



Adolescent Health Care
Legal Rights of Teens

Fourth Edition

Center for Children's Advocacy
Medical-Legal Partnership Project

Preface

This book is intended as practical assistance for health care and mental health care providers, policy makers, and attorneys representing adolescents. It covers the explicit references to Connecticut and Federal law regarding confidentiality in adolescent medical care. References to pertinent ethical guidelines are included as a reference to generally accepted medical principles guiding adolescent medical care and treatment.

The idea to create this book came from numerous requests and suggestions from practitioners and health care organizations, and highlights basic confidentiality issues that arise when treating adolescents.

This book is intended as a reference only. It should not be interpreted as legal advice in an individual case, but only as a general resource guide to assist the health care provider or attorney in treating and counseling the adolescent patient. Please note that the majority of statutes referred to in text are Connecticut based and do not necessarily reflect the prevailing law in other jurisdictions. Practitioners from other jurisdictions are encouraged to consult local statutes/regulations that govern the confidential care and treatment of adolescent patients.

This book reflects the law as of October 2010. Please check the Center for Children's Advocacy website for changes in the law that may have occurred since publication. Go to: www.kidscounsel.org/legal_resources.htm and click on "Adolescent Health Care."



Adolescent Health Care Legal Rights of Teens

Fourth Edition

The Fourth Edition of this book reflects the state of the law regarding adolescent health care and teenage legal rights in the healthcare setting. Since our initial publication of this book in 2000, the law has changed significantly in areas surrounding patient confidentiality (HIPAA and other federal regulations), emergency contraception (Plan B and emergency contraception), sexual assault and statutory rape, mandatory reporting of suspected child abuse and neglect, HIV and AIDS counseling and testing, and the federal landscape surrounding the right to an abortion.

In addition, we have added sections in this edition to address issues that are often raised in the clinical setting. The Fourth Edition includes new material covering the Basics of Supplemental Security Income (SSI) eligibility, Connecticut Law on Bullying, Access to Healthcare for Legal and Undocumented Immigrants and Refugees, Healthcare Coverage and Public School Education, and Utility Shutoff and its effect on pediatric health.

While we believe that we have captured the most up-to date-laws, regulations and policies surrounding adolescent health care, the landscape has a way of changing from the time of writing to the time of publication. As a result, we urge readers, practitioners, and attorneys to use this book only as a reference point, and to seek counsel from administrators, risk management personnel, and counsel before acting in this critically important area of teenage legal rights in the health care setting.

We welcome comments and critique on the content of this book; practitioners are invited to provide feedback to the authors at the Center for Children's Advocacy. For the latest relevant legal updates, please go to www.kidscounsel.org/legalresources.htm and click on *Adolescent Health Care*.

The Center's Medical-Legal Partnership Project (MLPP) staff is available for trainings, forums, and symposia on issues surrounding adolescent healthcare and the legal rights of teens. Since the publication of the first edition of this book, MLPP attorneys and law student interns have given over one hundred presentations on adolescent health care and confidentiality issues to attending physicians, pediatric, family medicine, internal medicine and psychiatry residents, mid-level practitioners, nurses, social workers, school-based personnel, hospital administrators and attorneys. If your organization would like to schedule a training or a forum with MLPP staff, please contact the MLPP director at (860) 714-1412; our MLPP office at Connecticut Children's Medical Center at (860) 545-8581; or the Center for Children's Advocacy at (860) 570-5327.



Acknowledgements and Contact Information

Acknowledgements

This book was written by Center for Children’s Advocacy Attorney Jay Sicklick, Deputy Director of CCA and Director of the Center’s Medical-Legal Partnership Project.

The Center is a private, non-profit organization dedicated to protecting and promoting the legal rights of poor children. CCA provides legal representation to children falling through the cracks of the child welfare, health, mental health, education and juvenile justice systems.

The Center’s Medical-Legal Partnership Project (MLPP) is an interdisciplinary collaboration with the Connecticut Children’s Medical Center, Saint Francis Hospital and Medical Center, Charter Oak Health Center, Community Health Services, The Hospital of Central Connecticut, and community pediatricians. This collaborative partnership was formed to provide improvement in children’s health through legal advocacy and policy reform.

The MLPP employs a preventive, multi-disciplinary approach to improving child health by ensuring that families’ basic needs are met – safe housing, adequate income and benefits support, disability advocacy, access to health care, freedom from violence and abuse, and appropriate educational services.

