

# 5<sup>th</sup> Joint Meeting on Adolescence Medicine

10<sup>th</sup> - 12<sup>th</sup> November 2011

Aula Consiliare e Sala dei Concerti, Palazzo de Nobili, Catanzaro (Italy)

## Legal and Ethical Aspects in Adolescents' Health Care

Daniel Hardoff, MD

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# **Legal and Ethical Aspects in Adolescents' Health Care**

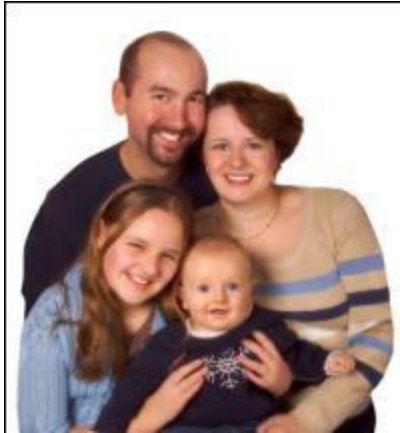
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**Parents**



**Adolescents**



**Doctors**



**Judges**

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# Developmental Domains

- Somatic-Biological
  - Psychological
  - Cognitive-Cultural
  - Socioeconomic
  - Legal
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# Definition of Adolescence

- WHO
    - young people 10 - 24
    - youth 15 - 24
    - adolescents 10 - 19
  - USA 12 - 21
  - Israel 12 - 18
  
  - General – the 2<sup>nd</sup> decade
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# Legal Definitions

- Mature >18
  - Minor <18
    - Emancipated: living alone and financial self-support
    - Mature: cognitive capacity to understand suggested medical treatment
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# The Rule of Sevens

## Edward the 3rd (1327–1377)

- Under 7 years children are not capable to make decisions by themselves
  - Between age 7 and 14 years proof is required that children are capable to make decisions by themselves
  - Above 14 years children are capable to make decisions by themselves, if not otherwise proven
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# Children's Rights

- The opinion of the child shall be considered as an increasingly crucial with the increasing age and maturity

The Convention on Human Rights and Biomedicine, Spain, April 1997

- Children may express their views freely, taken into consideration their age and maturity. In all actions the interest of the child shall be a primary consideration

The Charter of Fundamental Rights, Nice, December 2000

- Children and adolescents have the right to be listened to on all matters affecting them

Third Committee Social & Cultural Humanitarian of the General Assembly of the United Nations, November 2009

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# Points for Discussion

- Confidentiality
  - Consent / Assent
  - Research
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# Confidentiality

- Definition: "privileged and private nature of information provided during the health care transaction"
  - The adolescent's needs and wishes conflict with the parents' opinions and preferences
  - Concerns regarding lack of confidentiality protection may cause some adolescents to go without health care
  - "Conditional" versus "unconditional" confidentiality
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# Conditional Confidentiality

- Assure that everything that is discussed will be kept private except when disclosure is required by law
  - Discuss reasons for disclosure
    - abuse
    - suicidal ideation
    - homicidal ideation
    - sexually transmitted infections reportable to public health departments
    - serious threat to patient safety: drinking a large quantity of alcohol before driving a car on a regular basis
  - Allow participation in decision of to whom information should be delivered
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# Consensual Sexual Activity

- The laws vary widely whether consensual sexual activity is considered child abuse
  - Factors to be considered:
    - Ages and difference in age between partners
    - The older person is in a position of authority
    - Types of sexual behavior (fondling versus oral-genital contact versus anal or vaginal penetration)
    - Sexual relationship with
      - a family member
      - person of authority
      - member of the clergy
    - The adolescent's ability to comprehend, and consent to sexual activity
    - Sexual relationship involving violence or coercion
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# Dilemma #1

- A healthy 16 years old girl asks her doctor to prescribe BCP without reporting to her parents. She is sexually active for the last month with her 17 years old boyfriend. Up till now they used only condoms in all intercourses.
  - Points for discussion
    - Age of sexual relation debut
    - Confidentiality – “accepted activities of minors”
    - Termination of pregnancy rules (US, Israel)
    - Adoption rules
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# Dilemma #2

- A 14 years old girl sees the doctor for headache. Mother sits at waiting area.
  - The girl discloses 3 months' unprotected sexual relations with her 17 years old boyfriend with whom she dates for a year
  - Birth control is the issue
  - Points for discussion
    - Girl's age, and age difference between partners
    - Sexual exploitation vs. true love
    - Confidentiality
    - STD screen
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# Dilemma #3

