

## **CONGRESS SHOULD NOT GIVE PARENTS A RIGHT TO ACCESS THEIR TEENAGERS' MEDICAL RECORDS**

Young people face a range of sensitive health care issues involving sexuality, substance abuse, and mental health as they grow and mature. Parents can often help teenagers deal with these issues and make healthy choices. Some teens, however, are unable to speak with their families about these issues because they have experienced or fear abuse, punishment, or parental disappointment. The ability to consult health care providers confidentially allows teens to get critically needed medical care and empowers them to make more informed and responsible choices.

### **Allowing Parents Access to Their Teenagers' Medical Records Would Jeopardize the Health of Teens**

Studies indicate that failing to assure confidentiality of minors' health records would cause many teens to delay or avoid obtaining necessary medical care. Major medical organizations and many states recognize the importance of allowing teens confidential access to important health services.

Congress may consider legislation that expands privacy protections for medical records, but that eviscerates privacy protections for minors by giving parents a new federal right to obtain their teenagers' medical records. Such legislation would deter teens from seeking treatment, thereby threatening their health. Faced with the possibility that their parents could access their medical records, some teens will not seek family planning services, testing and treatment for sexually transmitted diseases, assistance with substance abuse problems, eating disorders, mental health issues, and possibly other medical conditions.

- Fifty-eight percent of high school students surveyed in three public schools in central Massachusetts reported having health concerns they preferred not to discuss with their parents. Approximately 25 percent of the students said they would forgo seeking certain types of medical treatment if there was a possibility that their parents might find out.<sup>1</sup>
- Another study of adolescents found that if confidential treatment for sexually transmitted diseases was available, 50 percent of teens would seek care. Only 15 percent reported that they would seek medical treatment if parental consent or notice was required. Minors similarly were reluctant to seek substance abuse treatment if their parents were involved. Only 17 percent said they would seek treatment for drug abuse if their parents were involved; however, if treatment was confidential, 49 percent would seek treatment.<sup>2</sup>
- In *Planned Parenthood Affiliates of California v. Van De Kamp*, a California Court of Appeals found that if minors “are unable to obtain reproductive health care on a confidential basis, without their sexual conduct being reported to law enforcement for investigation, they will be deterred from seeking such care.” Additionally, the court noted that “[i]t is nearly impossible to establish a professional, therapeutic relationship without a promise of confidentiality which the professional can keep.”<sup>3</sup>

Recognizing that confidentiality is essential to minors' willingness to obtain necessary health care related to sexual activity, substance abuse, and other sensitive issues, many states have enacted laws empowering minors to obtain medical care without parental consent or notification. As of September 1997, 49 states and the District of Columbia authorize minors to consent to the diagnosis and treatment of sexually transmitted diseases without parental consent. Minors in 45 states and the District of Columbia can consent to treatment for substance abuse without obtaining parental consent and in 21 states and the District of Columbia minors have the right to consent to outpatient mental health services without parental involvement. Contraceptive services are available to minors without parental consent or notification in 23 states and the District of Columbia.<sup>4</sup>

### **Leading Medical Groups Oppose Laws that Violate the Confidentiality of Minors Seeking Health Care**

The trust necessary for a productive doctor-patient relationship would be threatened, and thus the quality of health care for minors compromised, if physicians could not assure teenagers that their medical records will remain confidential. A teen's ability to access services without parental consent could be rendered meaningless if she has no right to confidentiality.

- Major health organizations, including American Academy of Family Physicians (AAFP), the American College of Obstetricians and Gynecologists (ACOG), the American Academy of Pediatrics (AAP), the National Medical Association (NMA) and the Organization for Obstetric, Gynecologic, and Neonatal Nurses, agree that although health professionals must make "every reasonable effort to encourage the adolescent to involve parents . . . [u]ltimately the health risks to the adolescents are so impelling that legal barriers and deference to parental involvement should not stand in the way of needed health care."<sup>5</sup>
- The American Medical Association (AMA) maintains that "physicians should permit a competent minor to consent to medical care and should not notify parents without the patient's consent" unless the law requires otherwise. Moreover, the AMA states that "[w]hen an immature minor requests contraceptive services, pregnancy-related care (including pregnancy testing, prenatal and postnatal care, and delivery services), or treatment for sexually transmitted disease, drug and alcohol abuse, or mental illness, physicians must recognize that requiring parental involvement may be counterproductive to the health of the patient."<sup>6</sup>
- The AAP opposes parental involvement laws: "Legislation mandating parental involvement does not achieve the intended benefit of promoting family communication, but it does increase the risk of harm to the adolescent by delaying access to appropriate medical care."<sup>7</sup>

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## Notes:

1. D. Hollander, "Some Teenagers Say They Might Not Seek Health Care If They Could Not Be Assured of Confidentiality," *Family Planning Perspectives*, vol. 25, no. 4 (Jul./Aug. 1993): 187, citing T.L. Cheng et al., "Confidentiality in Health Care: A Survey of Knowledge, Perceptions, and Attitudes Among High School Students," *Journal of the American Medical Association*, vol. 269, no. 11 (March 1993): 1404-1407.
2. Andrea Marks et al., "Assessment of Health Needs and Willingness to Utilize Health Care Resources of Adolescents in a Suburban Population," *The Journal of Pediatrics*, vol. 102, no. 3 (Mar. 1983): 459.
3. *Planned Parenthood Affiliates of California v. Van De Kamp*, 181 Cal. App. 3d 245, 268-69 (Ct. App. 1986).
4. The Alan Guttmacher Institute (AGI), "Teenagers' Right to Consent to Reproductive Health Care," *Issues in Brief* (Oct. 1997): 3.
5. Janet E. Gans, Margaret A. McManus and Paul W. Newacheck, *Adolescent Health Care: Use, Costs, and Problems of Access*, American Medical Association (AMA) Profiles of Adolescent Health Series, vol. 2 (Chicago: AMA, 1991), 65-66.
6. Council on Ethical and Judicial Affairs, AMA, "Confidential Care for Minors," Ethical Opinion 5.055 *Code of Medical Ethics* (Chicago: AMA, 1998), 46-7.
7. American Academy of Pediatrics, Committee on Adolescence, "The Adolescent's Right to Confidential Care When Considering Abortion," *Pediatrics*, vol. 97, no. 5 (May 1996): 746.