

Policy Statements About Adolescents' Informed Consent and Confidential Access to Specific Health Care Services

Preventive Health Services

- ❑ Ready access to adolescent preventive services is often limited by service-site location, scheduling difficulties, and concerns about confidentiality. [...] Confidentiality and consent issues may also limit access to care. From the adolescent's point of view, health care may not be sought if it is perceived that privacy may be breached in the process. Providers must be aware of the importance adolescents place on confidentiality, must have policies which respect adolescent privacy, and must make these policies clear to the adolescents and families who seek their services. Within confidential clinician-patient relationships, reimbursement is sometimes complicated and may require special flexibility. [...] The reimbursement procedures established by insurers and managed care providers should be designed so as not to breach the confidentiality expected by some adolescent patients. Preventive services for adolescents should be adolescent-friendly: comprehensive, confidential, respectful, developmentally appropriate, and interactive.⁹⁰

**Society for Adolescent
Medicine**

Dental Services

- ❑ Attention should be given to the particular psychosocial aspects of adolescent dental care. Issues of consent, confidentiality, compliance, and others should be addressed in the care of these patients.¹²

**American Academy of
Pediatric Dentistry**

Contraception, Pregnancy-Related Services, Abortion, and Other Reproductive Health Services

- ❑ Since the involvement of a concerned adult can contribute to the health and success of an adolescent, policies in health care settings should encourage and facilitate communication between a minor and her parent(s), when appropriate. However, concerns about confidentiality, as well as economic considerations, can be significant barriers to healthcare for some adolescents. For example, the potential health risks to adolescents if they are unable to obtain reproductive health services are so compelling that legal barriers and deference to parental involvement should not stand in the way of needed health care for patients who request confidentiality.¹³

**American Academy of
Pediatrics**, also endorsed by
the **American Academy of
Family Physicians**, the
**American College of
Obstetricians and
Gynecologists**, and the
**Society for Adolescent
Medicine**

- ❑ b. Adolescents receiving contraceptive services should be accorded strict patient confidentiality.⁸
- ❑ Comprehensive health care of adolescents should include a sexual history that should be obtained in a safe, nonthreatening environment through open, honest, and nonjudgmental communication, with assurances of confidentiality. During the preadolescent years, the pediatrician can provide anticipatory guidance by discussing puberty and offering health education materials to the youth and family. With the onset of puberty, the patient's history should include information regarding attitudes and knowledge about sexual behavior, degree of involvement in sexual activity, and use of contraception. At the onset of puberty, private, confidential interviews with the adolescent should be part of a health maintenance visit.

**American Academy of Family
Physicians**

**American Academy of
Pediatrics**

The primary reason adolescents hesitate or delay obtaining family planning or contraceptive services is concern about confidentiality.¹⁷

*Contraception, Pregnancy-Related Services, Abortion, and Other Reproductive Health Services***American Academy of Pediatrics**

- Pediatricians should integrate sexuality education into the confidential and longitudinal relationship they develop with children, adolescents, and families to complement the education children obtain at school and at home. [...] Unlike school-based instruction, discussion of sexuality with pediatricians provides opportunities for personalized information, for confidential screening of risk status, and for health promotion and counseling. Children and adolescents may ask questions, discuss potentially embarrassing experiences, or reveal highly personal information to their pediatricians. Families and children may obtain education together or in a separate but coordinated manner. Prevention and counseling can be targeted to the needs of youth who are and those who are not yet sexually active and to groups at high risk for early or unsafe sexual activity. Recommendations for pediatricians are as follows: [...] Provide sexuality education that respects confidentiality and acknowledges the individual patient's and family's issues and values. [...] Provide specific, confidential, culturally sensitive, and nonjudgmental counseling about key issues of sexuality.²⁸

American Academy of Pediatrics

- While waiting for the results of a urine pregnancy test, the pediatrician has the opportunity to discuss the adolescent's expectations and feelings about her possible pregnancy. The pediatrician should convey the results of the pregnancy test to the adolescent alone in a private setting. Minors have legal rights protecting their privacy about the diagnosis and treatment of pregnancy. Pediatricians should be familiar with local confidentiality laws being aware that they vary from state to state. In considering confidentiality, the pediatrician should assess the adolescent's ability to understand the diagnosis of pregnancy and appreciate the implications of that diagnosis. The diagnosis should not be conveyed to others, including parents, until the patient's consent is obtained, except when there are concerns about suicide, homicide, or abuse. [...] The pediatrician needs to be sensitive to family, social, and cultural issues that may influence the adolescent and her decisions about pregnancy. Adolescents should be encouraged to include their parents in a full discussion of their options. The pediatrician should explain how parental involvement can be helpful and that parents generally are supportive. If parental support is not possible, minors should be urged to seek the advice and counsel of adults in whom they have confidence, including other relatives, counselors, teachers, or clergy. This is especially true for younger adolescents, age 12 to 15 years.¹⁸

American Academy of Pediatrics

- 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. 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

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decisions. 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. 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.³²

- Adolescence is a time of psychosocial, cognitive, and physical development as young people make the transition from childhood to adulthood. This transition includes sexual development and often entails behaviors that put young women at risk for pregnancy and sexually transmitted diseases. Guidance from a physician, as well as needed reproductive health screening and care, can greatly facilitate young people's healthy transition to adulthood.

