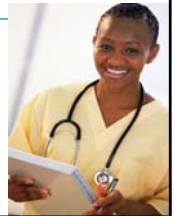
Center for Health Training
614 Grand Avenue, Suite 400
Oakland, CA 94610

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Providing Care to Teens in Arizona: Minor Consent & Confidentiality

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National Center for Youth Law



GENERAL PRINCIPLES IN WORKING WITH TEENS



- ☑ Rapport and alliance are key.
- ☑ Review the scope and nature of your relationship.
- ☑ Include a developmental assessment
- ☑ Seize every opportunity, recognize social and cultural norms that we work in.
- ☑ Invest more in the process than the outcome.
- ☑ You can express concern without judgment.

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CONFIDENTIALITY/CONSENT – WHAT'S THE BIG DEAL?

- ☑ Adolescents are going through tremendous physical, cognitive, emotional, sexual changes.
- ☑ Teens strive for autonomy and independence.
- ☑ Privacy is a key issue.
- ☑ Confidentiality is the cornerstone of alliance.

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OUTLINE

- **Consent**
 - When minors can consent for health care
- **Confidentiality Rules**
- **Exceptions to confidentiality**
 - Sharing records with parents
 - Sharing records with other professionals
 - Child Abuse Reporting

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The Perils of Practice for Patty Provider: Legal Issues in Adolescent Health Provision

- **Meet Patty Provider.** Patty sees adolescents at a busy local clinic. Because she has a good reputation among local teens, she tends to get a lot of requests for her time. Though busy, she loves her work and the challenges and rewards it brings. Here is a typical Monday in Patty's office. Patty arrives at the clinic bright and early with her super-size Starbucks.

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1. LORNA

Patty's sees that her first appointment is an easy one. Lorna is there with her one-year-old son. She says that she would like to switch from birth control pills to the patch and mentions that her ear has been hurting.

Who consents for this care?
Can she have her ear examined?
Her birth control changed?

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CONSENT: Who Can Consent to Care?

General Rule

- Minors need caregiver to consent for care
- Age of Majority is 18



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CONSENT: Minor Consent Exceptions

▪ Status

▪ Service



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CONSENT: Status Exceptions

Under these circumstances, minors may consent to medical, dental and psychiatric care:

- Married/Divorced
- Emancipated by Court
- Homeless (as defined under state law)

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CONSENT: Service Exceptions

Minors may consent to specific care & treatment for the following:

- Family Planning (Title X funded)
- Services funded under Titles V, X, XIX, or XX
- Venereal diseases
- HIV testing
- Drug and alcohol treatment
- Sexual Assault

(Note age restrictions on consenting for certain services)

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2. GINGER

Patty moves on to see a new patient. Patty walks into the exam room to find Ginger and Ginger's mother. Ginger's mom immediately says: "We need to get Ginger on some kind of birth control." Ginger doesn't say a word.



May Ginger's mom put her on birth control?

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3. SAMANTHA AND RICHARD

Patty goes on to her next appointment. In the examining room are 14 year old Samantha and her father, Richard. Richard says that Samantha has been complaining of stomach pains and he is afraid she might have appendicitis. Patty asks Richard to leave the room. After speaking with Samantha a while, Patty asks her if she has ever been sexually active. Samantha says no but agrees to a pregnancy test. After her examination, Patty asks Richard to come back into the room. He agrees to a few other tests, including a blood test to see if her white blood cell count is elevated.

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3. SAMANTHA AND RICHARD

Richard says that he wants to see the results of Samantha's tests directly when they come in. Richard sounds angry and suspicious. Samantha looks panicked and as if she were ready to run from the room.



Which records must Patty share with Richard:

- The CBC?
- The pregnancy test?

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CONFIDENTIALITY: What is it ?

Federal and state statutes that protect against the unauthorized release of personal information.