- A 15 years old boy sees the doctor for dysuria and urethral discharge
  - History reveals one-time unprotected sex two weeks earlier
  - STD screen is warranted
  - Antibiotic treatment is indicated
  - The boy requests confidentiality
  - Points for discussion
    - Blood and urine tests without parental permission
    - HIV screen vs. other STD
    - Antibiotic prescription without parental permission
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# **Adolescent at Risk for Harming Himself or Herself: Should Confidentiality Be Breached?**

- Suicidal Ideation or Attempt
  - Alcohol Overdose
  - Drug Abuse
  - Eating Disorder
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# Potential Threats to Confidentiality

- Medical records
  - Payment for services
  - Pharmacist's refusal
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# Health System vs. Legal System

Lowering the age of maturity from 18 to 16 years could lead to treatment of adolescents by the legal system as mature persons even though they really are not

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# Confidentiality Flow Sheet

**Minor enters without parent / guardian asking for medical attention**



**Explain minor re conditional confidentiality**



**Check with minor his/her view re parental involvement**



**Assess maturity for consent (age, cognitive capacity, mental condition)**



**Assess criteria for confidential information**



**Explain minor if confidentiality needs to be breached**



**Receive minor's agreement for confidentiality breaching**



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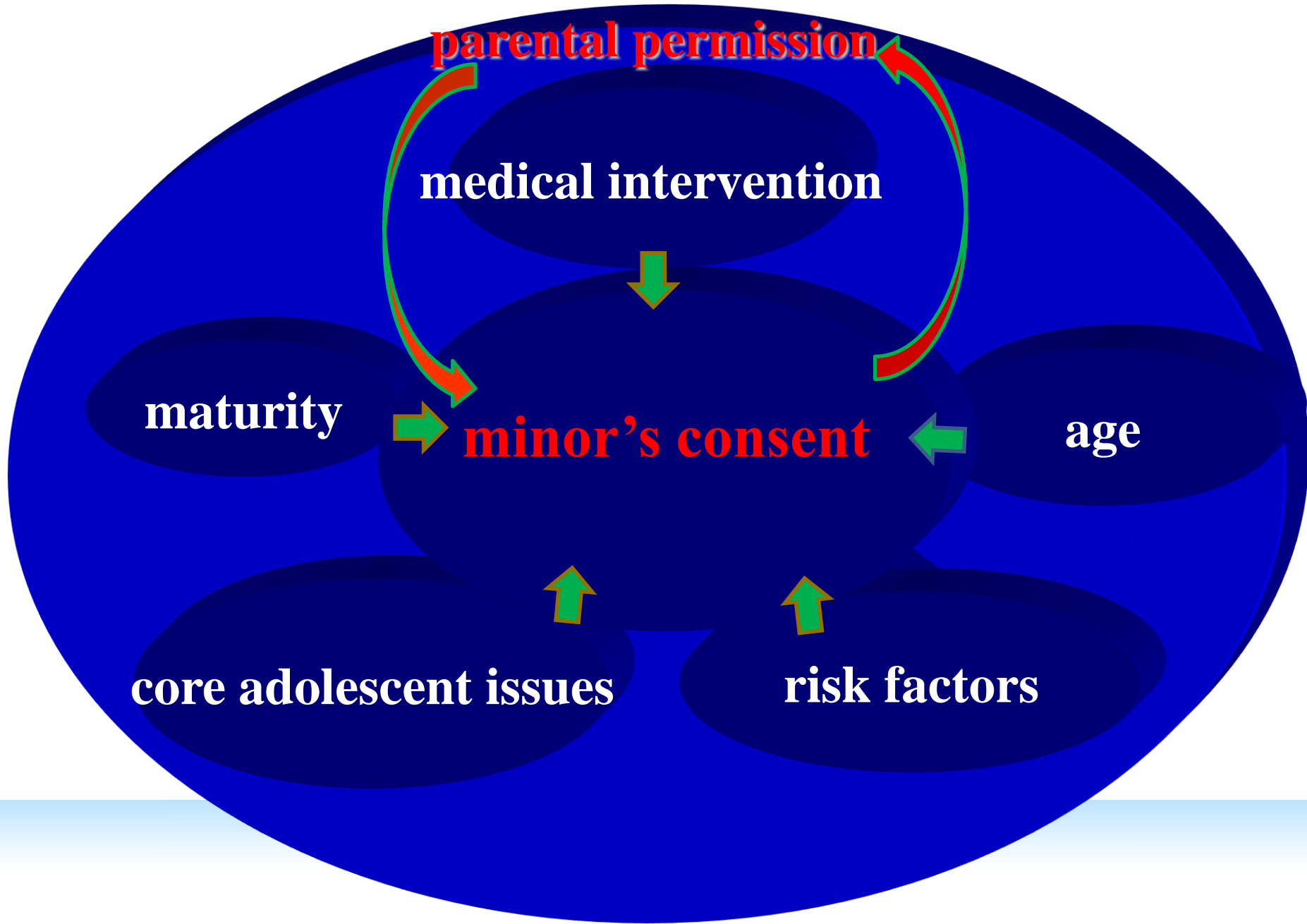
**If minor disagrees get assistance from social services**