Health care professionals have an obligation to provide the best possible care to respond to the needs of their adolescent patients. This care should, at a minimum, include comprehensive reproductive health services, such as sexuality education, counseling, mental health assessment, diagnosis and treatment regarding pubertal development, access to contraceptives and abortion, pregnancy-related care, prenatal and delivery care, and diagnosis

**American Academy of
Pediatrics** (cont'd)

**American College of
Obstetricians and
Gynecologists**

*Contraception, Pregnancy-Related Services, Abortion, and Other Reproductive Health Services***American College of Obstetricians and Gynecologists** (cont'd)

and treatment of sexually transmitted diseases. Every effort should be made to include male partners in such services and counseling.

Comprehensive services may be delivered to adolescents in a variety of sites, including schools, physician offices, and community-based and other health care facilities. Legal barriers that restrict the freedom of health care practitioners to provide these services should be removed. Institutional policies should be developed to require practitioners with views on confidentiality that restrict the provision of services to a minor to refer the patient to another practitioner.

Because the involvement of a concerned adult can contribute to the health and success of an adolescent, policies in health care settings should encourage and facilitate communication between a minor and her parent(s), when appropriate. However, concerns about confidentiality, as well as economic considerations, can be significant barriers to reproductive health care for some adolescents. The potential health risks to adolescents if they are unable to obtain reproductive health services are so compelling that legal barriers and deference to parental involvement should not stand in the way of needed health care for patients who request confidentiality. Therefore, laws and regulations that are unduly restrictive of adolescents' confidential access to reproductive health care should be revised. Institutional procedures that safeguard the rights of their adolescent patients, including confidentiality during initial and subsequent visits and in billing, should be established.⁴³

American College of Physicians

- If a patient who is a minor requests termination of pregnancy, advice on contraception, or treatment of sexually transmitted diseases without a parent's knowledge, the physician may wish to attempt to persuade the patient of the benefits of having parents involved but should be aware that a conflict may exist between the legal duty to maintain confidentiality and the obligation toward parents or guardians. Information should not be provided to others without the patient's permission. In such cases, the physician should be guided by his or her conscience in light of the law.⁴⁷

American College of Preventive Medicine

- [Regarding scope of reproductive health care benefits for adolescents enrolled in the State Children's Health Insurance Program] States should provide coverage for reproductive health assessment – with sexual history, behavioral risk assessment, and prevention counseling – during annual physical examination to all adolescents enrolled in SCHIP. [...] States should provide coverage for family planning services and counseling, including pregnancy testing; pregnancy option counseling; prenatal, obstetric, and postpartum care; distribution of contraceptive devices and birth control methods; available emergency contraception; and medical and surgical abortions as needed and permitted by law, to all sexually active adolescents enrolled in SCHIP. [...] States should provide for confidential reproductive health care services and information to all adolescents enrolled in SCHIP. There is an important link between adolescents' perception of confidentiality and use of health care services and information. Because adolescents' health risks lie largely in potential risks from health-related behaviors, confidentiality in health care may be one of the most important factors that affect adolescents' decision to disclose and discuss risky behaviors, and ultimately to seek and use health care services.⁴⁹

Contraception, Pregnancy-Related Services, Abortion, and Other Reproductive Health Services

- ❑ Our AMA continues to oppose 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. The Association encourages physicians to provide comparable services on a confidential basis where legally permissible.⁵⁶

American Medical Association

- ❑ Physicians should ascertain the law in their state on parental involvement to ensure that their procedures are consistent with their legal obligations. Physicians should strongly encourage minors to discuss their pregnancy with their parents. Physicians should explain how parental involvement can be helpful and that parents are generally very understanding and supportive. If a minor expresses concerns about parental involvement, the physician should ensure that the minor's reluctance is not based on any misperceptions about the likely consequences of parental involvement. Physicians should not feel or be compelled to require minors to involve their parents before deciding whether to undergo an abortion. The patient, even an adolescent, generally must decide whether, on balance, parental involvement is advisable. Accordingly, minors should ultimately be allowed to decide whether parental involvement is appropriate. Physicians should explain under what circumstances (e.g., life-threatening emergency) the minor's confidentiality will need to be abrogated. Physicians should try to ensure that minor patients have made an informed decision after giving careful consideration to the issues involved. They should encourage their minor patients to consult alternative sources if parents are not going to be involved in the abortion decision. Minors should be urged to seek the advice and counsel of those adults in whom they have confidence, including professional counselors, relatives, friends, teachers, or the clergy.⁵⁵

