

Responding to Requests for Children's Treatment Records

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Special care should be taken by therapists when a child is receiving counseling services, and the child's parent requests a copy of all treatment notes and records. If possible, comply with the parent's request by providing a treatment summary or progress report in response, in order to protect the child's confidences made to the therapist. Children, like all clients, are asked to confide their problems to therapists, and are assured that the information will remain confidential.

Children often confide in therapy very personal feelings, such as "I do not want to live with my dad. He is mean to me." Or they may confide, "I do not like my mom's new boyfriend." When parents access treatment notes containing such statements, foreseeable harm to the child, who has confided these feelings, results. The parent may berate the child for making statements, in confidence, in the safety of a counseling session, which the parent finds offensive. Furthermore, when a child realizes that confidences regarding emotions, feelings, or parent-child problems, confided to a therapist, are being disclosed to the child's parent, the child learns that information provided to the therapist is not kept in confidence and may be shared with parents. This, of course, tends to destroy a child's trust in the counseling process.

When parents are involved in a divorce or custody case, and a request is made for a child's [mental health](#) treatment records, that parent may not have the child's best interests in mind. The New Hampshire Supreme Court issued a landmark precedent in [Berg v Berg, 886 A.2d 990 \(N.H. 2005\)](#). In its decision, the Court ruled that either a G.A.L. or the Judge should make a determination concerning whether it is in the best interests of a child, whose treatment notes have been requested by a parent, for treatment notes to be provided to the parents, or not. The Court's decision stated that judges cannot presume that parents have their children's best interests at heart, when children's mental health treatment records are sought for use in divorce or custody litigation.

In order to avoid conflict with a parent who demands all of the therapist's treatment notes and records, when the individual receives a copy of a treatment summary or progress report, it is an excellent practice to disclose to the parent in the treatment contract or in a disclosure statement that the therapist will comply with the parent's request for treatment records by providing a treatment summary or progress report.

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