Protecting Adolescents' Right to Seek Treatment for Sexually Transmitted Diseases without Parental Consent: The Arizona Experience with Senate Bill 1309

KIMBERLY D. GOODWIN, MPH^{a,b}
MELANIE M. TAYLOR, MD, MPH^{a,c}
ERIN C. FUSE BROWN, JD, MPH^d
MICHELLE WINSKOTT, MD, MPH^e
MEGAN SCANLON, MA, JD^d
JAMES G. HODGE, JR., JD, LLMD^d
TOM MICKEY, BS^b
BOB ENGLAND, MD, MPH^b

ABSTRACT

In 2010, Senate Bill 1309 included language to repeal an existing Arizona law that enables minors younger than 18 years of age to seek diagnosis and treatment of sexually transmitted diseases (STDs) without parental consent. Numerous implications were identified that would have stemmed from parental consent provisions originally proffered in Senate Bill 1309. These implications included diminished access to essential health services among minors, exacerbated existing health disparities, increased health-care spending costs, and thwarted efforts to curb the spread of STDs. Lastly, minors would have been deprived of existing privacy protections concerning their STD-related medical information. This case study describes how collaborative advocacy efforts resulted in the successful amendment of Senate Bill 1309 to avert the negative sexual and reproductive health outcomes among adolescents stemming from the potential repeal of their existing legal right to seek STD treatment without parental consent.

^aCenters for Disease Control and Prevention, Division of Public Health Capacity Development, Atlanta, GA

^bMaricopa County Department of Public Health, Phoenix, AZ

^cCenters for Disease Control and Prevention, Division of STD Prevention, Atlanta, GA

^dArizona State University, Sandra Day O'Connor College of Law, Public Health Law and Policy Program, Tempe, AZ

^eMayo Clinic, Scottsdale, AZ

Address correspondence to: Kimberly D. Goodwin, MPH, Maricopa County Department of Public Health, 4041 N. Central Ave., Ste. 600, Phoenix, AZ 85012; tel. 602-506-6153; fax 602-506-5506; e-mail <kimberlygoodwin@mail.maricopa.gov>.

The Arizona Senate introduced Senate Bill 1309 (SB 1309),¹ entitled the “Parents’ Bill of Rights,” on February 1, 2010, to require parental consent for minors on a variety of issues from sex education to health care. Among its initial provisions, SB 1309 included language to repeal an existing Arizona law, Arizona Revised Statutes (A.R.S.) §44-132.01,² which enables minors younger than 18 years of age to seek diagnosis and treatment for sexually transmitted diseases (STDs) without parental consent. As proposed, SB 1309 also required parental consent for any health-care professional to write a prescription for a minor, which would encompass most treatments for which minors do not currently require parental consent under Arizona law, including treatment for STDs, substance abuse, and certain mental health conditions. If it had passed, these legal reforms would have resulted in negative sexual and reproductive health outcomes among minors in the state. As initially drafted, SB 1309 would have deterred many minors from seeking guidance on and treatment for STDs, thereby putting minors’ and their sexual partners’ health at risk and increasing rates of STDs and related negative reproductive health outcomes.³

The debate underlying SB 1309 about minors’ legal ability to access STD treatment without parental consent must be considered in the context of public health data on the prevalence and burden of STDs among adolescents. An estimated 25% of Americans aged 14–19 years are infected with one or more STDs, and STD infection rates among American minority young people are significantly higher.⁴ STDs impose significant social, economic, and health burdens on young people and society at large.^{5,6} Approximately 70% of young women infected with Chlamydia and 50% of those infected with gonorrhea are asymptomatic and may remain untreated.⁷ Untreated STDs and recurrent infections from gonorrhea and Chlamydia are a predominant cause of pelvic inflammatory disease (PID) in young women.⁸ Left untreated, PID can lead to long-term complications, including tubal scarring resulting in infertility, ectopic pregnancies, and chronic pelvic pain.^{9,10} Furthermore, the presence of any STD increases the risk of transmission of and susceptibility to human immunodeficiency virus infection.¹¹ In 2009, Arizona’s Maricopa County ranked eighth highest nationally for reported Chlamydia rates.¹² STD rates in Maricopa County and Arizona mimic national trends and demonstrate racial/ethnic and gender disparities.¹³

We present a case study of how collaborative advocacy efforts, supported by evidence-based data, resulted in the successful amendment of SB 1309 to avert the negative sexual and reproductive health outcomes among adolescents stemming from the potential repeal

of their existing legal right to seek STD treatment without parental consent.