American Medical Association

- ❑ The American Public Health Association, [n]oting that adolescents tend not to seek contraception or reproductive health care until after they have initiated sexual intercourse; and [n]oting that sexually active and/or pregnant adolescents need informed, professional counseling and health care regardless of whether they wish to prevent, continue, or terminate a pregnancy; and [u]nderstanding that while parental involvement in minors' decisions may be very helpful, it can also be punitive, coercive and/or abusive; and [n]oting that physicians and other health care professionals have the obligation to provide care that is in the best interest of that patient; and [e]mphasizing that the threat of compelled parental notification is a strong disincentive to an adolescent's seeking professional reproductive health care or advice; and [n]oting that parental involvement laws, whether notification or consent, for adolescent reproductive health care (including contraception, prenatal care, delivery services, postpartum care, or abortion), do not appreciably discourage adolescent sexual activity; and [f]urther noting that adolescents are particularly vulnerable to misinformation, scare tactics, and other propaganda; and [n]oting that safe abortion is a component of comprehensive reproductive health care; therefore 1. [u]rges that public policies and laws concerning adolescent access to reproductive health care, adolescent pregnancy and pregnancy outcome be designed for the primary purposes of preventing unintended pregnancy and providing sensitive, competent, professional health care to all adolescents; 2. [u]rges that such

American Public Health Association

*Contraception, Pregnancy-Related Services, Abortion, and Other Reproductive Health Services***American Public Health Association** (cont'd)

policies reflect the reality of adolescent sexual activity and take into consideration the demonstrably negative effect of compelled parental involvement on some adolescents' contraceptive behavior; 3. [u]rges that adequate and proper care for pregnant adolescents includes encouragement to involve a mature adult in decision-making about pregnancy outcome, provided that such involvement is not dictated or compelled; 4. [u]rges that services for pregnant adolescents include access to safe, legal, and confidential abortion counseling and services, as well as access to affordable, confidential prenatal and postpartum care and contraceptive services; and 5. [u]rges that a national policy on reproductive health care for adolescents include: a) Comprehensive health and sexuality education in schools extending from kindergarten through high school; b) Confidential health services tailored to the needs of adolescents, including sexually active adolescents, adolescents considering sexual intercourse, and those seeking information, counseling, or services related to preventing, continuing, or terminating a pregnancy; c) Public policies that encourage sexually active and pregnant adolescents to seek professional health care. These policies can encourage mature adult involvement (including parental involvement) but should in no way dictate or compel the specific involvement of parents or guardians in adolescent decisions regarding their reproductive health.⁷¹

American Public Health Association

- The American Public Health Association [...] [n]oting that many state restrictions on abortion clinics, where 90 percent of abortions are performed, deny access to abortion services, especially for women in rural areas and for teenagers; and [n]oting that one out of 10 women aged 15 to 19 becomes pregnant each year in the United States and that five out of six such pregnancies are unintended, and also that the United States has a much higher rate of teenage pregnancy than six other Western countries which reflects the lack of adequate family resources and education; and [n]oting further that state efforts to compel rather than to encourage parental notification of teenagers' abortions serve only to delay and deter access of pregnant teenagers to abortion services and violate their constitutional right of privacy; therefore 1. [r]eaffirms its long-standing commitment to the fundamental legal right of women to choose abortion; to accessible, affordable, and safe abortion services for all women who need and choose them.⁷⁵

American Public Health Association

- The American Public Health Association, [n]oting that 458,000 women in the United States under the age of 18 unintentionally become pregnant each year and that unintended early teenage pregnancy generally has negative consequences for the health and welfare of the adolescent woman, her child (if she gives birth) and her family, and the society as a whole; and [n]oting that although approximately 600,000 women under age 18 obtain contraception (usually oral contraceptives) at organized family planning clinics and 500,000 are estimated to do so from private physicians, most of the remaining 1.3 million of the 2.4 million women under age 18 who are sexually active and able to get pregnant but do not want to do so during a year are at very high risk of becoming pregnant because they are using contraceptive methods with high failure rates or no contraception at all; and [n]oting that fear of parental knowledge is a major reason adolescents delay coming to a