Common characteristics:

- ❑ Restrict sharing information outside the immediate service delivery program without receiving the client's informed consent for the release
- ❑ Protect both written and non-written information
- ❑ Require signed authorization for release
- ❑ Include exceptions that allow the release of information to certain people or agencies without client authorization

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CONFIDENTIALITY: General Rule



Confidentiality follows consent

What does this mean?

- ❑ If a parent consents, she generally controls access to the minor's medical records and her signed authorization is needed to release to anyone else.
- ❑ If a minor consents, she generally controls access to the records and her signed authorization is needed to release to anyone else.

Except...

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CONFIDENTIALITY: Exception Limiting Parent Access When Parent Consents

- Risk of Abuse or Neglect
- Access would Endanger Life or Safety
- Access by Decision Maker would Harm Patient

- See guide for additional exceptions



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Easy to say...hard to do! How do you deal with the situation?

- Anticipate the problem before it occurs
- Have a policy
 - Make sure all staff is consistent with policy
 - Have written materials that reinforce policy
- Perform an “atraumatic parentectomy” with all accompanying parents before a problem emerges
- Hear the parent out and validate their concerns: empathy will take you far

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Performing an “Atraumatic Parentectomy”

ROADMAP

- **LAY OUT** the course of the visit. Explain what will happen.
- **EXPLAIN** your program policy regarding adolescent visits.
 - **REVIEW** your policy verbally early in the interaction with the youth and parent/partner.
 - **ACKNOWLEDGE** that the youth is a minor and therefore has specific legal rights related to consent and confidentiality.
 - **INTRODUCE** the concept of fostering adolescent self-responsibility and self-reliance.

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“Atraumatic Parentectomy”

- **REINFORCE** that this policy applies to all adolescents in your program (in other words, this is not specific to YOUR child or YOUR relationship).
- **VALIDATE** the parental role in their teen’s health and well-being.
- **ELICIT** any specific questions or concerns from the parent.
- **DIRECT** questions and discussion to the client while attending to and validating parental input.
- **REMOVE**
 - **INVITE** parents to have a seat in the waiting area, assuring them that you will call them prior to closing the visit.

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“Atraumatic Parentectomy”

■ REVISIT

- **REVISIT** issues of consent & confidentiality with the youth, including conditions when confidentiality has to be breached (suicidality, abuse), once you are alone with the client.
- **REVISIT** areas of parental concern with the youth and obtain the youth's perspective.
- **CONDUCT** the psycho-social interview (HEADSSS).

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“Atraumatic Parentectomy”

■ Plan

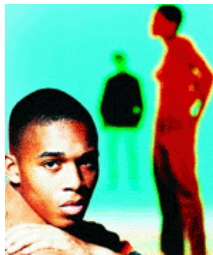
- **CLARIFY** what information from the psycho-social interview the youth is comfortable sharing with parent.
- **STRATEGIZE** with youth regarding communication of sensitive information, addressing parental concerns, facilitation parent/youth communication

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“Atraumatic Parentectomy”

■ REUNITE

- **INVITE** the parent back to close the visit with both the parent and the youth
- **FOCUS ON STRENGTHS** and discuss concerns (with youth's permission)



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4. ANGRY MOM

As Patty leaves the examining room, the clinic manager grabs her. “Patty, we need your help. There is a woman at the front desk saying that she is going to call a lawyer if we don't give her a copy of her daughter's health records right now.” Patty goes up front to speak to this woman. The woman says she found some paperwork in her daughter's drawer with the clinic's name on it. She wants to know whether her daughter has ever been to this clinic and if so, for what services. She has the phone in her hand and says she is going to have her lawyer shut the clinic down if they don't tell her what she wants to know ASAP.

What can/should the clinic tell mom?

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Policies/Procedures/Guidelines

- Serve as a reference for agency mission, philosophy and scope of practice
- Assure that all staff operate from a common set of assumptions
- Clarify the application of laws, policies and procedures
- Provide an objective, impersonal framework for all staff.