SB 1309: A CAUTIONARY TALE AND CASE STUDY FOR PUBLIC HEALTH ADVOCACY

On March 29, 2010, one week after the Arizona Senate approved SB 1309, the bill was introduced in the Arizona House of Representatives for consideration and passage.¹⁴ Concerned public health officials and medical associations began a coordinated effort in the legislature to defeat the provisions of SB 1309 that would have repealed A.R.S. §44-132.01 and required parental consent for STD treatments and prescriptions for minors. Key to successfully amending these provisions was collaboration among individual and group stakeholders representing community-based organizations, parent-teacher organizations, local public health agencies, state and local medical associations, maternal-child health organizations, family planning organizations, education associations, and school districts.¹⁵

While SB 1309 was under consideration, these key stakeholders engaged in focused advocacy, including in-person meetings and hearing testimony, to educate legislators about the bill’s significant negative health consequences. The Maricopa County Department of Public Health Director sent each member of the Arizona legislature a fact sheet that provided surveillance data on the high rates of Chlamydia and gonorrhea among young people in Maricopa County, the projected negative reproductive health outcomes of untreated STDs among minors, and the expected increase in hospitalizations and medical costs for PID resulting from untreated Chlamydia and gonorrhea¹⁵ (Figure). A group of medical, nursing, parent-teacher, and public health associations issued a call to action to oppose SB 1309, detailing the negative economic and health consequences of requiring parental consent for minors seeking STD treatment and health-care providers’ concerns regarding the bill’s negative impact on best practices and patient confidentiality.¹⁶ In addition, a local chapter of a national medical association circulated an Internet-based petition opposing SB 1309 to individual and group stakeholders, and then forwarded the list of more than 1,000 petition signatures to the Governor.

Following this intensive evidence-based advocacy, the Arizona House amended SB 1309 to remove the provisions that (1) would have repealed the existing statute allowing minors to obtain treatment for STDs without parental consent (A.R.S. §44-132.01) and (2) would have required parental consent for all prescription orders for minors.¹⁷ The House referred the amended

Figure. Maricopa County Department of Health director's fact sheet for Arizona legislators on Senate Bill 1309

Senate Bill 1309, among many other things, removes minors' ability to consent to their own STD exam and treatment by rescinding A.R.S. §44-132.01. This will make Arizona the only state in the nation to do so. This fact sheet examines the impact of this course of action.

STDs are regrettably common in young people.

Let's look at only a single STD, Chlamydia. In 2009, in Maricopa County alone, 3,247 minors were diagnosed and reported with Chlamydia; 2,654 of them were girls.

Kids often make poor decisions.

We all wish that all of those children with Chlamydia had postponed sex. We all wish that they had parents with whom they could talk about their sexual activity. In truth, however, many of those kids don't feel that they are able to do so. In fact, more than 40% of teens engage in sex before discussing aspects of it with their parents. It certainly must be far fewer who have confessed actual sexual activity and the need for an STD exam.

It's easy for kids to ignore.

Chlamydia has no symptoms most of the time, especially in females. Even in those who have some symptoms, they will often go away (although the infection does not). This makes it easy for kids who may have been exposed to an STD to ignore the risk, especially if they fear telling their parents so that they can get permission to be examined.

What will happen then?

Let's assume that only that same 40% who haven't discussed sex with their parents at all will not ask their parents for consent to be examined (though the percentage would almost certainly be much higher than that). That means that more than 1,000 of those cases diagnosed each year in adolescent females will not be diagnosed once this law takes effect. Of these:

- More than 400 girls younger than 18 years of age will develop pelvic inflammatory disease (PID), in which the infection spreads to the tubes and ovaries, where it can cause scarring.^a The Centers for Disease Control and Prevention estimates that 10%–15% of untreated Chlamydial infections result in diagnosed clinical PID;^b
- More than 70 girls younger than 18 years of age will develop chronic pain with which they may have to live forever;^c and
- More than 80 girls younger than 18 years of age will become permanently infertile, robbing them of an important aspect of life.^{d,e}

All of that is each and every year, and only in Maricopa County, and only due to one disease. But the toll goes on.

The cost to society.

- About 60 girls younger than 18 years of age will be hospitalized, many at public expense, at an average of about \$20,000 each (\$1.2 million in total).
- The total cost of the consequences of not treating Chlamydia (e.g., hospitalizations, treatment of chronic pain, and infertility treatment) is about \$12 for every \$1 it would take to prevent these consequences with screening and treatment.

The bottom line.

Kids aren't always wise and sometimes don't act the way we think they should. A big part of growing up is learning how to weigh consequences and make good decisions. Many do not live in wise and loving families that could help them make those decisions. This bill would punish those who make bad choices by deliberately ruining their lives.

We are better than this.