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family planning clinic for about 12 months after they become sexually active, and that 21 percent of the unmarried minors obtaining prescription contraceptives at family planning clinics would use less effective nonprescription contraception (including withdrawal and rhythm) or no method at all if parental notification were required; and [n]oting that minors obtaining family planning services from organized clinics receive preventive health screening (Pap smears, breast examinations, blood pressure checks, etc.) as well as the opportunity for screening for sexually transmitted diseases; and [n]oting that most family planning agencies attempt to encourage adolescent clients to voluntarily involve their parents in decisions related to their sexual activity and contraceptive use through a variety of activities; and [n]oting that the American Public Health Association has urged “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 without parental consent is now in doubt;” [...] 1. [c]ommends the actions of family planning providers to encourage and help adolescent clients involve their parents in decisions related to sexual activity and contraceptive use; 2. [a]dvocates that providers encourage, but not mandate, such involvement; 3. [s]trongly opposes policies requiring parental consent or notification as a qualification of minors for initial or continued receipt of prescription contraceptives.⁷³

American Public Health Association (cont'd)

- The American Public Health Association, [n]oting that it has been longstanding policy to support the provision of services to all those who voluntarily desire to control their fertility; and [n]oting that for various reasons these services tend to be less accessible to adolescents than adults; and [n]oting that male and female adolescents have a right to full and adequate knowledge that can enable them to make responsible choices about their own sexuality and fertility; [...] 1. Recommends that ways be sought to ensure that the following provisions be included in federal, state, or local legislation and programs dealing with adolescent health and childbearing; a. Adolescent sexuality and prevention of undesired pregnancy be given a high priority, including making available pertinent information about sexuality and reproduction, and provision of contraceptive services on a convenient, dignified and confidential basis to all young men and women who need and want them; b. Early pregnancy diagnostic services be made readily available and, if the pregnancy is confirmed, supportive pregnancy counseling and unbiased information about all the options available, including abortion, be provided; c. Certain essential services be provided for young men and women who, on the basis of free and informed choice, decide to carry a pregnancy to term, with special attention to be given to those in their early teens for whom the social, psychological, and health risks are the greatest; d. In addition to the usual health services, other short- and long-term services should be provided which help young parents to complete their education and to become economically self-sufficient after the birth of their child. e. Provision of human sexuality education, as well as family planning information and services, be required of all relevant public programs.⁷⁴

American Public Health Association

*Contraception, Pregnancy-Related Services, Abortion, and Other Reproductive Health Services***American Public Health Association**

- The American Public Health Association, [r]eaffirming that the American Public Health Association holds that the ability to control one's own fertility is a fundamental right and a necessity for health; and [...] [r]ecognizing that many minors cannot obtain contraceptive services due to lack of confidentiality or to providers' concerns over the legality of providing such services without parental consent; [...] 3. [u]rges 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 without parental consent is now in doubt.⁷⁰

Society for Adolescent Medicine

- The Society for Adolescent Medicine hereby resolves that contraceptive education, counseling, and services should be made available to all male and female adolescents desiring such care on the adolescents' own consent without legal or financial barriers. Parental involvement should be encouraged, but this should not be required through either consent or notification. [...] The Society for Adolescent Medicine hereby resolves that pregnancy detection and subsequent prenatal care, counseling, educational, and postnatal services (including child care) should be available and accessible to adolescents who choose to continue their pregnancies, without legal or financial barriers; that services should be available to the adolescent's partner and family, if she desires, and should include counseling on adoption and/or parenting. Services should be available on a confidential basis. [...] The Society for Adolescent Medicine hereby resolves that although prevention of unwanted pregnancy is the highest priority, adolescents (whether indigent or well-to-do) must have access to counseling about all options and access to elective termination of pregnancy as a legal, safe, available alternative to continuing a pregnancy; that the adolescent should have access to abortion without legal or financial barriers and without interference from anti-abortion demonstrations; and that the decision to terminate a pregnancy should rest with the pregnant adolescent in concert with the advice and counsel of her physician. Although involvement of significant others should be strongly encouraged, particularly for minors, mandatory parental consent and/or notification should not be required. When determination of maturity is necessary, that determination is best made by a knowledgeable health professional. [...] The Society for Adolescent Medicine hereby resolves that adolescents should have access to education, counseling, and health care services for the prevention, screening, diagnosis, and treatment of sexually transmitted diseases; and that minors should have access to these services on their own consent.⁹⁵

*Testing and Treatment for HIV and Sexually Transmitted Infections***American Academy of Child & Adolescent Psychiatry**

