



NARAL *Foundation*
Reproductive Freedom & Choice

Government-Mandated Parental Involvement in Family Planning Services Threatens Young People's Health

Adolescents should be encouraged to seek their parents' advice and counsel when facing difficult choices regarding family planning and prevention and treatment of sexually transmitted diseases (STDs). Indeed, federal law already requires Title X providers to encourage family participation in reproductive health decisions.¹ The government, however, cannot mandate healthy family communication where it does not already exist.

Empirical studies confirm that when parental consent or notice is mandated by law, particularly in the case of family planning, many adolescents delay or avoid seeking needed care. Organized medicine, state lawmakers, and courts recognize that laws mandating parental involvement actually harm the teens and families they purport to protect. These constituencies support confidential reproductive health care for minors. Access to confidential reproductive health services is a critical component in addressing the reproductive health crisis facing American youth.

MANDATORY PARENTAL INVOLVEMENT LAWS WILL DETER YOUNG PEOPLE FROM SEEKING NEEDED MEDICAL CARE

Studies demonstrate that requiring parental consent or notification for family planning services will cause many teens – fearing abuse, punishment or parental disappointment – to delay or avoid needed medical care.

- In the year following the elimination of a parental consent requirement for HIV testing in Connecticut, the number of teens aged 13-17 obtaining HIV tests at publicly funded facilities doubled.²
- Fifty-eight (58) percent of high school students surveyed in three public schools in Massachusetts reported having health concerns that they did not want to share with their parents. Approximately 25 percent of the students said they would forgo medical treatment if disclosure of treatment to their parents were a possibility.³
- Another study of adolescents found that if confidential treatment for sexually transmitted diseases were available, 50 percent of the adolescents would seek care. Only 15 percent reported that they would seek medical treatment if parental consent or notice were required.⁴

- The leading reason that adolescents do not seek health care is that they do not want their parents to know about their medical condition.⁵

CONFIDENTIAL FAMILY PLANNING SERVICES ARE URGENTLY NEEDED

The current adolescent reproductive health crisis illustrates the need for minors' access to confidential family planning and other health services. Restricting access to these services will make it more difficult for at-risk teens to escape poverty and will put adolescents' lives, health and future fertility at risk. Confidential access, by contrast, will help give our nation's teens the tools they need to exercise choice and responsibility over their reproductive lives.

- Every year nearly 900,000 teenagers become pregnant.⁶ Approximately 75 percent of teen pregnancies are unintended.⁷
- Every year approximately four million new cases of sexually transmitted disease occur among teenagers.⁸ At least one in three sexually active individuals will contract a sexually transmitted disease by age 24.⁹
- Teenage girls have a higher risk of pregnancy complications -- including death, miscarriage, stillbirth, and premature or low birth weight babies -- than adult women.¹⁰
- The probability that a teen mother will graduate from high school by age 25 is less than 60 percent as compared to 90 percent for those who postpone childbearing.¹¹ Twenty-eight (28) percent of teen mothers are poor in their 20s and early 30s as compared to seven percent of women who have their first child after adolescence. Teen mothers are also more likely to have lower family incomes in later life.¹²
- The daughters of teen mothers are more likely than other girls to become teen mothers themselves,¹³ thus perpetuating the cycle of poverty.

STATE LAW CURRENTLY RECOGNIZES MINORS' NEED FOR CONFIDENTIAL ACCESS TO CERTAIN REPRODUCTIVE HEALTH SERVICES

Recognizing the importance of confidential reproductive health services, virtually every state in the U.S. has enacted legislation to permit minors to obtain care for sexually transmitted diseases without parental consent and many have legal provisions ensuring confidential access to contraceptives.

- All 50 states and the District of Columbia authorize minors to consent to the diagnosis and treatment of sexually transmitted diseases.¹⁴

- Twenty-five (25) states and the District of Columbia have laws giving minors authority to consent to contraceptive services.¹⁵

COURTS RECOGNIZE TEENS' NEED FOR CONFIDENTIAL SERVICES

In addition to state legislatures, courts have recognized minors' capability to consent to medical treatment. By adopting the "mature minor" rule, courts in some states have allowed a minor "who is sufficiently intelligent and mature to understand the nature and consequences of a proposed treatment" to consent to or obtain medical treatment without parental consent or notice.¹⁶ Additionally, individual courts have acknowledged the importance of confidential services for teens.

