

Pregnancy of a Minor

Avoiding Liability Bulletin - February 2007

... Suppose a therapist is treating a fifteen-year old girl who tells the therapist that she is pregnant and is thinking about obtaining an abortion. Is the therapist required to keep this information confidential? Must a report of child abuse be made? What is the liability of the therapist if the parents are not informed of this information by the therapist and the abortion takes place, perhaps causing the girl to become seriously depressed? The answers will necessarily depend upon the applicable laws in the particular state involved – and may vary from state to state. It is critical, however, that practitioners know or obtain the answers to these and other questions.

In one state, for example, the answers are reasonably clear. That state's law makes clear that the pregnancy of a minor, in and of itself, does not constitute a basis for a reasonable suspicion of child abuse. Of course, if the girl were to reveal that she was pregnant as the result of being forcibly raped by her teacher, a child abuse report would be required. The pregnancy could be the result, for example, of consensual sexual intercourse between the girl and her seventeen-year old boyfriend (not reportable as child abuse in this particular state). The therapist in this particular state would be required to keep this information confidential and would be able to successfully resist an effort by the parents to find out information by inspecting, or obtaining a copy of, the child's treatment records. The therapist might encourage the minor to reveal this information to the parents herself, but would generally respect the girl's desire to keep this information from her parents.

As to the therapist's liability, it should be minimal – assuming competent treatment was rendered and that it is documented in the records. Decisions of this kind are major, and they can have long-lasting consequences for minors. The fact that the girl suffered serious depression as the result of the abortion should not ordinarily be enough to establish, in and of itself, negligence on the part of the therapist. It should be noted that involvement of the parents in these kinds of situations may not always be appropriate – and can sometimes cause more problems for the minor than when the information is kept confidential. Each case is different, and the therapist is expected to use his or her best professional judgment and to render lawful and competent care.

Author:
Richard Leslie