- All HIV antibody testing must be done with informed consent. It is not enough just to have a consent form signed but it must be document[ed] that the person authorizing testing is fully informed of the consequences of both a positive or negative result. There are specific laws regarding confidentiality of HIV antibody testing results and who authorizes consent in minors. These laws vary from state to state. Prior to obtaining consent, ensure the laws are understood. Results of patients' HIV antibody tests will be maintained in a confidential manner. A patient's HIV status should be shared only with those

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staff who need to know the status to appropriately care for the child while an inpatient. Sharing of HIV status should, of course, be in compliance with applicable state and federal law.⁶

- Laws concerning consent and confidentiality for HIV care and treatment vary from state to state, and pediatricians need to be familiar with the laws of the state in which they practice. [...] Some adolescents may not wish to involve a parent in decisions relative to evaluation or treatment of HIV infection. Such reluctance may arise from a desire not to inform family members about HIV status or reluctance to reveal behaviors that placed the adolescent at risk for infection. Although it is usually best to involve the family in the health care of adolescents, this is not always the case. Deference to parental wishes to be informed must not interfere with needed evaluation or treatment of adolescents. For adolescents who are able to understand the implications of testing and treatment and are capable of informed consent, and in the absence of local laws to the contrary, it is best to proceed on the basis of this consent alone rather than insisting on parental involvement. Similarly, an adolescent's consent should be obtained before release of any information concerning HIV status.

Generally, pediatricians should respect an adolescent's request for privacy. Nevertheless, questions about whether pediatricians may disclose or receive information about a patient's HIV status without the consent of the patient can arise in several contexts, including disclosure by obstetricians to pediatricians, mandated reporting to health departments, reporting to institutional authorities and employers, the care of accused or convicted sex offenders, instances of accidental needle sticks involving known HIV-infected patients, and issues of charting HIV status in the medical record. Although each of these contexts may at times involve an adolescent patient, they are not specific to young people. Accordingly, disclosure of the HIV status of an adolescent should be held to the same legal and ethical standards as disclosure of the HIV status of an adult. A concern most relevant to the care of HIV-infected adolescents is the limits of confidentiality as they would apply to sexual partners. A difficult question is whether to disclose HIV status to the sexual partner(s) of a patient known to be HIV positive and who persistently refuses to agree to such disclosure. There should be little debate about the desirability of using all reasonable means to persuade an infected person to inform his or her partner(s) on a voluntary basis. Physicians who intend to disclose information about HIV infection status to sexual partners should consider their duty to inform adolescent patients before testing that results will be disclosed to partners and under what circumstances. Partner notification (without revealing the source of exposure) is available in many areas through local health departments. Maintaining confidentiality is important. Disclosure of HIV infection status is regulated by state laws. Disclosure of HIV infection status to school authorities without an adolescent's consent generally is not indicated. When desired by an adolescent, pediatricians can play an important role in disclosure and education of school authorities. [...]

3. Availability of HIV testing should be discussed with all adolescents and should be encouraged with consent for those who are sexually active or substance users. 4. Although parental involvement in adolescent health

**American Academy of Child
& Adolescent Psychiatry**
(cont'd)

**American Academy of
Pediatrics**

*Testing and Treatment for HIV and Sexually Transmitted Infections***American Academy of Pediatrics** (cont'd)

care is a desirable goal, consent of an adolescent alone should be sufficient to provide evaluation and treatment for suspected or confirmed HIV infection.¹⁴

American Academy of Pediatrics

- ❑ Disclosure of HIV infection status to children and adolescents should take into consideration their age, psychosocial maturity, the complexity of family dynamics, and the clinical context. [...] For adolescents, the American Academy of Pediatrics has established that health care professionals have an ethical obligation to provide counseling to respond to the needs of adolescent patients and to insure that adolescents have an opportunity for examinations and counseling apart from their parents. Consequently, physicians should provide full disclosure of HIV status to their adolescent patients. [...] Adolescents should know their HIV status. They should be fully informed to appreciate consequences for many aspects of their health, including sexual behavior. Adolescents also should be informed of their HIV status to make appropriate decisions about treatment and participation in clinical treatment trials. Physicians should also encourage adolescents to involve their parents in their care.¹⁹

American College of Obstetricians and Gynecologists

- ❑ Confidentiality concerns limit the use of medical care by adolescents. Adolescents are more willing to communicate with and seek health care from physicians who assure confidentiality. [...] Physicians are encouraged to establish office policies regarding confidential care for adolescents and clearly communicate these policies to adolescents and their parents. Although providing confidentiality to adult patients is relatively easy, parental consent and billing issues for the treatment of adolescents can make confidentiality for adolescents a much more complex task. [...] Physicians providing care for an adolescent population should be familiar with current state statutes on the rights of minors to consent to health care services, as well as those laws that affect confidentiality. Providers should encourage and, when appropriate, facilitate communication between a minor and her parent(s).⁴⁵

