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Testimony: Minors Rights to Confidentiality

Vermont Senate Committee on Health and Welfare

H. 57, an Act Relating to Preserving the Right to Abortion

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Good morning Chairperson Lyons, Vice Chair Ingram, and members of the Senate Committee on Health and Welfare. I am grateful to all of you for the opportunity to be here today to show my support for bill H.57, an Act Relating to Preserving the Right to Abortion", which would codify abortion rights in Vermont law.

My name is Dr. Erica Gibson and I am a pediatrician specializing in adolescent medicine at the University of Vermont Children's Hospital (UVMCH). In my day to day work I am the Director of Adolescent Medicine at UVMCH where I see patients in the Adolescent Medicine Specialty Clinic, the Transgender Youth Program, at Woodside Juvenile Rehabilitation Facility and on the pediatric hospital ward. I also have grant funding to work on variety of adolescent health issues including teen pregnancy prevention, prescription opioid abuse prevention, and adolescent well care. Previous to coming to Vermont I worked at Columbia University Medical Center and New York Presbyterian Hospital in New York City where I had appointments in both the Department of Pediatrics and in the Department of Population and Family Health at the Mailman School of Public Health.

Today I am speaking as a physician, as a member of the Executive Board of the Vermont Chapter of the American Academy of Pediatrics, and as a member of the Vermont Medical Society. As you may already know the American Academy of Pediatrics and Vermont Medical Society both strongly support minors rights to confidential sexual and reproductive health services including abortion; many other professional medical organizations also support access to confidential abortion care for minors including: the American Medical Association, the American College of Obstetricians and Gynecologists, the Society for Adolescent Health and Medicine, the American Public Health Association and many others. I have spent the majority of my medical career focusing on adolescent sexual and reproductive health care including prevention of unintended teen pregnancy and sexually transmitted infections, access to safe and confidential abortion services has also been part of that work. I believe that abortion is part of the full spectrum of reproductive health care, and it should be treated as the normal and common experience that it is. As you may have already heard, nationally only 3% of abortion patients are 15-17yo and only 0.2% are under 15years old (<https://www.guttmacher.org/fact-sheet/induced-abortion-united-states>). I come before you today to describe how minor's rights to confidential sexual and reproductive health care including abortion are essential to the health and wellbeing of the young people we care for. I feel that H.57 should codify current practice with regard to abortion care in this state and no changes should be made to the status quo.

Confidentiality in adolescent and young adult health care is clinically essential, developmentally expected and is an important element in protecting the health of individual young people and the public health (SAHM Position Statement, Confidential Care, 2004). Decades of research have found that privacy protection encourages young people to seek essential health care and speak openly with their health care providers (English – Adolescent Confidentiality in Vermont, 2019). Likewise, other research shows that if patients are not assured confidentiality they actually avoid seeking healthcare or involving trusted adults in their decision making. Many state and federal laws as well as ethical guidelines require confidentiality protection and support the rights of adolescents and young adults to receive confidential health care in certain situations, particularly related to sexual and reproductive health, mental health and substance use. It should be noted that when agreeing to confidential health care services a clinician needs to take into account whether a young person has the cognitive and emotional ability to understand the nature and risks of a proposed treatment, and is capable of making an informed and rational choice. It is ironic to note that in some states pregnant and parenting teens are allowed to fully consent to their own care and care of their fetus or child while they are not allowed to make the confidential choice to choose an abortion if they so desire at the same age. (AAP Adol Rights to Confidential Care when Considering an Abortion).

While I routinely offer confidential healthcare to my patients as appropriate, the majority of young people that I care for do involve a trusted parent, guardian or adult in sexual and reproductive health care decisions. We also know that most minors faced with an unplanned pregnancy will voluntarily disclose to a parent or a trusted adult. 61% of minors that have an abortion do so with at least one parents knowledge and younger teens are more likely to involve a parent. (Henshaw SK, Family Planning Perspectives, 1992, 24: 196-207) As clinicians caring for these young people this is one of the first questions we ask them when they are faced with a challenging decision; what adults can you rely on for support in your decision making, how can we help you to communicate with them, what can we do to help. In terms of unplanned pregnancy, we know that every pregnancy is unique, and every individual's decision about their pregnancy is deeply personal. We also know that some young people do not live in supportive and functional home circumstances. They may choose not to involve parents in abortion decisions due to adverse home situations including family trauma, instability, household substance abuse or physical or sexual abuse; many of the issues that we now recognize as "Adverse Childhood Experiences" or ACES. Young people may also choose to keep a decision about abortion confidential due to fear. Fear for their own safety, fear of disappointing parents or damaging relationships with them; they may fear judgement, shame or rejection; they may fear being forced to continue a pregnancy. In addition some may not even feel close to, or live with their designated parent or guardian. (Coleman-Minahan, Judicial Bypass in Texas, 2018)

While federal law guarantees a minors right to an abortion, in some states parental involvement laws require that a minor either notify a parent or guardian or obtain parental consent prior to obtaining an abortion. Forty years ago the U.S. Supreme Court ruled that there must be a waiver process available to minors who do not or cannot involve a parent in their abortion decision. A process known as judicial bypass. Recent research on the adolescent experience with judicial

bypass reveals the following (Coleman-Minahan, 2018):

- Adolescent's experience the bypass process as a form of punishment for their sexuality, pregnancy, and abortion decision.
- The process includes logistical burdens, unpredictability, and humiliation, resulting in a traumatic experience for some
- This combined of sense of punishment, humiliation and internalization of abortion stigma can be associated with isolation, emotional suppression, long-term psychological distress, and hesitancy to seek healthcare.
- Such a negative experience is highly consequential for adolescents going through a critical development period, particularly for adolescents that have little support from their parents.
- It is particularly hard to understand why we would force a young person to go through the judicial bypass experience in light of the scientific evidence that there is no association between abortion and risk of depression, suicide or other emotional harms

In summary, the majority of young women are capable of understanding the consequences of abortion and do not need state-mandated parental involvement or judicial bypass to make the decisions that are right for them. Those of us that are experts in the field of adolescent medicine feel that most young women are mature enough to decide whether to carry a pregnancy or seek an abortion, and we know that most seek out advice on their own from parents or trusted adults. In addition we feel that mandated parental notification, consent, or judicial bypass can actually be more harmful to adolescent health than seeking an abortion. (BHF Expert Report, March 2016)

I want to thank Senator Lyons and the entire VT legislature for their commitment to protecting women's rights to reproductive health access here in our state. On behalf of my patients, the Vermont Chapter of the American Academy of Pediatrics and the Vermont Medical Society, I respectfully ask the Vermont Senate to pass H.57 to ensure that abortion rights and minors rights to confidential abortion services are protected in Vermont.

Thank you.

\*All full references available on request