

ETHICAL & LEGAL CONSIDERATIONS

When Counseling Teens

Presented by David Flack, MA, LMHC, SUDP

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TODAY'S SCHEDULE

- This workshop runs 9:00am to 4:30pm
- We're not going to end early
- Break about 10:30am
- Hour lunch about 12:00pm
- Break about 2:30pm
- To get CEU credit for today, you must be present the entire time

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GROUND RULES

- This workshop is a non-judgmental, confidential space
- I'm not a lawyer
- I'm here to *facilitate*, not teach
- We're talking about *minor teens*
- Let's assume ability to provide *informed consent*

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DOCUMENTATION

A few common myths

- Client can opt out of all records
- Keep records for 7 years, except minors – which is something else, right?
- If I destroy my records after 7 years, I can't be sued
- If I don't take public insurance, I'll never be audited

What the law actually says

- WAC 246-809-035 Recordkeeping and Retention

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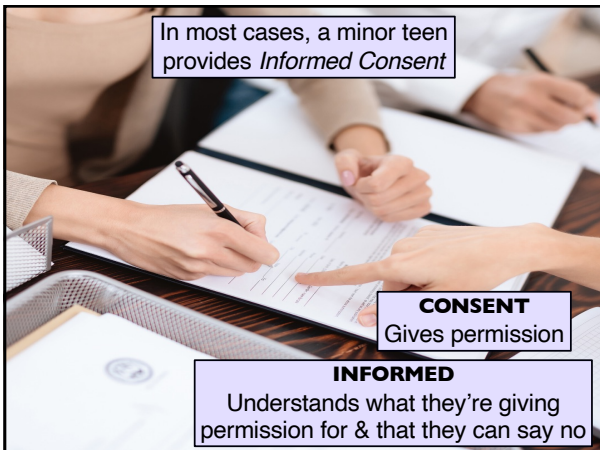
CONSENT & CONFIDENTIALITY

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A BRIEF HISTORY OF CONSENT

- In early '80s law passed giving teens access to behavioral health without parent approval
- This law was poorly written, poorly interpreted & poorly implemented
- Multiple attempts to change or amend have been unsuccessful
- Until HB 1874, which went into effect July 28, 2019

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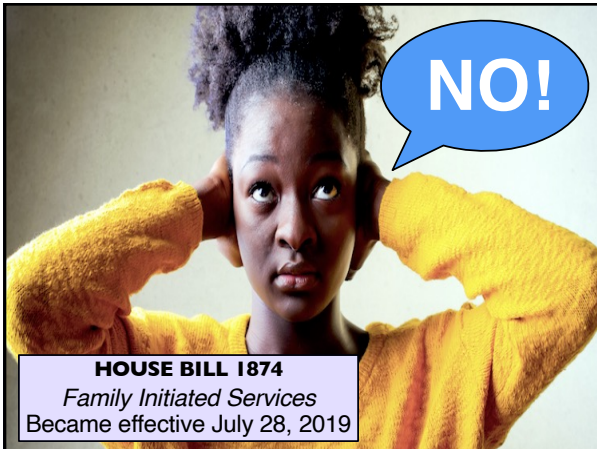
CONFIDENTIALITY

ASSUMING TEEN GIVES CONSENT...
 Permission from teen required for provider to speak to anyone, including parents

I can neither confirm nor deny this person is or has ever been a client of mine.

What exceptions exist to this?

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HOUSE BILL 1874
Family Initiated Services
 Became effective July 28, 2019

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HB 1874

- If minor teen refuses treatment, a parent can provide consent for services
- Treatment must be clinically warranted
- Limit of 12 outpatient sessions within 3 months
- Includes family-initiated PHP or IOP

But wait, there's more...

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FEBRUARY 2020 ADDITIONS

- Provider must notify state HCA within 24 hours of admission under FIT
- Now allows for 30-day inpatient treatment in some cases
- For inpatient: If teen stays 7+ days, there must be an independent review
- Additional requirements for inpatient

What are your thoughts about this law?

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IMMINENT DANGER

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What does *imminent danger* mean?

Not based on personal opinions

Foreseeable harm

“What would a reasonable therapist do?”

In small groups, complete Case Study: Maria

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MANDATED CLIENTS

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MANDATED TO CHANGE

- Required to be in services by court, school, parents or “The System”
- Least bad choice
- Who do we work for – client or referral source?

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A parent contacts you stating Ben, their 13-year-old son, has been required by his school to have an evaluation and follow all recommendations.

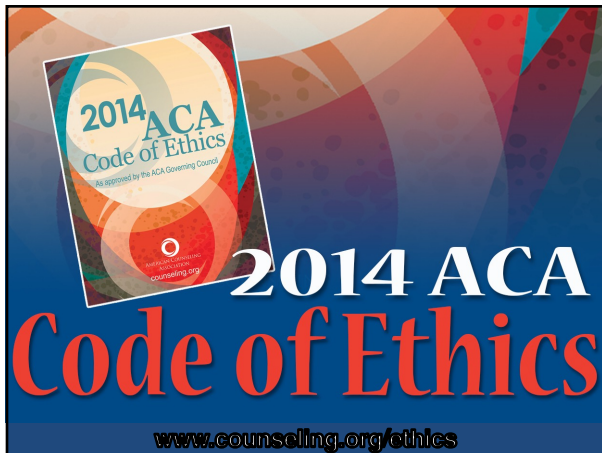
According to the parent, Ben is “very oppositional and will say no to counseling if he knows he can.” The parent then suggests you “just don’t tell him about that consent stuff.”