American College of Preventive Medicine

- ❑ Most sexually active adolescents would agree only to confidential STD testing. Many health care facilities, however, require the consent of parents or spouses, or may be forbidden by law to provide services to adolescents. Sexually active adolescents who refuse STD testing because of privacy concerns place themselves at risk of complications from undiagnosed infections, and limit the potential of screening programs to reduce STD rates.⁴⁹

American Medical Association

- ❑ The AMA urges state and local medical societies to work with their respective health departments and communities to develop and support appropriate legislation to decrease the spread of sexually transmitted diseases (STDs) in minors, specifically by allowing minors to consent for the means of prevention, diagnosis and treatment of STDs, including AIDS.⁶¹

American Medical Association

- ❑ Our AMA (1) supports continued action to assert appropriate leadership in a concerted program to control venereal disease; (2) urges physicians to take all appropriate measures to reverse the rise in venereal disease and bring it under control; (3) encourages constituent and component societies to support and initiate efforts to gain public support for increased appropriations for public health departments to fund research in development of practical

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methods for prevention and detection of venereal disease, with particular emphasis on control of gonorrhea; and (4) in those states where state consent laws have not been modified, encourages the constituent associations to support enactment of statutes that permit physicians and their co-workers to treat and search for venereal disease in minors legally without the necessity of obtaining parental consent.⁵⁴

American Medical Association (cont'd)

- [Regarding HIV disease] Federal, state, juvenile, and local correctional facilities house significant numbers of individuals who are at risk for HIV disease. Voluntary testing, strict application of Universal Precautions and CDC guidelines, education/counseling services, protective devices availability and confidentiality are important areas for nurses working in these settings. [...] Testing for HIV disease is valid as a diagnostic tool. With advances in the diagnosis and treatment of HIV, it is important that those who are seropositive be identified early for the purposes of initiating early intervention. Accordingly, voluntary confidential testing with pre and post counseling for the purpose of initiating treatment should be available to persons who request it. Anyone with clinical indication of HIV disease and anyone who has engaged in high risk behaviors should be encouraged to test for HIV disease. While recent research has demonstrated that early treatment can delay the progression of the disease, it is not clear that large scale screening is efficacious and mandatory testing is not warranted. [...] HIV/AIDS education should be provided to all staff and inmates in jails, prisons, and juvenile confinement facilities. [...] Staff should also receive training on confidentiality as it relates to HIV disease. [...] It is important that the rules of confidentiality be followed in correctional institutions since labeling inmates as HIV positive places them at undue risk for compromised personal safety. The facility staff should keep informed of any changes related to confidentiality enacted by legislatures or determined by the courts as such information varies from state to state and from time to time.⁶³

American Nurses Association

- 1. Psychiatrists who work with adolescents have a responsibility to educate themselves and consider consultation as needed with regard to medical, psychosocial, ethical, and legal aspects of HIV infection particularly as they relate to youth. [...]
- 4. When adolescents live in families, these relationships significantly influence adolescent behavior. Thus, culturally competent family assessment needs to be a central part of the evaluation process, and education must be directed to these families as well as adolescents. [...]
- 6. In areas of HIV testing, sexual activity, reproductive planning, contraception, and access to medical treatment, psychiatrists should be familiar with state and local statutes regarding minor consent, age and criteria for emancipation, limits of confidentiality, notification requirements, and rights in emergent medical and psychosocial situations (e.g. acute general mental status changes or sexual trauma).⁶⁷

American Psychiatric Association

- NASP recommends that only those who have a legitimate need to know be informed regarding a child's HIV status. In some cases, this may mean that classroom teachers and school psychologists will not have access to this information unless it can be documented that such disclosure will benefit the

National Association of School Psychologists

*Testing and Treatment for HIV and Sexually Transmitted Infections***National Association of School Psychologists** (cont'd)

child and a parent has consented to its dissemination. [...] Regardless of individual decisions regarding disclosure, school personnel must be fully prepared to handle the rapid spread of HIV-related rumors among students and staff.⁸³