- In *Planned Parenthood Affiliates of California v. Van De Kamp*, the 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."¹⁷
- A United States District Court, in *Planned Parenthood Association of Utah v. Matheson*, prohibited a "blanket parental notification requirement" for minors seeking contraceptives. In doing so, the court recognized that "minors seek contraceptives after becoming sexually active, not before [and] . . . that a significant percentage of sexually active minors would not cease their sexual activity if access to contraceptives is conditioned on parental notification. Instead, those minors would terminate their use of contraceptives. Thus, . . . [the law] would expose sexually active minors to the health risks of early pregnancy and venereal disease."¹⁸

CONFIDENTIALITY PROVISIONS IN THE TITLE X FAMILY PLANNING PROGRAM SHOULD NOT BE UNDERMINED

Under Title X, all patients, regardless of age, must be ensured confidentiality.¹⁹ Although the law requires entities receiving Title X funds to encourage family participation in teens' reproductive health decisions,²⁰ family involvement may not be mandated. When the U.S. Department of Health and Human Services proposed the so-called "squeal rule" in 1982 requiring family planning clinics funded under Title X to notify parents when prescribing contraceptives to minors, most states opposed the rule.²¹ Citing legislative intent and the clear statutory language encouraging -- not mandating -- parental involvement, two federal courts of appeal in 1983 prohibited enforcement of the new policy.²²

Title X clinics have served as an invaluable source of confidential services for teens. In

fact, 30 percent of those receiving contraceptive services from publicly funded family planning providers are under 20 years old.²³ Any attempt to eradicate Title X's guarantee of confidentiality will dramatically affect teens, while drastically modifying the current framework and intruding upon individual states' confidentiality protections.

MEDICAL EXPERTS DO NOT SUPPORT MANDATORY PARENTAL INVOLVEMENT

Organized medicine in the United States has reached a remarkable consensus that contraceptive services should be available to adolescents on a confidential basis.

- The American Academy of Family Physicians (AAFP), the American Academy of Pediatrics (AAP), the American College of Obstetricians and Gynecologists (ACOG), the American Medical Women's Association, the American Society for Reproductive Medicine, and the Society for Adolescent Medicine oppose attempts by Congress to require parental notification or consent for adolescents to receive reproductive health services funded by Title X: "While we applaud the efforts [of Congress] to ensure that parents are involved in [a] minor's health care decisions, . . . [f]orced parental involvement, in our view, will have a negative impact on the physician-patient relationship, as well as have the unintended consequence of deterring adolescents from seeking important health care services."²⁴
- 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.²⁵ Moreover, the AMA "oppose[s] regulations that require parental notification when prescription contraceptives are provided to minors through federally funded programs, since they create a breach of confidentiality in the physician-patient relationship."²⁶
- The American Academy of Family Physicians states that "[m]inors should have access to medical consultation and the most effective contraceptive advice and methods, especially the role of abstinence, consistent with their physical and emotional needs. . . Physicians should provide contraceptive advice including information about abstinence and prescriptions in accordance with their judgment as to the best interests of their patients without being required to notify the minor's parents or guardians."²⁷
- The American Public Health Association urges "that contraceptive services be made available to minors in a confidential, nonjudgmental atmosphere, and that efforts be made to clarify or change laws regarding parental consent in those states where the legality of providing such services is now in doubt . . . and strongly opposes policies requiring parental consent or notification as a qualification of minors for initial or continued receipt of prescription contraceptives."²⁸

Evidence shows that laws restricting access to confidential reproductive health services could have serious negative health effects on adolescent health. The National

Association of Social Workers has stated “that whenever possible parents should be involved in such important decisions, but in many cases this is unrealistic. Mandating parent notification and consent will jeopardize the health of our adolescents.”²⁹ Major health organizations, including ACOG, AAFP, AAP, the National Medical Association and the Organization of 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.”³⁰

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Notes:

1. 42 U.S.C.A. § 300 (West through P.L. 106-73).
2. T.M. Maehan, H. Hansen and W.C. Klein, "The Impact of Parental Consent on the HIV Testing of Minors," *American Journal of Public Health*, vol. 87, no. 8 (Aug. 1997): 1340; Update, "Letting Minors Consent to HIV Tests," *Family Planning Perspectives*, vol. 30, no. 1 (Jan./Feb. 1998): 2.
3. 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 (1993): 1404-1407.
4. 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.
5. Carol A. Ford, "Foregone Health Care Among Adolescents," *The Journal of the American Medical Association* (December 14, 1999): 23.
6. In 1996, the most recent year for which data is available, approximately 880,000 teen pregnancies occurred. Stanley K. Henshaw and Dina Feivelson, "Teenage Abortion and Pregnancy Statistics by State, 1996," *Family Planning Perspectives*, vol. 32, no. 6 (Nov./Dec. 2000): 276, tbl. 2.
7. Stanley K. Henshaw, "Unintended Pregnancy in the United States," *Family Planning Perspectives*, vol. 30, no. 1 (Jan./Feb. 1998): 26; AGI, The Henry J. Kaiser Family Foundation (KFF), and National Press Foundation, "Teen Sex, Contraception and Pregnancy," (factsheet), citing Stanley K. Henshaw, "U.S. Teenage Pregnancy Statistics" (in-house trend analysis by AGI dated Apr. 15, 1997).
8. KFF and the American Social Health Association (ASHA), *Sexually Transmitted Diseases in America: How Many Cases and at What Cost?* (Menlo Park, CA: KFF and ASHA, 1998), 4, 8; KFF, MTV and Teen People, "What Teens Don't Know About STDs Puts Them at Risk: A National Survey Finds Few Sexually Experienced 15-17 Year Olds Get Tested for STDs, And Most Underestimate Their Risk," Mar. 8, 1999 (news release), 1.
9. KFF and ASHA, *Sexually Transmitted Diseases in America*, 8.
10. National Research Council, *Risking the Future: Adolescent Sexuality, Pregnancy, and Childbearing*, Cheryl D. Hayes, ed. (Washington, D.C.: National Academy Press, 1987), 10, 123-24.
11. Namkee Ahn, "Teenage Childbearing and High School Completion: Accounting for Individual Heterogeneity," *Family Planning Perspectives*, vol. 26, no. 1 (Jan./Feb. 1994): 18.
12. AGI, *Sex and America's Teenagers* (Washington, D.C. and New York: AGI, 1994), 61; National Research Council, *Risking the Future*, 130.
13. Kristen Anderson Moore, Anne K. Driscoll, and Laura Duberstein Lindberg, *A Statistical Portrait of Adolescent Sex, Contraception, and Childbearing* (Washington, D.C.: The National Campaign to Prevent Teen Pregnancy, Mar. 1998), 36, citing 1995 National Survey of Family Growth (NSFG).
14. Heather Boonstra and Elizabeth Nash, "Minors and the Right to Consent to Health Care," *The Guttmacher Report*, vol. 3, no. 4 (Aug. 2000).

