



Providing services with the consent of one parent

Question: The mother of a 10-year-old client contacted me because she wishes to obtain counseling for the boy based on his anxiety related to the parents’ upcoming divorce. My usual practice is to obtain consent to treatment from both parents, but the mother insists the father will just sabotage treatment because he doesn’t want to pay for counseling. Can I go ahead and see the boy?

Answer: Whether you can provide counseling services to a child based on the authorization of one parent is a matter of state law. Typically, if there has not yet been a divorce and custody decree, either parent may be able to consent to treatment. Are you certain that no temporary or permanent custody decree is in place?

Regardless, you would be well-advised to consult your own local health care attorney. You might obtain a referral from a trusted colleague or go to the online attorney directory, *martindale.com*, to access an attorney in your locale who has health care experience. Sometimes a custodial parent will claim that a counselor who treats the child against that parent’s wishes has interfered with the custodial relationship. That is one

reason that it is wise to obtain legal advice before you act.

Additionally, because you have not yet engaged in counseling with the boy, you might suggest to the mother that the father may be more cooperative if he’s contacted before the counseling begins. Often, one parent feels “left out” of the equation and may be more likely to balk or threaten to file a lawsuit or a licensure board complaint if informed of the counseling only after the fact. If the father does not cooperate, the mother can ask her attorney to attempt to obtain a court order for counseling. If the family truly cannot afford counseling, perhaps you can discuss options so that the child can receive services.

In some states, even if the parent requesting services does not have custody, it may be appropriate to render emergency counseling (for example, for a minor child who is suicidal) until the issue of consent to treatment can be resolved. This would also support the goal of aspirational ethics — promoting the welfare of the minor client (see the 2014 *ACA Code of Ethics*, Standard A.1.a., Primary Responsibility). However, the legal issues should still be addressed with your attorney.

The question addressed in this column was developed from a deidentified composite of calls made to the Risk Management Helpline sponsored by the American Counseling Association. This information is presented solely for educational purposes. For specific legal advice, please consult your own local attorney. ♦

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