The Adolescent’s Right to Confidential Care When Considering Abortion

Committee on Adolescence

ABSTRACT. In this statement, the American Academy of Pediatrics (AAP) reaffirms its position that the rights of adolescents to confidential care when considering abortion should be protected. The AAP supports the recommendations presented in the report on mandatory parental consent to abortion by the Council on Ethical and Judicial Affairs of the American Medical Association. Adolescents should be strongly encouraged to involve their parents and other trusted adults in decisions regarding pregnancy termination, and the majority of them voluntarily do so. 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. The statement presents a summary of pertinent current information related to the benefits and risks of legislation requiring mandatory parental involvement in an adolescent’s decision to obtain an abortion. The AAP acknowledges and respects the diversity of beliefs about abortion and affirms the value of voluntary parental involvement in decision making by adolescents.

Assuring adolescent access to health care, including reproductive health care, has been a long-standing objective of the American Academy of Pediatrics (AAP). Assured access to timely medical care is especially important for pregnant adolescents because of the significant medical, personal, and social consequences of adolescent childbearing. The AAP strongly advocates for the prevention of unintended adolescent pregnancy by supporting comprehensive health and sexuality education, abstinence, and the use of contraception by sexually active youths. For two decades the AAP has been on record as supporting the access of minors to all options regarding pregnancy termination, and the majority of them voluntarily do so. 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. The statement presents a summary of pertinent current information related to the benefits and risks of legislation requiring mandatory parental involvement in an adolescent’s decision to obtain an abortion. The AAP acknowledges and respects the diversity of beliefs about abortion and affirms the value of voluntary parental involvement in decision making by adolescents.

This statement has been approved by the Council on Child and Adolescent Health.

The recommendations in this statement do not indicate an exclusive course of treatment or serve as a standard of medical care. Variations, taking into account individual circumstances, may be appropriate.
are generally supportive and act in the best inter-
est of their children.

BACKGROUND

Statistical Trends

One million pregnancies occur annually among
American teenagers. Of these, about 400 000 occur
in minors younger than 18 years of age, of which 41% are
terminated by elective abortion.10 The percentage of
pregnancies terminated by induced abortion in minors
increased in the 1970s, plateaued in the early 1980s, and
has decreased since 1985, particularly in younger girls.
Whereas 46% of pregnant adolescents 15 years of age
and younger obtained abortions in 1985, only 39% did
so in 1988.10 Postulated explanations for the decline
include a shift in attitudes toward abortion among
adolescents, increased legal and financial barriers to
abortion, particularly for low-income adolescents, and
increasing social acceptance of childbearing among un-
married adolescents. Birth rates among adolescents na-
tionally are now the highest since the early 1970s.
Approximately 80% of births to minors younger than 18
years of age are to unmarried adolescents.11 Adoption
ratios have declined during the last decade; approxi-
mately 2% to 4% of unmarried adolescents place their
infants for adoption.12

Compared with those who choose childbirth, ad-
olescents who choose abortion tend to come from
higher socioeconomic backgrounds, have higher ed-
ucational aspirations and achievements, have mothers
with higher educational levels, have higher self-
estee, have greater feelings of control over life,
have lower levels of anxiety, and are better able to
conceptualize the future.13-15

State Laws

The status of legislation requiring mandatory pa-
rental involvement in a minor’s abortion decision is
currently in flux. As of 1992, 38 states had some form
of specific legislation on record, highly variable
among states in both content and degree of enforce-
ment.9,16 However, US Supreme Court rulings in 1992
on “undue burden” standards and requirements for
judicial bypass procedures raise legal questions
about the validity of many existing state statutes,
while allowing new or revised clauses that could be
held constitutional. Groups opposed to legal abor-
tion view parental notification requirements for mi-
nors as politically feasible; thus, adolescent rights to
confidential care have become part of a larger battle
regarding access to abortion in general.17 Continuing
legislative activity can be anticipated. Of 308 abor-
tion-related bills introduced in 41 states during 1992,
61 were related to parental consent or notification,
confirming the need for health professionals to be
prepared to protect the best interests of adolescents
with objective data on this issue.

