

POSITION PAPER

Protecting Adolescents: Ensuring Access to Care and Reporting Sexual Activity and Abuse

Position Paper of the American Academy of Family Physicians, the American Academy of Pediatrics, the American College of Obstetricians and Gynecologists, and the Society for Adolescent Medicine

Position Statement

As physicians and other health care professionals, we have an ethical obligation to provide the best possible care for our adolescent patients. A key tenet for all health professionals is to ensure that adolescents have access to the health services they need, including sexual and reproductive health services. A medical evaluation that addresses sexual and reproductive health includes a careful assessment for abusive or unwanted sexual encounters and the reporting of such cases to the proper authorities. Protection of children and adolescents from predatory, coercive, or inappropriate sexual contact is an important goal of all physicians and health professionals. In meeting our ethical obligations to our adolescent patients, as well as to all of our patients who are children under the age of majority, we rely on our professional judgment, informed by clinical assessment, training, and experience, to address a patient's health conditions or a sensitive situation.

As the primary providers of health care to adolescents, we also have an obligation to make every reasonable effort to encourage adolescents to involve parents in their decisions, as parental support can, in many circumstances, increase the potential for dealing with the adolescent's needs on a continuing basis. If communication between the adolescent and parent cannot be facilitated, access to confidential health care for the adolescent patient must be ensured.

Laws requiring the reporting of sexual abuse exist in every state. There has been a recent trend in using

these laws to require the reporting of adolescents' consensual sexual activity. In keeping with the medical and ethical responsibilities that we uphold, the American Academy of Family Physicians, American Academy of Pediatrics, American College of Obstetricians and Gynecologists, and the Society for Adolescent Medicine support the following guidance and principles for our professional members and for broad consideration in the development of public policy:

- Sexual activity and sexual abuse are not synonymous. It should not be assumed that adolescents who are sexually active are, by definition, being abused. Many adolescents have consensual sexual relationships.
- It is critical that adolescents who are sexually active receive appropriate confidential health care and counseling.
- Open and confidential communication between the health professional and the adolescent patient, together with careful clinical assessment, can identify the majority of sexual abuse cases.
- Physicians and other health professionals must know their state laws and report cases of sexual abuse to the proper authority, in accordance with those laws, after discussion with the adolescent and parent, as appropriate.
- Federal and state laws should support physicians and other health care professionals and their role in providing confidential health care to their adolescent patients.
- Federal and state laws should affirm the authority

of physicians and other health care professionals to exercise appropriate clinical judgment in reporting cases of sexual activity.

Supporting Commentary

State Requirements for Reporting Sexual Abuse and Sexual Activity Vary

Every state has laws that require the reporting of child abuse, including sexual abuse, and every state also has laws that specify when sexual activity with a minor is illegal. Most states use age parameters in defining whether consensual sexual intercourse with a minor is illegal under the state's criminal code; these laws are often referred to as "statutory rape" laws. The state child abuse reporting laws vary widely in terms of whether or not they require reporting consensual sexual activity of a minor—or "statutory rape"—as child abuse.

Most states have laws allowing minors to consent to selected categories of medical care without parental consent. Examples include reproductive health services leading to the diagnosis and treatment of sexually transmitted infections (STI) and the diagnosis of pregnancy. These laws give physicians and other health care professionals the opportunity to practice medicine that responds to the best interest of their patients.

State Requirements Have a Significant Impact on Adolescents, Their Health and Their Families

Physicians and other health care professionals confront difficult choices in meeting their ethical obligations and complying with applicable laws. They are bound by their state reporting requirements. They also have an ethical obligation to ensure that their patients are protected from harm and that they will receive essential health care and support at present and in the future. Often, state reporting requirements do not allow sufficient opportunity for health care professionals to exercise sound medical judgment to meet these ethical obligations.

Well-intentioned but rigid laws can lead to outcomes that are both unintended and potentially damaging to the health of an adolescent. When a state's laws require that sexual intercourse with a minor be reported to law enforcement or child welfare agencies, a sexually active adolescent in a consensual relationship may be placed in the untenable situation of forgoing essential health care (e.g., con-

traception, screening or treatment for sexually transmitted diseases, etc.) or, if he or she seeks that care, being reported to state authorities. Also, the laws often do not take into consideration varying circumstances such as cases in which parents know about the relationship in which the adolescent is involved. In these situations, the legal implications for the parent may be considerable. A parent who knows about an adolescent's consensual sexual relationship and assists him or her in seeking health care may be reported under state abuse or neglect laws. Laws should not interfere with either an adolescent's access to confidential health care or a parent's ability to provide health supervision to his or her child.

A Significant Number of Adolescents are Sexually Active

According to the 2003 Youth Risk Behavior Surveillance Survey, 32% of 9th graders, 41% of 10th graders, 52% of 11th graders, and 61% of 12th graders have ever had sexual intercourse [1]. Among adolescent girls who are sexually active, more than two-thirds have sexual partners who are the same age or only a few years older [2,3]. Enforcement of "statutory rape" and child abuse reporting laws could potentially affect a very large number of adolescents.

