



## Caught Up in Custody Cases: Confidentiality

**Question:** I have been treating a child with significant special needs for a couple of years. The parents recently separated and are now in the process of a messy divorce, including custody issues. The child's mother has been trying to enlist my support and I'm worried that someone may subpoena my records and get me involved in this custody battle. What should I do?

These are never easy situations. It is important to maintain a professional boundary and, where possible, to maintain neutrality or impartiality with the parents. Sometimes just listening and providing an empathetic ear without getting drawn into providing judgements or feedback can be possible. In other situations, however, you may need to tackle the situation directly and kindly let the parent know that conversation regarding the divorce or custody battle goes beyond your scope in terms of providing clinical services, and that you don't feel it is appropriate to be discussing the situation. Document any conversations to this effect in the client file.

Confidentiality is an issue that can come into play where one parent may be sharing information with you while the other parent may be seeking the very same information! Refer to ACSLPA's *Standards of Practice, Code of Ethics, Clinical Documentation and Record Keeping Guideline*, and the *Children First Act* for further information regarding confidentiality requirements.

Following are some recommendations should you be faced with this type of situation:

- Keep notes tidy and reports up to date as it is possible that your reports and/or file may be subpoenaed,
- Consider having a peer review the file to ensure compliance with ACSLPA standards and guidelines, and document that this has been done on the client file, and
- State verbally and have the parties sign an agreement that clarifies there is no confidentiality between the parties. An example might look something like this:

**Confidential disclosures:** It is agreed that the SLP/Audiologist may disclose to either party to this agreement or their legal counsel any information provided by the other party that the SLP/Audiologist believes to be relevant to the child's assessment or therapeutic process and progress. All parties will be copied in all email communications originating from the parents or their counsel, or such communications will be forwarded by the SLP/Audiologist to the parties. The parties understand that the SLP/Audiologist is bound by the sections of the Child, Youth, and Family Enhancement Act pertaining to reporting a child in need. Specifically, the SLP/Audiologist will report any suspected or disclosed harm to a child according to the current legislation.

If, despite your best efforts, the parent insists on discussing the situation with you and continues to place you in an awkward situation, you may need to consider discontinuing the therapeutic relationship.