15. *Id.*
16. Patricia Donovan, *Our Daughters' Decisions: The Conflict in State Law on Abortion and Other Issues* (Washington, D.C. and New York: AGI, 1992), 7; AGI, "Teenagers' Right to Consent," 3. See *Younts v. St. Francis Hospital and School of Nursing, Inc.*, 469 P.2d 330, 337-38 (Kan. 1970) (recognizing the "mature minor" exception to the general rule requiring parental consent for surgery on a minor); *Cardwell v. Bechtol*, 724 S.W.2d 739, 741, 749 (Tenn. 1987) (holding "that the mature minor exception is part of the common law of Tennessee" and "[i]ts application is a question of fact for the jury to determine whether the minor has the capacity to consent to and appreciate the nature, the risks, and the consequences of the medical treatment involved").
17. *Planned Parenthood Affiliates of California v. Van De Kamp*, 181 Cal. App. 3d 245, 268-69 (Ct. App. 1986).
18. *Planned Parenthood Association of Utah v. Matheson*, 582 F. Supp. 1001, 1009 (D. Utah 1983).
19. Fed. Reg. vol. 45, no. 108 (1980) (codified at 42 C.F.R. § 59.11).
20. 42 U.S.C.A. § 300 (West through P.L. 106-73).
21. AGI, "The Debate Goes On . . . Should Government 'Squeal' On Teens Seeking Contraception?" *Issues in Brief*, vol. 4, no. 3 (Mar. 1984): 1-2.
22. *Planned Parenthood Federation of America, Inc. v. Heckler*, 712 F.2d 650 (D.C. Cir. 1983); *State of New York v. Heckler*, 719 F.2d 1191 (2d Cir. 1983).
23. Jennifer Frost and Michele Bolzan, "The Provision of Public-Sector Services By Family Planning Agencies in 1995," *Family Planning Perspectives*, vol. 29, no. 1 (Jan./Feb. 1997): 8.
24. Letter from American Academy of Family Physicians (AAFP), American Academy of Pediatrics, American College of Obstetricians and Gynecologists, American Medical Women's Association, American Society for Reproductive Medicine, and Society for Adolescent Medicine to The Honorable Robert L. Livingston, U.S. House of Representatives (July 21, 1997) (on file with NARAL).
25. Council on Ethical and Judicial Affairs, American Medical Association (AMA), "Confidential Care for Minors," Ethical Opinion 5.055, *Code of Medical Ethics* (USA: AMA, 1998), 46-7.
26. House of Delegates, AMA, "Opposition to HHS Regulations on Contraceptive Services for Minors," HOD Policy 75.998, *Policy Compendium* (USA: AMA, 1998), 225.
27. AAFP, "Adolescent Health Care: Confidentiality," *Compendium of AAFP Positions on Selected Health Issues* (1993), <http://www.aafp.org/2.html> (last visited Jan. 13, 2000).
28. American Public Health Association, "8224: Parental Notification of Prescription Contraceptives for Teenagers," *APHA Public Policy Statements* (Washington, D.C.: APHA, Mar. 1999), 307.
29. Letter from Josephine Nieves, MSW, PhD, Executive Director, National Association of Social Workers (NASW) to Representative (Aug. 19, 1997) (on file with NARAL).
30. Janet E. Gans, Margaret A. McManus, and Paul W. Newacheck, *Adolescent Health Care: Use, Costs, and Problems of Access*, AMA Profiles of Adolescent Health Series, vol. 2 (Chicago: AMA, 1991), 65-66.