



# Sexual Health... Some tricky legal issues!

Dr Siobhan Bourke  
Sexual Health Physician

Let's start where we left off

- Minor

- All persons have the right to confidentiality
- Ask to talk to adolescence alone
- Verify with patient what they want you tell their parent/s if and when they return to the room.
- Create separate files

- Minors can apply for separate Medicare numbers- but the guardians will be aware of this once they reach 14y.o
- The parents or guardians will be sent new cards with the minors name removed
- It is also possible for tax purposes that a parent or guardian can request Medicare readouts for all the family members on a card.
  - When over 14y.o the young person must sign a form to say this is ok- refusal may create suspicion anyway!

# Case 1

- Caroline is 16 and comes into see you about going on the pill?
- What do you need to cover in the consultation?

# Case 1

- Medically fit for taking the pill
- Reason for taking pill
- Has she considered other options- Implanon, Depo, NuvaRing
- Is she having sex at the moment
- Possibility of pregnancy or STI (condoms?)
- Relationship- partner, consensual sex

# Minor going on the pill

- Ability to consent
  - Competency
    - HEADSS
    - Understanding the consequences of taking, and not taking the treatment
    - Ask her to repeat back her understanding
    - Some basic questions to understand her organizational skills- how did she get here today? Did she make the appointment her self? Etc

# HEADSS- a psychosocial interview

- Home
- Education/Employment
- Activities
- Drugs
- Suicidality/Depression
- Sexuality

# Minor going on the pill

- Will she discuss this with her parents/guardian?
- What will happen if they were to find out?
- If not telling parents where will she keep the pill?

- What if Caroline was 14?
- What if Caroline was 12?

- Caroline 14- Same as above if concerned about competency get a colleague to review Melissa too
- Caroline 12- getting a colleagues second opinion is definitely advisable- or at least calling colleagues e.g. FPV or MSHC for a 2<sup>nd</sup> opinion

- Consent

- To consent the person needs to be able to understand the consequences of treatment and also the consequences of not having the treatment
- The level of understanding needs to increase with the level of complexity of the treatment
  - The Medical practitioners board of Victoria (now defunct) put a very useful article Consent for Treatment and Confidentiality in Young People

- Consent
- There is no law about this but a rule of thumb is 'normal' intellect persons
  - Between 16 & 18 usually possible to obtain consent
  - Between 14 and 16 would most likely be able consent-care taken
  - Between 12 and 14 seek second opinion and the person may not be able to consent- this will depend on the complexity of the treatment
  - Below 12 seek second opinion consent will be difficult

- Persons with an intellectually disability need special consideration and may require second opinions
- Always ask a young person if their parent or guardian has knowledge of the treatment they are seeking- this may make the consent issue easier as you can get consent with them too.

# Case 2

- Cassie is returning to pick up her results of her STI screen. She is 22 and she has had her current boyfriend for 6 months. OCP – no condoms now
- You performed an examination did her pap test and took a Chlamydia.
- The pap is normal
- The Chlamydia is positive

# Case 2

- You treat her with Azithromycin
- Cassie is pretty sure that her boyfriend Callum will not come to see you
- What can you do about this?

# Case 3

- Cathy is 15y.o and comes to ask you about going on the pill
  - Because you are so thorough you have ascertained she is competent, suggested a Chlamydia test, discussed safe sex practices, have done a HEADSS assessment and have spoken about Cathy's relationship. During this you discover that Cathy's boyfriend, Collin is 18y.o

What is your obligation?

# Legal Sex

- It is illegal to have sex under 12 y.o. (deemed not able to consent to sex)
- Between 12 and 16y.o you can have sex with someone who is two years difference to you in age
- 16 and 17 y.o.s can have sex with most people unless they are your legal guardian/teacher/carer
- 18 you can have sex with whom you like
- Intellectually disable people will be treated in a different way to these above age groups- Carers should not be having sex with persons under their care

# Mandatory reporting

- Mandatory reporting is for persons in a situation of on going harm or abuse
- If you form a belief that a minor is at on going risk of harm- sexual, emotional, physical abuse or neglect then it is your obligation as a health professional to report this to DHS.

# Case 3

- This is not about reporting criminal activity- i.e. in this case Cathy is 15 years old & having sex with Collin an 18 y.o. You confirm that it is a consensual relationship.
- It is best to talk to her about the law and the fact her boyfriend is committing a crime which can potentially be reported. (eg by a “concern” parent etc)

# Case 4

- Carly has been diagnosed with herpes
- What is the responsibility of Carly to tell her partners?
- What if it was gonorrhoea?
- What if it was HIV?

- HIV and consent to sex etc.....
- Over to Beth