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Position Paper: Parental Consent for Abortion Protects Vulnerable Girls

Many choice-focused individuals and organizations take a fundamentally flawed approach to the issue of parental consent for abortion. They frame the problem as, “Choice and bodily autonomy at all costs and anyone who opposes that opposes women’s rights.” We argue that this “at all costs” approach harms the very women it sets out to protect when it is applied to adolescents making decisions on whether to continue a pregnancy.

If we ask, “What harms will occur from a Parental Consent law?” we will certainly be able to find potential harms. And these harms should not be negated: patient confidentiality, access to healthcare, possibility of abuse or broken family relationships - all these are serious issues that need to be taken into consideration. When the question is a more objective, **“Should we implement a parental consent for abortion law?”**, these carefully considered cons cannot be found to outweigh the pros. Unfortunately, the pro-choice approach fails to reasonably consider the possible pros to such legislation. The substantial research supporting the implementation of a parental consent for abortion law is summarized here.

The foremost considerations surrounding consent laws are **patient confidentiality** and **access to health care. Confidentiality,** first of all, has proven to be of crucial importance in getting adolescents to use health care, particularly with regards to reproductive issues [1]. Despite it being portrayed as such, the impact of confidentiality on accessing medical care is certainly not unique to adolescents. We take this argument very seriously, and maintain the importance of confidentiality. Confidentiality is not broken by a parental consent law, as parents are not notified and consent obtained without the adolescent’s awareness. The adolescent is made aware of the need for consent as well as the option of obtaining court consent instead of parental consent. In our proposed bill, there are options to circumvent parental consent in cases of abuse, fear, lack of legal guardian, or other legitimate concerns. The safety and well-being of the adolescent is at the forefront, alongside the safety of unborn children. A consent law is a step forward in protecting teens against coercion, peer pressure, abuse, and other potential reasons they may choose abortion.

Further, in cases where others could be affected by our choice, there is precedent in setting limits on confidentiality. If we look at cases of counsellors needing to report child abuse and lawyers needing to report plans to commit a crime, for example, we see that confidentiality is not an absolute right. In the United States, a medical privacy law (HIPAA) strongly endorses the protection of patient confidentiality, yet it specifically mentions abortion in the context that an adolescent minor (under 18) may *only* maintain confidentiality in cases when they have "requested and received *court approval* to have an abortion without parental consent or notification" (emphasis added) [1]. It is grouped with HIV/AIDS and sexually transmitted infections in that others beyond the patient are affected by the choice being made, so patient confidentiality may be maintained following court consent, but treatment or action cannot occur without adult consent. This is an example of an appropriate balance between protection of privacy, but also the rights of others, including parents, potential sexual partners, and unborn children.

Access to health care, then, is the other major consideration. Such access can actually be improved by a parental consent law. It can be very difficult for adolescents to navigate the health care system on their own, from making appointments to transportation to appointments to accessing the follow-up care they may need. Absences from school or home will need to be explained and the stress of dealing with pregnancy alone is significant for an adolescent.

Studies show that adolescents often know later in their pregnancy that they have conceived, or do not seek medical attention until they are "beyond facilities' gestational age limits". [2] While Canada has no laws restricting abortion, most doctors will only perform abortions before the 20-week mark, as after this point the fetus is considered viable. If the adolescent *does* present early enough for a drug-induced medical abortion, the complication and failure rates are higher than for surgically-induced abortion, so parental involvement and care are very valuable [3].

An adolescent who gets an abortion in secret is more likely to hide pain and complications following the procedure, putting her health at risk, and her parents will not know to watch for signs of physical or psychological struggling. Studies have found a significantly higher rate (3-6x) of suicide in 15-24 year olds following induced abortions when compared to those who are not pregnant or who chose childbirth when pregnant, as well as feelings of guilt, fear and confusion over what occurred [4-7]. A review of the literature from 1995-2011 found that pregnancy loss, including through abortion, carries a higher risk of subsequent mental disorder than childbirth. Thirteen studies showed a clearly higher risk for the abortion group versus those who chose childbirth, while only 5 studies found no difference [8]. It is evident, then, that a teenager should not be expected to face this decision and/or procedure alone, with all the potential ramifications.

The Canadian Medical Association, in its official policy on induced abortion, stresses the need for full and immediate counselling services for patients in the case of an unwanted pregnancy, something easier to ensure and maintain with parental consent requirements in place [9]. **Helping or encouraging adolescents to keep their pregnancies and abortions secret is helping them isolate themselves at a particularly vulnerable time, at an age where their coping mechanisms are not yet**

well-developed. All studies agree that there is a dearth of research in this field given the prevalence of abortions and the expressed desire to inform women well of their options and the potential consequences.

We must briefly consider the concern that parental consent requirements will drive adolescents to self-harm or illegal means of obtaining abortions in an effort to avoid telling their parents. This common rhetoric has always held true for a small, sensationalized minority of cases, and will continue to do so. Desperate young women, like desperate older women, will take desperate measures. This does not, however, negate the need for a parental consent law with all its potential benefits for the majority.

In terms of decision-making, the terms mature or immature are not meant as a comment on an adolescents' character or intellect, but rather as a scientific reality in terms of brain development. Not only are adolescents likely to make their pregnancy-related decisions in a state of stress, emotion, and exhaustion, they are also doing so with a less-developed prefrontal cortex than an adult, one of the "key ways the brain doesn't look like that of an adult until the early 20s" [10]. Adolescent brains show marked differences in areas of impulse control and planning for the future, both critical to making an informed decision on parenthood, and capacities that are similarly unavailable in the peers they may turn to for help and advice.

In addition to the incomplete brain development of adolescents, there are marked hormonal shifts occurring in adolescence. These shifts affect the intensity with which emotion is felt as well as stress levels. Add to that the hormonal shifts that come with pregnancy and you have a dangerous decision-making cocktail which, like many cocktails, will lead to regretted decisions.
The Canadian Medical Association code of ethics states that physicians must "balance the developing competency of minors and the role of families in medical decision-making"[11]. This balance does not suggest the family should be eliminated from consideration. Indeed, it recognizes that, while they should be heard and their participation encouraged, minors cannot always make medical decisions unassisted. Abortion is unique in that another life is involved besides that of the patient, deepening the impact of the decision.

The argument occasionally put forward regarding adolescents needing consent to continue with a pregnancy should be dismissed without further consideration. Just as parental consent is needed for any surgery, so it should be needed for abortion at any stage of pregnancy. We do not ask for parental consent for an adolescent to get appendicitis or cancer, we simply involve them in helping their child cope with the consequences. As stated in *R. v. Morgentaler,* abortion is not a right, and should not be treated as such [12].

Parental consent does not equal parental control - it **is about responsibility and care.** The term consent implicitly states that the decision belongs to the adolescent. Her parents can share their reasoning and attempt to influence her decision, but the main goal is to provide support for pregnant adolescents regardless of the outcome of their pregnancy. Whether they choose abortion, adoption, or active motherhood, support is crucial to their success and well-being. A parental consent law

makes it clear that the government supports young women as well as the lives they may carry, and is working to enhance their well-being now and across their lifespan.

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