How do you respond?

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ACA PRINCIPLES

Autonomy
Respect for independence & self-determination

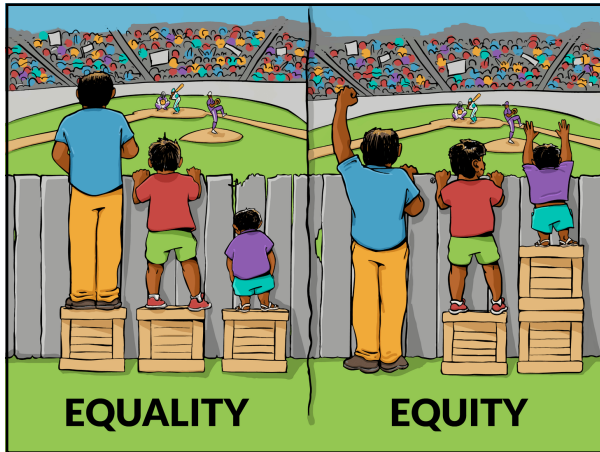
Beneficence
Do good, be proactive, prevent harm when possible

Non-maleficence
Don't make things worse

Fidelity
Be trustworthy and reliable

Justice
Treat others equitably

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Groups such as the American Art Therapy Association and the North American Drama Therapy Association have ethics codes for their members.

If you use art therapy, drama therapy or other expressive arts, should you follow these codes?

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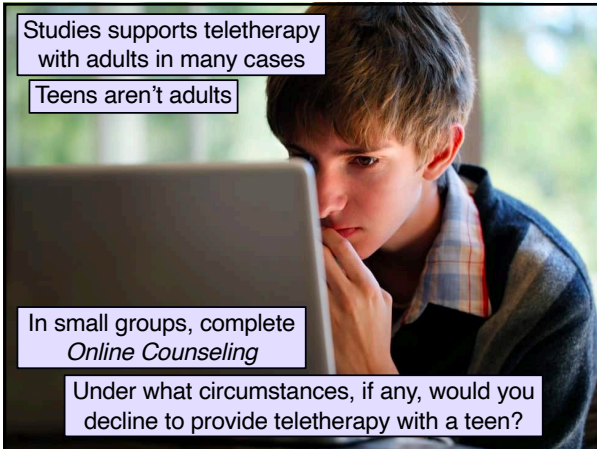
ONLINE THERAPY WITH TEENS

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FIRST, SOME LEGAL STUFF...

- RCW 43.70.495, effective 1/01/21, requires all healthcare professionals to complete a telehealth training if providing online services
- Provided telehealth services before 1/01/21? Complete by 6/01/21
- Offering telehealth for first time after 1/01/21? Complete before providing any online services

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Studies supports teletherapy with adults in many cases

Teens aren't adults

In small groups, complete
Online Counseling

Under what circumstances, if any, would you decline to provide teletherapy with a teen?

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Jan is a 14 year old female with anxiety. You've been meeting with her for about 2 months, always online. During that time, she's always seemed somewhat guarded or nervous, which you've attributed to her anxiety.

During today's session, you hear a noise in her room and find out her mother is off-screen. In fact, Jan's mother has been off-screen during every session. How do you respond?

In small groups, complete
Case Study: John

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AGE OF CONSENT

In Washington, an individual can usually consent to sexual contact when 16 years old

Exceptions

- Age difference of 5 or more years
- There is a power imbalance

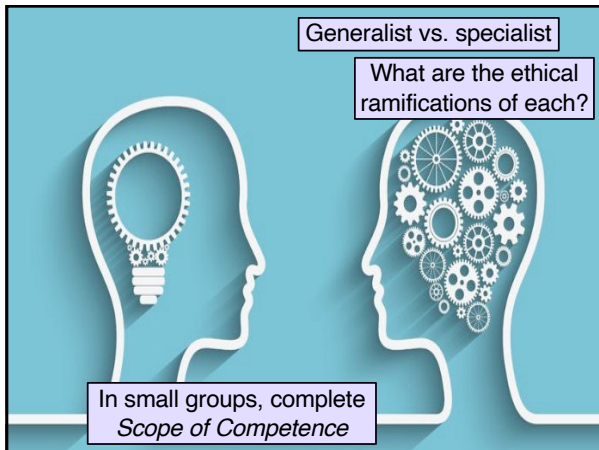
What the law actually says

- RCW 9A.44.093 Sexual misconduct with a minor

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SCOPE OF COMPETENCE

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Nearly 50% of teens with a mental health diagnosis also meet criteria for a substance use disorder.

With this in mind, do mental health therapists working with teens have an ethical obligation to be competent at identifying and addressing substance related problems?

If not, how do you respond to substance-related concerns?

In small groups, complete
Bonus Case Study: Andrew

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**WHAT HAVEN'T
WE DISCUSSED?**

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