Society for Adolescent Medicine

- The Society for Adolescent Medicine believes that [...] there should be no mandatory of testing of adolescents. Confidential testing should be readily available to adolescents and every effort should be made to ensure the rights of privacy of the patient. Anonymous testing should also be available for those who so choose. Programs and the clients they serve should be made aware of the positive and negative features of each approach to testing. Counseling should be developmentally and culturally sensitive and always identify risks as well as benefits of testing. Both counseling and testing should take place in settings in which adolescents feel comfortable and where care and support services can be made readily available. Appropriate parental or other adult support should be incorporated into the process whenever possible. [...] With regard to counseling and testing services for adolescents, we make the following recommendations: [...] a) there should be no mandatory HIV testing of individual adolescents or population groups as a prerequisite for admission to programs, services, or placements; b) there should be no involuntary routine HIV testing for adolescents; c) an adolescent should not be tested for HIV without consent; informed consent should be obtained from the adolescent if the adolescent is capable of consenting or, if the adolescent is not capable of giving consent, consent should be obtained from some other person with appropriate legal authority or from a court. [...] [W]hen indicated, conduct HIV testing based on clinical criteria or an appropriate request of an adolescent, in settings where pretest and post-test counseling that is sensitive, age-appropriate, and culturally appropriate is available. Confidential testing is preferred because it more readily allows the immediate provision of medical and support services to be offered to the adolescent. However, anonymous HIV testing services should also be available for the adolescent who prefers to be tested in this manner. This modality of testing is often preferred by older or emancipated adolescents. If anonymous testing is provided, efforts need to be made prior to offering these services to a particular adolescent to ascertain if he/she will be responsible in returning for results and if an appropriate support mechanism is in place to help them cope with a positive test result. Whether the testing is confidential or anonymous, special preparations should be made, including training of staff, to ensure that services are appropriate to the adolescent age group. [...]

[S]trictly maintain the confidentiality of an adolescent's HIV test results and other HIV-related information. [S]hare HIV-related information about an adolescent among health care professionals and other services providers only with appropriate authorization. The following guidelines should be adopted: a) test results should only be released with the explicit agreement, preferably in writing, of the adolescent if the adolescent has consented to the test; or b) in those extraordinary instances when an adolescent has not consented to the test, authorization to release the test results should be obtained from someone with proper legal authority to do so as directed by order of the court.⁹²

Mental Health and Substance Abuse Services

- ❑ Patients requiring treatment for mental illnesses are less likely to seek help and more likely to drop out of treatment for fear their records will be disclosed. This is particularly true of parents seeking help for their children. If a child's medical record does not have long-term privacy protections, information regarding diagnosis and treatment can lead to discrimination throughout his or her life. [...] Trust is the essential imperative in the doctor-patient relationship. This is particularly true between a child and adolescent psychiatrist and a child or adolescent patient and his or her family. Too often parents are apprehensive about taking their child to see a child and adolescent psychiatrist. The possibility that their child's medical information could be disclosed, makes it less likely that parents will chose to seek treatment. ⁴

**American Academy of Child
& Adolescent Psychiatry**

- ❑ The Academy encourages the child and adolescent psychiatrist to carefully consider the use of drug and alcohol screening tests for the evaluation and treatment of [children and adolescents who may have coexisting psychiatric and substance abuse disorders]. Whether or not laboratory testing occurs depends on the careful judgment of the physician. [...] The child and adolescent psychiatrist should be knowledgeable about the following procedures of blood and drug testing: [p]roper collection, labeling, storage, and transfer of specimens; [p]roper record keeping and communicating of results from the laboratory; [t]he protection of the confidentiality of results; [t]he reliability and validity of the variety of tests; [and] [t]he appropriate interpretation of the testing results within the context of a comprehensive biopsychosocial evaluation. [...]

**American Academy of Child
& Adolescent Psychiatry**

When assessing informed consent and confidentiality issues with substance abusing children and adolescents, the psychiatrist must try to answer the following questions: Is it the child or the parents who are asking for help? Is there a positive treatment alliance with the child and/or with the parents? Are the parents allied with their child's best interests regarding assessment, drug and alcohol screening, and treatment? Is the patient generally acting with poor judgment? Is the patient's behavior dangerous and life-threatening enough to break confidentiality?

Whether or not the psychiatrist obtains informed consent from the patient for drug testing or breaks confidentiality about the results with the patient is a difficult judgment which must include the following factors. Some substance abus[ing] teenagers sincerely ask for confidential help while others continue to use chemicals and to resist help, even when they regularly attend treatment sessions. The parents may be more motivated for treatment than the patient or vice-versa. The treatment alliance with an actively substance abusing adolescent can be non-existent in spite of lengthy treatment attempts. A patient can hide his or her suicidal thoughts and substance use from the clinician and assume a mask of good health. [...]

The child and adolescent patient should be given the right of informed consent about drug and alcohol testing. This fosters a positive alliance with the patient. It may be appropriate, however, to obtain informed consent for testing from the parents alone, when the minor patient exhibits poor judgment, cannot make a positive treatment alliance, is dangerous to him or herself or to others, does not show concern for his or her condition, and/or refuses help. [...]

