



North Carolina Board of Licensed Professional Counselors

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NCBLPC Professional Brief

Content Area: Minors in Treatment

Brief Overview/Description:

Parents or guardians of minors have the legal right of supervision and control of their children (G.S. 7B-3400). This right, however, is not absolute especially when a child's welfare is at risk. The courts have repeatedly stated that the "child's welfare is paramount" (Greer v. Greer, 1969; Hinkle v. Hinkle, 1966; Hardee v. Mitchell 1949). Therefore, minors are also given rights when their own welfare is in jeopardy. In such cases as minors needing treatment for alcohol or substance abuse, emotional disturbance, abortion, or emergency admission to a treatment facility, minors may consent to such treatment (G. S. 90-21.5). Emancipated minors may consent for themselves and their children.

Given parents' major responsibility and legal right to supervision and control of their children, counselors value, respect, and adhere to parental guidance when working with minors except when the child's welfare is in jeopardy (i.e. in cases of suspected neglect and/or abuse). Ethically, counselors seek the assent (agreement) of minor clients and include them in making decisions about their treatment even when parents are involved. Moreover, counselors protect the confidentiality of minors in all situations and seek consent from appropriate third parties prior to releasing information regarding them (ACA Code of Ethics A.2.d. & B.5.a., 2005).

Key Legal Factors:

- Minors are subject to supervision and control of their parents "notwithstanding any other provision of the law" (G. S. 7B-3400)
- Minors may give consent for treatment regarding alcohol/substance abuse, emotional disturbance, and emergency admission to a treatment facility (N.C. Gen. Stat. 90-21.5)

Real Issues to Consider:

Generally, parents will act in ways that promote their child's personal, social, and educational development. In cases where they cannot or do not, minor children are given legal rights to seek medical assistance for themselves. In some cases, parents may or may not be aware of the child's need for assistance. In others, they may choose to neglect or even be the cause of the child's adverse condition. Counselors may need to help inform minors of their rights and even advocate for them to get the help they need and deserve as a means of "promoting the welfare of those they serve." School and agency counselors may be faced with such situations more so than private practice counselors due to their accessibility to minors in schools.

Parents and guardians can be an ally in a counseling relationship when working with a minor client. Even though minors can consent to their own mental health treatment, involving parents or guardians can prove beneficial. Counselors can educate parents and guardians regarding strategies for rewarding and improving the behavior of a minor at home and can offer resources for parents and guardians to use to provide support to the minor at home. In some situations, there may be delicate dynamics at play between the minor and his/her parents/guardian and working with the adults in the relationship may be more challenging or problematic than just working with the minor client. Counselors must assess when it is most useful to work solely with a minor client and when it would be beneficial to work with the family system. This decision can inform whether or not the counselor seeks consent for treatment from the minor or from the minor and the parent/guardian(s).

The information contained herein is an overview of North Carolina laws, federal laws, and regulations. It is not intended to be a comprehensive list of all laws or regulations that govern the practice of counseling. The material is not to be taken as legal advice. Any interpretation of a statute or regulation expressed in the materials is created for educational purposes only. The NCBLPC does not issue advisory opinions, and the materials are not to be construed as such.

Regardless, even when parents/guardians are heavily influencing the minor to seek treatment, and sign written informed consent paperwork, counselors must still seek the consent of their minor clients in treatment. For example, when a counselor in training receives permission from a parent to video-tape the counseling session with a minor, the counselor must still get consent from the minor client before he/she can video-tape the session.

Catch 22:

Even though a minor child may seek treatment for him/herself, the child is placed in a precarious situation if the parent does not agree with treatment. In rural areas, children have to depend on their parents for transportation unless some other responsible adult helps them. In urban areas, transportation may be more accessible, but possibly unsafe for a minor attempting to seek help alone. In both cases, there may be difficulty in getting to appointments without help from a responsible person. In addition, many adults outside the immediate family may be wary of getting involved in “family business” even though they perceive the need to help the minor. Therefore, it is most likely that someone will have to report the parent as neglectful in order to get the help the child needs.

Summary Statement:

Parents have a major responsibility to provide for the welfare of their minor children. When parents cannot or do not assume this responsibility, there are options for the minor. Counselors must be aware of the legal and ethical considerations involved in order to best promote minor clients’ welfare.