EFFECT OF LEGISLATION ON FAMILY
COMMUNICATION

Basic principles of law and society hold that parents
should be involved in and responsible for assuring
medical care for their children, that parents ordinarily
act in the best interests of their children, and that mi-
nors benefit from the advice and emotional support of
their parents. Legislation mandating parental involve-
ment in abortion decisions is promoted on the basis of
its theoretical benefits on strengthening family respon-
sibility and communication. Some who support repro-
ductive choice may be ambivalent about parental noti-
fication requirements. Adults may fear that minors
contemplating abortion are immature, isolated, or at
risk of being coerced into decisions without adequate
counseling. Many parents vote for notification clauses
because they hope these laws will increase communi-
cation that otherwise might not happen.8 The 1990
AAP membership survey showed that although 85% of
members thought that mandatory parental notification
for abortion would cause some adolescents to delay
seeking care, 49% said there should be such laws,2
suggesting that many AAP members assume there is
benefit from such legislation. Because outcome analy-
sis, as supported by the evidence that follows, shows a
minimal benefit compared with a significant risk, there
is clearly a need for current data to be better under-
stood.

Voluntary Parental Involvement

Research confirms that pregnant minors do not
make abortion decisions in isolation; they actively
involve adults to whom they feel close. Even when
not required to, the majority of minors seeking abor-
tions voluntarily involve at least one parent in their
decisions. A survey of 1519 unmarried pregnant mi-
nors in states where parental involvement is not
mandatory found that 61% told one or both parents
about their intent to have abortions. The younger the
minor, the more likely she was to do so (90% of those
14 years old or younger, 74% of those 16 years old).19
Among minors who did not involve a parent, virtu-
ally all involved at least one responsible adult other
than clinic staff (such as another relative, teacher,
counselor, professional, or clergy). A study of inner-
city, black, pregnant teenagers younger than 18 years
of age confirmed that more than 91% voluntarily
consulted a parent or “parent surrogate” about preg-
nancy decisions. The term parent surrogate refers to
a close adult who is fulfilling a parental role. This
person was often a grandmother, aunt, or other rela-
tive who had “raised them” or with whom they
lived, even if that adult was not the legal guardian.50

The importance of parent surrogates and extended
families is significant when assessing the impact of
attempts to legislate family communication. Most noti-
fication clauses are restricted to traditional definitions
of biological parents or legal guardians and fail to
address the complexity and diversity of modern family
structures and adult support systems relevant to ado-
lescents. For minors who are willing to involve parents
or parent surrogates in their abortion decisions, legis-
lation adds no benefit and actually may impede ap-
propriate family communication channels.

Involuntary Parental Notification

Minors who choose not to inform parents about
their intention to have abortions are disproporti-
ately older (16 and 17 years old), white, and em-
employed.19 Very young adolescents almost always agree to voluntary parental involvement. In the unusual instance of resistance, the possibility of incest or abuse should be carefully evaluated. The most frequent reasons minors cite for not telling parents include the belief that the knowledge would damage their relationship, the fear that it would escalate conflict or coercion, and the desire to protect a vulnerable parent from stress and disappointment.19 Adolescents who are strongly opposed to informing parents tend to predict family reactions accurately.21 Voluntary parental notification can precipitate a family crisis characterized by severe parental anger and rejection of the minor and her partner. One third of minors who do not inform parents already have experienced family violence and fear it will recur.19 Research on abusive and dysfunctional families shows that violence is at its worst during a family member's pregnancy and during the adolescence of the family's children.6 Although parental involvement in minors' abortion decisions may be helpful in many cases, in others it may be punitive, coercive, or abusive.22

Credible reviews of available data conclude that there is no evidence that mandatory parental involvement results in the benefits to the family intended by the legislation. No studies show that forced disclosure results in improved parent-child relationships, improved communication, or improved satisfaction with the decision about pregnancy outcome.22–24 The current data also indicate that such legislation does not increase the likelihood that parents will be involved. The percentages of minors who inform parents about their intent to have abortions are essentially the same in states with and without notification laws.25 In states with such laws, adolescents who are not willing to inform parents use judicial bypass mechanisms,26 go out of state to obtain services,27 obtain clandestine care,28 or delay care.29,30