*Mental Health and Substance Abuse Services***American Academy of Child
& Adolescent Psychiatry**
(cont'd)

Respecting the confidentiality of a child or adolescent is routine, but this may be more difficult when the problem is substance abuse. Confidentiality is not unconditional when a child's mental status is impaired. In these cases, when the child or adolescent is judged to be in a life-threatening situation, the clinician may find it medically necessary to take responsibility to protect the patient's health instead of the confidentiality and to share the test results with the parents.⁵

**American Academy of
Pediatrics**

- Although confidentiality is important in adolescent health care, for adolescents at risk to themselves or others, confidentiality must be breached. Pediatricians need to inform the appropriate persons when they believe an adolescent is at risk of suicide. [...] In addition to an in-depth psychological evaluation of the adolescent, family members should be interviewed to obtain additional information to help explain the adolescent's suicidal thoughts or attempt. This information includes detailed questions about the adolescent's medical, emotional, social, and family history with special attention to signs and symptoms of depression, stress, and substance abuse. With parental permission and adolescent assent, teachers and family friends also may provide useful information if confidentiality is not breached.³⁰

**American Academy of
Pediatrics**

- The American Academy of Pediatrics (AAP) recognizes the abuse of psychoactive drugs as one of the greatest problems facing children and adolescents and condemns all such use. Diagnostic testing for drugs of abuse is frequently an integral part of the pediatrician's evaluation and management of those suspected of such use. "Voluntary screening" is the term applied to many mass non-suspicion-based screening programs, yet such programs may not be truly voluntary as there are often negative consequences for those who choose not to take part. Participation in such programs should not be a prerequisite to participation in school activities. Involuntary testing is not appropriate in adolescents with decisional capacity – even with parental consent—and should be performed only if there are strong medical or legal reasons to do so. The AAP reaffirms its position that the appropriate response to the suspicion of drug abuse in a young person is the referral to a qualified health care professional for comprehensive evaluation. [...] The AAP does not object to diagnostic testing for the purpose of drug abuse treatment. Testing should be approached in a fashion similar to diagnostic testing for other diseases, which includes obtaining informed consent from individuals with decisional capacity. Involuntary testing would be justified only if the adolescent were at risk of serious harm that could be averted only if the specific drug were identified. If the treatment and therapy would not be changed by testing, involuntary testing would not be justified. [...] Because serious legal consequences may result from a positive drug screen, it is a minimal requirement that there be candid discussion regarding confidentiality and the need for informed consent from a competent individual. If confidentiality issues are adequately addressed, a competent adolescent may consent to testing and counseling without the knowledge of parents, police, or school administrators. [...] Screening or testing under any circumstances is improper if clinicians cannot be reasonably certain that the laboratory results are valid and that patient confidentiality is assured.³¹

Mental Health and Substance Abuse Services

- Appropriate interviewing techniques are critical in obtaining a comprehensive substance abuse history. Central to this is the issue of confidentiality, and the most useful information will be obtained in an atmosphere of mutual trust and comfort. Pre-teens as well as teenagers should be interviewed privately during each office visit with the reassurance of confidentiality and a discussion of its limits. [...] Guidelines published by the American Academy of Pediatrics as well as issues of consent and confidentiality should be considered when deciding whether to use drug testing in the diagnosis and management of substance abuse. [...] Pediatricians should: [...] interview the adolescent alone to obtain a meaningful history of drug use and/or associated problems and to assure confidentiality, except when a threat of harm to self or others exists or when reporting is required by law. [...] Patient consent should generally be obtained before testing for drugs of abuse, but may be waived when the patient's mental status or judgment is impaired.³³

- Pediatricians must be familiar with state and federal regulations governing confidential exchange of information about substance abuse treatment. These are available from the state alcohol and substance abuse treatment regulatory agencies.²²

- [Regarding drug education and testing of collegiate student athletes] A drug education program (with or without testing) should reflect the institution's overall commitment to eliminating drug abuse among its students, faculty, and staff. [...] No institution should initiate a drug testing component without the advice of legal counsel. The structure of this component should reflect consideration of the rights of the individual student, as well as concern for the goals of the institution. The component should provide for informed consent in advance by all students required to participate, and for due process in the event of the imposition of sanctions for alleged violations. [...] The institution should guarantee that the test results and any related records will be handled in a strictly confidential manner, in accordance with established university procedures. Further, test data should be included in medical or counseling records only, not in athletic or academic records.³⁶

**American Academy of
Pediatrics**

**American Academy of
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**American College Health
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