

Adolescent Confidentiality from Parents: An Ethical Dilemma

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As part of the intake process with new clients, Herman always explains to clients the limitations of confidentiality. He explains that confidentiality is limited when: 1) a person is suicidal or homicidal; 2) a court order compels testimony; 3) a written release has authorized the sharing of information in order to improve treatment; 4) information is shared with a 3<sup>rd</sup> party payer for the purpose of reimbursement which has been authorized by the client; and 5) abuse or neglect of a minor is disclosed which requires disclosure to investigators due to state law. With clients who are minors Herman furthermore discusses the importance of confidentiality to the counseling relationship. Herman explains to parents/guardians that counseling will be more effective if the parents/guardians are willing to allow information to remain confidential. Herman reminds them that in the case that the client is in danger of being hurt, information will be shared to maintain their safety.

When Herman performed the intake assessment for Brian, a 15 year old male presenting with symptoms of Conduct Disorder, he explained the limitations to confidentiality to Brian and his father, Greg. Greg readily agreed to allow confidentiality between Herman and Brian, and stated that unless Brian was suicidal or homicidal he would not ask Herman to divulge any additional information.

Two months after beginning individual therapy with Brian they met at school during Brian's study hall period in one of the counseling offices at the school. During the session, Brian revealed to Herman that he had stolen some money from his father, and hid it in a book in his room. During the session Herman addressed consequences for behaviors, consequences for honesty and dishonesty, and assisted Brian with evaluating his personal values concerning stealing and honesty. As the session ended Brian indicated that he intended to return the money

to his father that evening. Brian then returned to class. After school, Greg came to Herman's office without an appointment. He demanded to see Herman "at once." Greg told Herman that some money had come up missing at his home, and he thought Brian might have taken it. He stated, "I know I said I would let you keep things private between you and Brian, but I really need to know if he took the money, and as his parent, I have the right to know."

Herman is faced with the dilemma of whether to protect confidentiality or provide information to the father that the client has stated he intends to provide. Within his state, Brian, as a minor, does not have a legal right to confidentiality. However, Greg agreed to limitations to confidentiality which included maintaining confidentiality of information from him. Herman knows that Brian stated he would admit stealing the money to his dad, but he could have changed his mind. Even if he has not, Herman does not feel that it is his place to divulge the information to Greg.

Herman instead reminds Greg of his responsibility to maintain confidentiality unless there is a threat to Brian or someone else. He encourages Greg to speak to Brian about his concerns. When Greg persists, Herman informs him that Greg has the legal right to request a copy of Brian's mental health records chart, and that he can make the request with the receptionist, and a copy would then be available on the following day. He reminds Greg that this will violate the promise that Greg made to Brian, and could interfere with Brian's progress. Herman emphasizes, then, that he does not think this is best but legally does not have recourse to block Greg's accessing of this information.

Herman's actions are in keeping with the American Counseling Association's Code of Ethics (2005) and follow a sound ethical decision making model. Herman's actions uphold his responsibility to maintain confidentiality of the information he has not been authorized to share

(ACA, 2005, B.1.c.). Additionally, his actions show that he has taken steps to build a collaborative relationship with Brian's father which also maintains Brian's privacy (ACA, B.5.b.). Finally, Herman's actions uphold the laws of the state which provide Greg the right to gain information about his child's mental health record, as he provides "reasonable access to records and copies of records" (ACA, B.6.d.). In keeping with the ethical decision making model of Corey, Corey, and Callanan (2007), Herman recognized the problem, mentally defined the problem, developed three possible solutions (divulge information, refuse to share any information, or remind Greg of his legal right to a copy of the mental health record), and chose the solution of maintaining confidentiality while offering Greg the opportunity to gain access to the written record. Furthermore, in keeping with the decision model, Herman will need to review this process with Brian in their next session, evaluate the choice he made, and continue to reflect upon this decision to determine in future situations if a better outcome could be reached.

#### References

- American Counseling Association (2005). *ACA Code of Ethics*. Alexandria, VA: Author.
- Corey, G., Corey, M. S., & Callanan, P. (2007). *Issues and ethics in the helping professions* (7th ed.). Belmont, CA: Thomson, Brooks/Cole.