ADOLESCENT COMPETENCY TO MAKE HEALTH CARE DECISIONS

Adolescents who are willing to involve parents in their abortion decisions will likely benefit from adult experience, wisdom, and support. Legislation requiring mandatory parental consent or notification for abortion presupposes, however, that pregnant minors are not competent to make informed decisions and therefore require legal protection. The age of 18 years is a convenient legal dividing line, but it has no scientific validity as the point at which individuals become competent decision makers. Summaries of well-designed research conclude that most minors 14 to 17 years of age are as competent as adults to provide consent to abortion. They are able to understand the risks and benefits of options and to make voluntary, rational, independent decisions.31–33 Once pregnant, an adolescent by state laws is considered an “emancipated minor” and is held responsible and competent to consent to her own medical treatment during the pregnancy and to the medical decisions regarding her fetus or newborn (eg, amniocentesis, genetic testing, life-saving treatment, and circumcision). No state laws require the minor’s parent to consent to the minor’s decision to continue the pregnancy when the parent thinks that terminating the pregnancy is in the minor’s best interest or, with few exceptions, to place the infant for adoption. It is inconsistent, then, to presume that the minor is not legally competent to make decisions regarding pregnancy termination.24,31,34

Legal Issues

The legal issues involved in a minor’s right to confidential abortion care have been well covered in other reviews.35–38 The vast majority of court opinions and legal analyses hold that the justifications presented for mandatory parental involvement in a minor’s abortion decision are not sufficiently compelling to outweigh the minor’s right to privacy in deciding whether to terminate a pregnancy.39 Teenagers perceive no difference in legal requirements for consent versus notification. Both abridge confidentiality. All analyses confirm that confidential care for adolescents is critical to improving their health. There is a “remarkable degree of consensus that adolescents should have access to confidential health services and that parental involvement, consent, or notification should not be a barrier to care.”9 There is substantial legal consensus that parental consent and notification laws, whether or not ruled constitutional, run counter to fundamental principles of family law, which ideally seek to protect the privacy of family decision making from government interference and to protect the best interests of the minor in the circumstances when the government does intervene in family affairs.39

CONCERNS ABOUT PSYCHOLOGICAL OR PHYSICAL CONSEQUENCES OF ABORTION DECISIONS

Some adults support mandatory parent notification, thinking that it will protect the adolescent from making a decision she might regret later. Most adolescents, however, express satisfaction with their ultimate pregnancy decisions, providing they think that the decisions were their own. No significant differences in the levels of later satisfaction with their decisions have been found between adolescents who choose abortion and those who bear children or between those who parent as opposed to those who place their infants for adoption; almost all think that they made the right choices for themselves.40–42 The key determinant of this expressed satisfaction is the sense of “ownership” over the pregnancy decisions and the belief that their choices were not the results of coercion.42 In other research, pregnant adolescents who chose not to communicate with parents were as satisfied with their decisions as those who did consult with parents and received support for their decisions.20 Adolescents who communicated with non-supportive parents were the ones more likely to express dissatisfaction with pregnancy decisions.

Extensive reviews conclude that there are no documented negative psychological or medical sequelae to elective, legal, first-trimester abortion among teenage women.33,44 No significant psychological sequelae have been substantiated, despite extensive searches of the scientific literature.45–47 When facing
an unwanted pregnancy, regardless of the ultimate outcome, most women experience a range of normal emotional reactions, including regret, mild depression, and anxiety. Adverse reactions after abortion are rare; most women experience relief and reduced depression and distress.43 Some women may experience feelings of grief and guilt after termination of pregnancies, especially those who consider themselves deeply religious or who were ambivalent about their decisions, and they may benefit from appropriate therapeutic counseling.44 The incidence of diagnosed psychiatric illness and hospitalization is considerably lower after abortion than after childbirth. Psychiatric disorders, when found, have been attributed to preexisting psychiatric illness, undergoing abortion under coercion or pressure, or concomitant highly stressful life circumstances, including abandonment.45

The medical risks of legal first-trimester abortion likewise are extremely low. Mortality risks seem to be five times greater for teenagers who continue their pregnancies than they are for teens who terminate them. Morbidity rates and medical complications from continuing a pregnancy are more adverse than those from abortion at all stages of gestation.46,47 The scientific evidence indicates that legal abortion results in fewer deleterious sequelae for women compared with other possible outcomes of unwanted pregnancy. There is no rational basis for policies that put barriers in the way of an adolescent’s selection of abortion because of concerns about physical or psychological consequences.

ADVERSE EFFECTS OF MANDATORY PARENTAL INVOLVEMENT LEGISLATION

Mandatory parental consent or notification laws do not protect the health of young women and, in fact, may do harm.