Open Communication between the Health Professional and the Adolescent is Essential

Physicians and other health professionals should ensure that the adolescent has not voiced or otherwise indicated to his or her partner that sexual activity was unwanted or undesirable and that the partner is not placing physical or emotional pressure on the adolescent. Physicians and other health professionals should encourage communication about sexual decision-making between adolescents and their families, and should counsel sexually active adolescents about potential health risks.

The Vast Majority of Reportable Cases of Sexual Abuse and Sexual Coercion are Identifiable through Careful Clinical Assessment

These cases include adolescents in a sexual relationship with a family member, a person of authority (e.g., teacher, leader of a youth organization, etc.), or a member of the clergy. Also included are adolescents who are incapacitated by mental illness, mental retardation, drugs, or alcohol, and are unable to

comprehend, make informed decisions about, or consent to, sexual activity. In addition, any intimate relationships that are violent should be considered abusive. Physicians and other health professionals must know their state laws and report such cases to the proper authority, in accordance with state law, after discussion with the adolescent and parent, as appropriate.

The age of the sexually active adolescent, the degree to which the adolescent understands the consequences and responsibilities of sexual activity, and the discrepancy in years between the age of the adolescent and his or her partner are important considerations that must factor into reporting decisions. Although a wide discrepancy in age between partners is of concern when caring for the adolescent patient, partner age by itself is not indicative of exploitation or abuse. Verbal and physical coercion, as well as alcohol and drugs, are some of the strategies used by sexual predators to victimize adolescents. However, sexual abuse and exploitation of an adolescent may occur in any relationship, including those where the partners are the same age, younger, or older.

It is Essential that Adolescents Have Access to Confidential Health Care

The issue of confidentiality of care is a significant access barrier to health care. A recent study of girls under age 18 attending family planning clinics found that 47% would no longer attend if their parents had to be notified if they were seeking prescription birth control pills or devices, and another 10% would delay or discontinue sexually transmitted infection (STI) testing and treatment [4]. Mandatory reporting of sexual activity will likely raise barriers and prevent adolescents from seeking health care, thereby exposing them to preventable health risks (e.g., pregnancy, sexually transmitted disease, suicide). The long-term consequences of limiting access to health care for sexually active adolescents may include an increase in the prevalence of STIs, a rise in unintended teen pregnancy, and escalation in the number of mental and behavioral health issues, including the potential of partner violence. If these and other conditions are not diagnosed early and treated appropriately, adolescents may suffer adverse health outcomes.

Adolescents can have a range of problems, including some of such severity as to jeopardize their development and health, their future opportunities, and even their lives. These issues may be indepen-

dent of, or related to, sexual activity. However, until a physician or health professional can meet with and make a professional assessment of the individual adolescent, these issues cannot be identified or addressed.

Legal Requirements and Interpretation of Laws that Impede the Provider/Patient Relationship are Detrimental to Adolescents

The medical community has a long-standing commitment to ensure appropriate protection of confidentiality for their adolescent patients. Physicians and other health care professionals are on the front line in assessing the individual emotional, physical, and behavioral needs of adolescent patients. From this unique vantage point, we are able to provide care and counseling to our young patients and to determine the appropriate course of action required in each circumstance, including whether and when to abrogate an adolescent patient's confidentiality. Federal and state laws should allow physicians and other health care professionals to exercise appropriate clinical judgment in reporting cases of sexual activity, (e.g., life-threatening emergencies, imminent harm, and/or suspected abuse). Ultimately, the health risks to adolescents are so compelling that legal barriers should not stand in the way of needed health care.

Further Reading

- Access to health care for adolescents: A Position Paper of the Society for Adolescent Medicine. *J Adolesc Health* 1992;13:162-70.
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- Confidentiality in Adolescent Health Care—Consensus Statement by AAP, AAFP, ACOG, NAACOG—The Organization for Women's Health, Obstetric, Gynecologic, and Neonatal Nurses, and the National Medical Association.
- Confidential health care for adolescents: Position Paper of the Society for Adolescent Medicine. *J Adolesc Health* 2004;35:160-7.
- H-60.965 Confidential Health Services for Adolescents—AMA Policy Statement. Available at: www.ama-assn.org. 2004.
- H-515.989 Evidence of Standards for Child Sexual Abuse—AMA Policy Statement. Available at: www.ama-assn.org. 2004.
- Society for Adolescent Medicine Position Paper on Reproductive Health Care for Adolescents. *J Adolesc Health* 1991;12:649-61.

References

1. Grunbaum JA, Kann L, Kinchen S, et al. Youth risk behavior surveillance—United States, 2003. *MMWR Surveill Summ* 2004; 53:1–96.
2. Darroch JE, Landry DJ, Oslak S. Age difference in sexual partners in the United States. *Fam Plann Perspect* 1999;31:160–7.
3. National Campaign to Prevent Teen Pregnancy. *14 and Younger: The Sexual Behavior of Young Adolescents*. Washington, DC: National Campaign to Prevent Teen Pregnancy, 2003.
4. Reddy DM, Fleming R, Swain C. Effect of mandatory parental notification on adolescent girls' use of sexual health care services. *JAMA* 2002;288:710–4.