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Is it the law, a policy or your practice?

- ALL STAFF MUST UNDERSTAND:
 - Under whose rules do you operate? health, education, juvenile justice, foster care, private corporation?
 - What are your obligations as a result of your contracts and grants?
 - What are the licensing requirements and ethical standards of the professionals in the agency?

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5. GERALDINA

Patty goes on to see her next client. Geraldina is 15 and is 8 weeks pregnant. She tells Patty that she is pretty sure she wants to have the baby but give it up for adoption. She wants information on her options, including adoption, but absolutely does not want her parents involved right now.

May Patty provide her information on adoption without involving Geraldina's parents?

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6. NANCY NURSE

On her way back to the exam rooms, Patty is paged for a call. On the line is Nancy Nurse from nearby Doctor's office. She says that Patty's client, Maria, is in Nancy's exam room right now. Maria says she is on some medications but can't remember what they are called. Nancy asks Patty if Patty will tell her what medications Patty prescribed to Maria. She will wait by the phone for the answer.

What, if anything, can Patty Provider tell Nancy Nurse on the phone?



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CONFIDENTIALITY: Treatment exception

TREATMENT EXCEPTION:

“A health care provider may disclose medical records...without authorization...to health care providers who are currently providing health care to the patient for the purpose of diagnosis or treatment of the patient.” ARS 12-2294.

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7. MARCIA

Patty brings in her next appointment. Marcia is 15 and asks for an STD test. She explains that she got really wasted at a party, totally blacked out, and thinks someone may have had sex with her. She doesn't want to have sex with her 19-year-old boyfriend until she knows she's not infected with anything.

Does Patty need to make a child abuse report on Marcia's behalf? What does she need to report?

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CONFIDENTIALITY : Child Abuse exception

CHILD ABUSE EXCEPTION:

Mandated reporters must share information necessary to make a child abuse report with CPS or law enforcement.

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CONFIDENTIALITY: Child Abuse Exception

Who is a mandated reporter? Includes:

- Ⓒ Physician or psychologist Ⓒ nurse Ⓒ optometrist
- Ⓒ counselor Ⓒ behavioral health professional Ⓒ social worker

- Ⓒ Parent, stepparent or guardian

- Ⓒ Any other person who has responsibility for the care or treatment of the minor..

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CONFIDENTIALITY: Child Abuse Exception

When must a mandated reporter file a child abuse report?

When the reporter “reasonably believes that a minor is or has been the victim of child abuse or neglect...”

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CONFIDENTIALITY: Child Abuse

What is Reportable Child Abuse?

- ❖ Physical injury
- ❖ Abuse
- ❖ Child Abuse
- ❖ Reportable Offenses
- ❖ Neglect

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CONFIDENTIALITY: Sexual Abuse

- Any nonconsensual sexual activity, including sexual assault, incest, and molestation.
- Exploitation, including child prostitution
- Consensual sexual acts, in a small number of situations

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CONFIDENTIALITY: Child Abuse Exception

Consensual sexual intercourse is considered reportable child abuse when:

- Minor is 13 years old or younger
- Minor is 14 years old and partner is 18 or older
- Minor is 15, 16, or 17 and partner is at least 18 and more than 24 months older.

**AGE + AGE + ACTIVITY = REPORT
REQUIRED**

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CONFIDENTIALITY: Child Abuse Exception

Consensual sexual intercourse is **NOT** considered child abuse when:

- Minor and partner are both between 14 and 17 years old.
- Minor is 15, 16, or 17 years old and partner is less than 19 or attending high school and no more than twenty-four months older.

See guide for more examples.

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CONFIDENTIALITY: Child Abuse Exception

What is the mandated reporter's legal duty to ask questions & uncover child abuse?

DO WHAT YOU USUALLY DO

“Nothing in the child abuse reporting act requires health care practitioners to obtain information they would not ordinarily obtain in the course of providing care or treatment.”

