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I39 Consent for the Mental Health Treatment of Minors: Who Holds This Decision-Making Authority?

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After attending this presentation, attendees will better understand the different parties who have the legal authority to provide consent for the mental health treatment of minors. While parents or guardians are usually the individuals who grant consent to the mental health treatment for the minor, there are instances when this is not the case. Moreover, a single parent's consent is not always sufficient for proceeding with treatment (i.e., in cases of joint legal custody).

This presentation will impact the forensic science community by raising awareness of the various ethical, legal, and clinical considerations that may occur depending on who provides consent for the minor's mental health treatment. An examination of the laws in several jurisdictions, as well as the ethical guidelines for mental health professionals, will be discussed in relation to the treatment of minors. Additionally, a decision-making model for practitioners to use in deciding whether to treat a minor with or without their parents' or guardians' legal consent will be presented.

When a minor receives mental health services, he/she is usually accompanied to the appointments by his/her parent(s). In fact, in the majority of states, it is generally understood that a minor's parents will be informed of and provide the consent for the child's mental health treatment; however, practitioners may encounter situations in which a parent's legal authority to give consent, or even know that their child is in mental health treatment, is not required, as it is not in the best interest of the child. In addition, there are limited circumstances in which a minor has the legal authority to consent to their own mental health treatment. All of these circumstances will be explored nationally so as to identify the commonalities and the differences in the specific legal criteria for consent among the states.

Knowing who has the authority to give consent, as well as the exceptions to the rule, is critical for the mental health practitioner. The exceptions in which a minor can give consent clearly addresses issues that are out of the ordinary, with particular emphasis on acknowledging that doing so is in the child's best interests. The risk of facing malpractice liability problems, in addition to licensing board complaints, can be a serious issue when treating minors, most notably for those who are unaware of the laws of their state and their professional practice guidelines. Yet, these laws and guidelines are often vague. This presentation is intended to educate the provider regarding situations in which there is a legal exception to obtaining the parents' or guardians' consent. Moreover, case examples illustrating when consent from the minor only is appropriate will be highlighted, as well as suggestions on how to document this in the minor's mental health record.

Minors, Consent, Mental Health Treatment