For more information about the Center for Children’s Advocacy and the Medical-Legal Partnership Project, please visit www.kidscounsel.org.

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Contact Information

Healthcare providers who have questions about this material or seek additional information about adolescent confidentiality should contact:

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Definitions

Asylee

An alien already in the U.S. or at a U.S. port of entry who is unable to return because of a well-founded fear of persecution on the basis of race, religion, nationality, membership in a particular social group, or political opinion. (Asylees differ from Refugees in that Refugees have not yet entered the U.S. when their status is determined, while Asylees have.)

Bullying

“Any overt acts by a student or a group of students directed against another student with the intent to ridicule, harass, humiliate or intimidate the other student while on school grounds, at a school-sponsored activity or on a school bus.” See Conn. Gen. Stat. § 10-222d. The United States Department of Health & Human Services defines bullying as “aggressive behavior that is intentional, repeated over time, and involves an imbalance of power or strength.” See www.stopbullyingnow.hrsa.gov/adults/all-about-bullying.aspx.

Consent

Consent is defined in the context of privileged communications as “written consent” by the patient or his/her authorized representative. See e.g., Conn. Gen. Stat. § 52-146d(3) (psychiatrist-patient privilege).

Emancipated Minor

One who is 16 or 17 years of age and has been declared “emancipated” by the court because 1) the minor is married; 2) the minor actively serves in the U.S. Armed Forces; 3) the minor willingly lives away from home and manages his or her own finances with or without parental consent; or 4) the court determines “for good cause” that emancipation is in the “best interest” of the minor. See Conn. Gen. Stat. § 46b-150.

HIPAA

The Health Insurance Portability and Accountability Act, first passed by Congress in 1996. While HIPAA was originally intended to simplify rules regarding the portability of insurance coverage for employees leaving their places of employment, it has transformed into a complicated statutory and regulatory structure that dictates much of how health information is protected due to privacy and confidentiality concerns. See www.hhs.gov/ocr/hipaa.

HUSKY Health Insurance

(Healthcare for Uninsured Kids & Youth)

Connecticut’s health insurance package for children and teenagers up to the age of nineteen, with eligibility based on a family’s or youth’s income. Parents of children insured under the state’s HUSKY Plan, Part A may be covered if the family’s income is equal to or below 185% of the federal poverty level.

HUSKY Part A

Connecticut’s Medicaid program for children, authorized by Title XIX of the Social Security Act.

HUSKY Part B

Insurance program for children in higher-income families. Children’s Health Insurance Program (CHIP) in national lexicon, authorized by Title XXI of the Social Security Act.

HUSKY Plus

For children with special physical and behavioral health needs.

Informed Consent

The medical doctrine whereby medical providers (physicians, hospitals, etc) inform patients of the risks and benefits of alternative approaches to treatment and the risks and possible consequences resulting from those approaches. After such an explanation, the medical provider obtains a signed consent from the patient who acknowledges receipt of the information and an understanding of the risks and benefits of the procedure or treatment. The root premise in the doctrine of informed consent is that “every human being of adult years and sound mind has a right to determine what shall be done with his own body ...”¹

Lawful Permanent Residents (LPR)

Sometimes referred to as “green card” holders, LPR are residents or citizens of other countries who are legally permitted to remain in the United States indefinitely and generally have the same rights as citizens, except that they cannot vote or hold elected office.

Living Will

A legal document that states a person’s wishes regarding any aspect of health care, including withholding or withdrawal of life-support systems. It is a sub-category of “advanced directives,” which are written instructions, such as a living will or durable power of attorney, which are recognized under Connecticut law to express a person’s wishes as to health care if the person is unable to communicate treatment decisions. It is a process regulated by statute in Connecticut. See Conn. Gen. Stats. §§19a-575 *et seq.*

Mandated Reporter

A health care professional/provider (e.g. physician, surgeon, registered nurse practitioner, registered nurse, etc.) who, in his/her professional capacity, has reasonable cause to suspect or believe that a child has been abused/neglected or is at imminent risk of serious harm, shall report such abuse/neglect or risk of imminent serious harm to the Department of Children and Families or the police. See Conn. Gen. Stat. §§ 17a-101,

¹ *Scholoendorff v. The Society of New York Hospital*, 211 N.Y. 125, 129-30 (1914) (Cardozo, J.)