(People ex rel. Eichenberger v. Stockton Pregnancy Clinic, 203 Cal.App.3d 225 (1988))

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CONFIDENTIALITY: Child Abuse Exception

Does ANY Age Disparity Always Indicate Abuse?

- Depends on State law
- Depends on the context/cultural norms
- Depends on the nature of the relationship
- Depends on the age and developmental stage of the younger partner

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Principles of Communicating Conditional Confidentiality

- Define confidentiality
- Provide a quick overview of the “service exceptions” to the general consent law (areas where minor consent may apply)
- Provide *specific* information regarding when confidentiality might be breached

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Strive for CLEAR Communication



- Keep information
 - simple
 - specific to the individual youth you are working with
- Use developmentally appropriate language and concepts

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An Example Poster:

HEY TEENS! Did You Know?

Anything you say about sex, drugs, and feelings is **CONFIDENTIAL** unless you give me permission to share it.

“What we say here...
...stays here.”

But, if you tell me:

- You are being abused (physically and/or sexually)
- You are going to hurt yourself or someone else
- You are under 14 and having sex with someone 14 years or older
- You are under 16 and having sex with someone 21 years or older

I must contact someone to help.

“Talk
(I’ll listen.)
to me!”



CCCO

8. LOLA

Finally, Patty goes in to see her last client of the day. Lola, 14, discloses that her adult uncle "made me do it with him" and she thinks she may be pregnant. A pregnancy test confirms that she is.

What should Patty do? Does she have to tell Lola's parents?

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Protecting Confidentiality: Think Beyond the Exam Room



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Tips For Protecting Teen Confidentiality

- Refrain from discussing patient/client information in ANY public spaces
- Ensure privacy when teen is answering questions or filling out forms
- Collect up-to-date contact information for confidential communication
- Be attentive to paperwork flow. If EOB or client satisfaction form is sent out, confidentiality may be breached. Consider alternative billing methods or referring out!

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Tips For Protecting Youth Confidentiality

- Make sure all doors are closed when discussing sensitive information
- Distribute small handouts on sensitive matters! Use discretion.
- Clarify confidentiality policies at the beginning of each visit
- Separate youth and parents starting at 11 years & give teen a chance to have private time with provider *before* they may need it

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Questions/More information?

Adolescent Health Working Group

www.ahwg.net

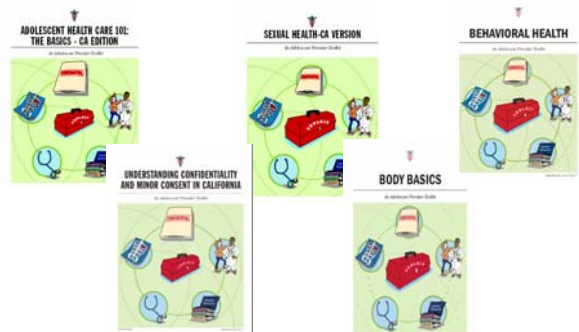
**National Center for Youth Law
Oakland, CA**

www.teenhealthrights.org

www.youthlaw.org

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Provider's Toolkit series: www.ahwg.net



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Resource: AZ Reporting Requirements

- Reporting Requirements Under the Child Abuse Reporting Statute, a 2007 written opinion from Arizona Attorney General Terry Goddard.

<http://www.azag.gov/opinions/2007/107-006.pdf>

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Evaluations

Please take a moment to fill out our evaluation and mail or fax it to:

Center for Health Training
614 Grand Ave. Suite 400
Oakland, CA 94610
Fax: (510) 625-9307

THANK YOU!!!!