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# Consent vs. Assent

- **Consent** – independent permission to medical intervention
  - **Assent** – joint (minor and parent) permission to medical intervention
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# Multi-factorial model for minors' consent to medical therapy



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# Dilemmas about Consent for Medical / Surgical Treatment

- Simple medical problem at primary care
  - Emergency department issues
    - Physical examination without parents
    - Simple surgical procedures
    - Psychiatric evaluation
  - Oncological treatment
  - Major surgery
  - Termination of pregnancy
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# Research

- Adolescents are excluded from research from which they may benefit, due to uncertainty about their legal and ethical status
  - Studies of the HPV showed high prevalence in sexually experienced adolescents and led to screening for cervical cancer
  - Research in schools and communities enabled the creation of principles for effective prevention programs for HIV and other STDs
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# Ethical Issues - Research in Adolescents

The Belmont Report, 1978

- **Respect:** Treating a person as an autonomous being and not as a means to an end
  - **Adolescents** - balancing respect for the emerging capacity for independent decision-making with the need for continued special protections
- **Beneficence:** The ethical obligation to do good and to avoid harm; for research it means maximizing benefits and minimizing harm
  - **Adolescents** may have important benefits from research as individuals and as a group
- **Justice:** A fair distribution of the benefits and burdens of research; vulnerable persons should be protected from the burdens of research
  - **Adolescents** should not be exploited for the benefits of others, but also not be excluded from participation in research that may have benefit



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# Consent to Research

- **Informed consent:** A process in which a person learns key facts about a clinical trial, including potential risks and benefits, before deciding whether or not to participate in a study
  - Formal operational thinking, the ability to understand and use abstract concepts, begins to appear in adolescents from age 11 years
  - For adolescents 14 years old or older, understanding of research and the cognitive ability to make decisions about research participation are similar to these abilities in adults
  - Adolescents with chronic illness, with all its experiences and choices, may have been challenged to develop increased capacity to make decisions about research participation
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# Behavioral Research

- The principal threats to adolescent health and well-being are social and behavioral
  - Behavioral research is questionnaire based regarding personal behaviors, including sexual practices, alcohol and other drug use, delinquency, mental health concerns, peer pressure, and perceived prevention practices
  - Behavioral interventions may benefit the individual adolescent or adolescents as a group by reducing involvement in health risk behaviors
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# Risks in Behavioral Research

- The primary risks to the adolescent participant, particularly in survey research projects are potential embarrassment and disclosure of sensitive information to others
  - Little evidence that communicating with adolescents about health behaviors increases harmful behaviors
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# Parental Consent for Research

- Institutions should not be projecting the image of deceiving parents
  - Adolescents usually desire open communication with their parents and researchers should not erect artificial barriers to such communication
  - Parental involvement is rarely contraindicated. e.g. – research regarding child abuse
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# Summary

- Development assessment
  - Respectful approach
  - Beneficence vs. harm
  - Parental involvement preferred
  - Adolescent involved in all decisions
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# Mediterranean and Middle East Action Group for Adolescent Medicine (M.A.G.A.M.)

Cyprus  
Egypt  
Greece  
Iran  
Israel  
Italy  
Jordan  
Portugal  
Qatar  
South Arabia  
Spain  
Switzerland  
Turkey  
U.S.A.  
*Associated  
Countries*  
India  
Portugal  
Switzerland  
U.S.A

## **Mission**

To diffuse the theory, practice, and research in Adolescent Medicine in the Mediterranean and Middle East region, with the general goal of improving the health and well being of adolescents, according to the World Health Organisation's recommendations.

**Meetings:** 2001 – Ferrara  
2002 – Catanzaro  
2003 – Cagliari  
2004 – Istanbul  
2005 – Catanzaro  
2006 – Athens  
2007 – Paphos  
2008 – Palermo  
2009 – Catanzaro  
2010 – Catanzaro

2011 - Catanzaro

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Thank you