Adverse Health Impact

The most damaging impact of mandatory parental notification laws is that they can delay and obstruct the access of pregnant adolescents to timely professional advice and medical care.54,55 Teenagers are twice as likely as adults to delay the diagnosis of first-trimester pregnancy. Adolescents are often confused about their right to confidential care, and even a perceived lack of confidentiality in health care regarding sexual issues deters them from seeking services.51 Once the minor does present for pregnancy counseling, mandatory parental involvement laws can delay medical care further. After enactment of such statutes, court proceedings in Massachusetts delayed the termination of pregnancy by as much as 6 weeks; in Minnesota, the average delay was 1 to 3 weeks, and the proportion of second-trimester abortions in teens increased by 12%.48 In Mississippi, a parental consent requirement increased by 19% the ratio of minors to adults who underwent their procedures after 12 weeks’ gestation.49 Later-trimester procedures (after 14 weeks) increase both the medical risks and financial costs to the patient, and a prolonged delay can eliminate abortion as an accessible option.50

It is likely that mandatory parental consent legislation decreases access to abortion by adolescents, although confounding variables make it difficult to ascertain causal effects on abortion rates. Both abortion rates and abortion ratios have decreased nationwide in states with and without parental consent statutes. In Minnesota, after parental consent laws were enacted in 1981, at first it seemed that abortion rates decreased disproportionately in 15- to 17-year-olds, but with no increase in birth rates, leading some to hypothesize that teenagers were more motivated to avoid pregnancy.52 However, after the Supreme Court upheld Minnesota’s consent laws in 1990,53 abortion rates in minors fell to the lowest level in 10 years, and birth rates for the same age group rose to the highest level since 1980 (St Paul Dispatch, June 30, 1992).

Adverse Psychological and Social Impact

There is increasing evidence of the negative effects of delayed or denied abortion on both the emotional health of the mothers and the developmental status of the unwanted children. Later-stage abortions are associated with a greater risk of psychological sequelae for pregnant teenagers (compared with first-trimester abortions, which are without significant negative sequelae).54 American studies have recently confirmed European research that women who are denied abortions only rarely give up their unwanted infants for adoption and may harbor resentment and anger toward their children for years. Despite strong social pressure not to acknowledge that a child is unwanted, more than one third of the women confessed to having strong negative feelings toward their children. Compared with the offspring of willing parents, the children of women who did not obtain requested abortions were much more likely to be troubled and depressed, to drop out of school, to commit crimes, and to have serious illnesses.55,56 Compared with peers who terminate their pregnancies, adolescents who bear children are at significantly higher risk of educational deficits, economic disadvantage, and marital instability.41,48

Adverse Family Impact

As discussed, parental involvement can have adverse effects on both minors and their families, particularly if it takes on a coercive character. The risks of violence, abuse, coercion, unresolved conflict, and rejection are significant in nonsupportive or dysfunctional families when parents are informed of a pregnancy against the adolescent’s considered judgment.1,58 In Hodgson v Minnesota, the majority of the Supreme Court found that mandatory parental involvement can result in family upheaval and can be dangerous for minors in homes where physical, emotional, or sexual abuse is present.1,59

Judicial Bypass

The option of obtaining a judicial bypass (a court proceeding in which a judge determines whether the adolescent is mature enough to make the decision to have an abortion or whether it is in her best interest not to inform parents) is viewed by some as a reasonable compromise to protect a concerned adolescent from harm while permitting states to impose mandatory parental involvement statutes.5 The US
Supreme Court ruled in 1990 that judicial bypass mechanisms are constitutionally required if state legislation is enacted, and they are ethically essential for adolescents at risk of abuse. However, judges who preside over bypass rulings testify unequivocally that this procedure is of no benefit to minors.\textsuperscript{57,58} It has no effect on the ultimate decision with respect to abortion or on the process by which that decision is made. Of 12,000 petitions in Massachusetts and Minnesota, only 21 were denied, and half of the denials were overturned on appeal.\textsuperscript{24} The judicial bypass process itself poses risks of medical and psychological harm. It is detrimental to medical well-being, because it causes further delays in access to medical treatment (from 4 days to several weeks), which increase the risk of complications from delayed or second-trimester procedures.\textsuperscript{22} It is detrimental to emotional well-being, because adolescents perceive the court proceedings as extremely burdensome, humiliating, and stressful.\textsuperscript{24} The pregnant adolescent is required to divulge intimate details of her private life to dozens of strangers (clerks, bailiffs, court reporters, witnesses, and others) to obtain a brief (10-minute) hearing before a judge who has no firsthand knowledge of her case and typically no training in counseling adolescents or developmental issues.\textsuperscript{59} Regardless of the Supreme Court ruling, many legal opinions hold that the judicial bypass process constitutes “undue burden” for adolescents seeking abortion care.\textsuperscript{22,24,59}