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If you are receiving CEs, sign your name: _____
 and give your license number: _____

Audio Conference Assessment Adolescents and the Law: Arizona January 15, 2009

1. Please rate your belief about the following statements before and after this training using a scale of 1 (strongly disagree) to 5 (strongly agree):

I feel prepared or competent to:

		<i>Strongly disagree</i>			<i>Strongly agree</i>		
a. Describe the minor consent laws regarding reproductive health care and sexual abuse in Arizona.	<i>Before training</i>	1	2	3	4	5	
	<i>After training</i>	1	2	3	4	5	
b. Demonstrate the confidentiality and reporting laws pertaining to sexual abuse.	<i>Before training</i>	1	2	3	4	5	
	<i>After training</i>	1	2	3	4	5	
c. State one approach for implementing the relevant laws into practice.	<i>Before training</i>	1	2	3	4	5	
	<i>After training</i>	1	2	3	4	5	
d. Define the need for front line and clinician training.	<i>Before training</i>	1	2	3	4	5	
	<i>After training</i>	1	2	3	4	5	

2. Please rank your trainer's overall performance by circling one of the five numbers below.

Erica Bisgyer Monasterio (Poor) 1 2 3 4 5 (Great)

3. Did the trainer...

- | | | | |
|---------------------------------------|--------|---------------------|-------|
| a. cover objectives adequately: | __ Yes | __ Most of the time | __ No |
| b. present information clearly: | __ Yes | __ Most of the time | __ No |
| c. respond to questions and concerns: | __ Yes | __ Most of the time | __ No |
| d. pace the training appropriately: | __ Yes | __ Most of the time | __ No |

4. Additional Speaker Comments:

5. Please evaluate your speaker:

Rebecca Gudeman (Poor) 1 2 3 4 5 (Great)

6. Did the trainer...

- | | | | |
|---------------------------------------|--------|---------------------|-------|
| a. cover objectives adequately: | __ Yes | __ Most of the time | __ No |
| b. present information clearly: | __ Yes | __ Most of the time | __ No |
| c. respond to questions and concerns: | __ Yes | __ Most of the time | __ No |
| d. pace the training appropriately: | __ Yes | __ Most of the time | __ No |

g. Additional Speaker Comments:

6. The subject matter was (check one):
- a. too basic
 - b. a lot of new information
 - c. a valuable review
 - d. other (explain):

10. Name 2-3 things you would do differently in your work as a result of this training

11. As a result of this session, I plan to: _____

12. The most valuable part was _____

13. The least valuable part was _____

14. Suggested future topics: _____

Please write any additional comments or suggestions below:

Audio Conference Continuing Education Form

Adolescents and the Law: Arizona

Thursday, January 15, 2009

WSNA

Center for Health Training (PA-23/Mar/09) is an approved provider of continuing education by the Washington State Nurses Association, an accredited approver by the American Nurses Credentialing Center's Commission on Accreditation. 1.5 WSNA contact hours available.

To receive credit, listeners must:

- Sign the participant sign-in sheet
- Fill out a "Workshop Assessment", and sign your name at the top.
- "Attend" the entire course
- Mail the following to CHT by **January 29, 2009**:
 1. Participant sign-in sheet
 2. Audio Teleconference Continuing Education Credit Form
 3. A complete and signed evaluation form
 4. A check for \$10.00

By signing below, I certify that I have attended the entire session on January 18; 2009.

WSNA 1.5 hours

Signature _____

Please **Print** ALL of the information below:

Name _____ License Number _____

Title _____

Organization _____

Address _____

City _____ State _____ Zip _____

Phone Number (____) _____

Please return this form, course evaluation, sign-in sheet, and payment to:

Deadline: January 29, 2009

Ginny Weir, Center for Health Training
614 Grand Avenue, Suite 400 Oakland, CA 94610-3523
Fax (510) 625-9307 Phone (510) 835-3700 x.115

Workshop Sign-in

Workshop: Adolescents and the Law: Arizona

Audio Conference

Date: 12:00 – 1:30pm Mountain Standard Time - January 15, 2009

PLEASE SIGN IN.

PLEASE PRINT CLEARLY.

Name: _____
Title: _____ Lic. # _____

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