CONCLUSIONS AND RECOMMENDATIONS

1. Adolescents should be strongly encouraged to involve their parents and other trusted adults in decisions regarding pregnancy termination, and the majority of them voluntarily do so. A minor’s decision to involve parents is determined by the quality of the family relationship, not by laws. Family communication is inherently a family responsibility, and parents themselves create the emotional atmosphere that fosters productive dialogue. Adolescents who feel loved and supported by their parents normally will communicate with them in times of crisis. Studies show that adolescents are most likely to disclose their pregnancies if the family has a history of warmth, rapport, and involvement of parents in past problem solving.\textsuperscript{25,26} As emphasized in previous AAP position statements, enhancing parental skills for listening, communicating, valuing, and nurturing throughout the childhood years is the most effective means of ensuring family involvement in adolescent decisions.\textsuperscript{59} The pediatrician’s most valued role may be to strengthen these family communication skills and supportive behaviors.

2. Concerned professionals should make every effort to ensure that a pregnant teenager receives adult guidance and support when considering all the options available, so she can make the decision that is in her best interest. This is best achieved by adhering to existing professional ethics and standards for obtaining meaningful informed consent.\textsuperscript{60} Physicians should ensure that the minor patient has full information and has given careful consideration to the issues involved. They should encourage minors to consult with parents, other family members, or other trusted adults if parental support is not possible. The very young adolescent is especially needy in this regard. Ultimately, the pregnant patient’s right to decide should be respected regarding who should be involved and what the outcome of the pregnancy will be, which is the approach most consistent with ethical, legal, and health care principles.

3. The AAP reaffirms its position that the rights of adolescents to confidential care when considering abortion should be protected. Genuine concern for the best interests of minors argues strongly against mandatory parental consent and notification laws. Although the stated intent of mandatory parental consent laws is to enhance family communication and parental responsibility, there is no supporting evidence that the laws have these effects. No evidence exists that legislation mandating parental involvement against the adolescent’s wishes has any added benefit in improving productive family communication or affecting the outcome of the decision. There is evidence that such legislation may have an adverse impact on some families and that it increases the risk of medical and psychological harm to the adolescent. Judicial bypass provisions do not ameliorate the risk.

4. The AAP reaffirms its support of measures that increase access to health care for children and youths, regardless of age or financial status, and opposes unnecessary regulations that limit or delay access to care. The documented impact of parental consent laws is to reduce minors’ access to early legal abortion. Public policies should encourage sexually active adolescents to seek timely, professional health care. The threat of compelled parental notification against the adolescent’s wishes, even if judicial bypass is available, is a strong disincentive to seeking care. The AAP holds that public policies can and should encourage voluntary involvement of parents or other mature adults, but specific laws mandating notification of biological parents or legal guardians as a condition of service are counterproductive.\textsuperscript{57}
The Adolescent's Right to Confidential Care When Considering Abortion  
Committee on Adolescence  
*Pediatrics* 1996;97;746

<table>
<thead>
<tr>
<th>Updated Information &amp; Services</th>
<th>including high resolution figures, can be found at: <a href="http://pediatrics.aappublications.org/content/97/5/746">http://pediatrics.aappublications.org/content/97/5/746</a></th>
</tr>
</thead>
<tbody>
<tr>
<td>Supplementary Material</td>
<td>Supplementary material can be found at: <a href="http://pediatrics.aappublications.org/content/suppl/2006/10/19/97.5.746.DC1">http://pediatrics.aappublications.org/content/suppl/2006/10/19/97.5.746.DC1</a></td>
</tr>
<tr>
<td>Permissions &amp; Licensing</td>
<td>Information about reproducing this article in parts (figures, tables) or in its entirety can be found online at: <a href="https://shop.aap.org/licensing-permissions/">https://shop.aap.org/licensing-permissions/</a></td>
</tr>
<tr>
<td>Reprints</td>
<td>Information about ordering reprints can be found online: <a href="http://classic.pediatrics.aappublications.org/content/reprints">http://classic.pediatrics.aappublications.org/content/reprints</a></td>
</tr>
</tbody>
</table>
The Adolescent's Right to Confidential Care When Considering Abortion
Committee on Adolescence
Pediatrics 1996;97;746

The online version of this article, along with updated information and services, is located on the World Wide Web at:
http://pediatrics.aappublications.org/content/97/5/746