^aWomenshealth.gov. Chlamydia fact sheet [cited 2011 May 24]. Available from: URL: <http://www.womenshealth.gov/faq/chlamydia.cfm#8>

^bCenters for Disease Control and Prevention. Chlamydia—CDC fact sheet [cited 2011 May 24]. Available from: URL: <http://www.cdc.gov/std/Chlamydia/STDFact-Chlamydia.htm>

^cMoore Shepherd S, Rivlin ME. Pelvic inflammatory disease [cited 2010 Mar 1]. Available from: URL: <http://emedicine.medscape.com/article/256448-overview?session=0RMEgc0uZdERJk0Mq0WiHW3CO0#aw2aab6b2b6aa>

^dPavletic AJ, Wolner-Hanssen P, Paavonen J, Hawes SE, Eschenbach DA. Infertility following pelvic inflammatory disease. *Infect Dis Obstet Gynecol* 1999;7:145-52.

^eHaggerty CL, Gottlieb SL, Taylor BD, Low N, Xu F, Ness RB. Risk of sequelae after Chlamydia trachomatis genital infection in women. *J Infect Dis* 2010;201 Suppl 2:S134-55.

STD = sexually transmitted disease

A.R.S. = Arizona Revised Statutes

SB 1309 back to the Senate, where it was approved on April 27, 2010, and signed by the Arizona Governor on May 10, 2010. In its final form, SB 1309 preserved minors' access to diagnosis and treatment for STDs without parental consent in Arizona.¹⁴

EXISTING LAWS REGARDING PARENTAL CONSENT FOR MINORS' STD TREATMENT

Although parental consent is usually required for a minor's medical treatment, federal and state laws recognize several condition-specific exceptions, including the diagnosis and treatment of STDs.¹⁸ All 50 states and the District of Columbia allow minors to access health care without parental consent for the treatment of STDs.¹⁹ At least four states (California, Connecticut, Maine, and Massachusetts) also mandate confidentiality when the minor is able to consent to such treatment.^{20–24} However, 18 states allow physicians to contact a minor's parents following STD treatment when the physician deems it in the minor's best interests.¹⁹

Unlike several states that require the minor to reach a certain age before being able to provide consent for the diagnosis and treatment of STDs,²⁵ Arizona law does not set a threshold age for a minor seeking treatment for STDs (or venereal diseases as referred to in the law).² Since 1971, Arizona minors have had the legal right to obtain medical care relating to diagnosis and treatment (including treatment with prescription drugs) for STDs without parental consent;² this right has largely gone without court challenge. Arizona law generally gives parents control over a minor's medical information, but due to minors' ability to consent to STD treatment under A.R.S. §44-132.01, the minor may control information regarding STD treatment and restrict disclosure to the minor's parents.²⁶ When state law does not require parental consent for medical treatment, the federal Privacy Rule promulgated under the Health Insurance Portability and Accountability Act of 1996 (HIPAA Privacy Rule) protects minors' privacy regarding their identifiable health information.²⁷ Accordingly, under the HIPAA Privacy Rule, because minors may consent to medical care for STDs under state law, they control disclosure of their own health information regarding STDs.¹⁸

The provision of SB 1309 that would have required parental consent for all prescriptions to minors would not have altered the current law regarding minors' access to prescription contraception in Arizona. Federal law requires family planning services funded by Title X of the Public Health Service Act, including STD diagnosis and treatment and prescription contraception, to be made available to minors without parental

consent.²⁸ This federal law preempts any conflicting state requirement for parental consent.²⁹ However, outside of federally funded services, Arizona does not statutorily allow minors to receive prescriptions for contraception without parental consent.

DISCUSSION

No state or federal law requires parental consent before a minor receives treatment for an STD. If the original version of SB 1309 had passed, Arizona would have become the only state to prohibit a physician from providing medical care to an adolescent with an STD without parental consent. Within the context of the epidemiologic data about STDs among minors, the potential negative consequences of SB 1309 become clear. Studies have demonstrated a reduction in adolescents' intent to seek sexual health services if parental consent was required.³ There are no data to suggest that parental consent requirements prevent adolescents from engaging in sexual behavior. Conversely, adolescents consistently report that they would remain sexually active even if parental consent was required for sexual health-care services, further supporting the conclusion that STD rates would increase if access to sexual health-care services was impeded by imposition of a parental consent requirement.^{3,30} Legally requiring parental consent for the treatment of minors with STDs would likely decrease treatment rates overall, leading to significant negative health outcomes from untreated infections and continued spread of STDs through unsafe sexual behaviors. In addition to diminishing access to essential health services among minors, such legislation would exacerbate existing health disparities, increase health-care spending costs, thwart recently enacted efforts to curb the spread of STDs, and strip minors of existing privacy protections concerning their STD-related medical information.

Although the number of reported cases of Chlamydia and gonorrhea among minors in Arizona may have declined following the repeal of A.R.S. §44-132.01 (due to fewer teens seeking sexual health-care services), actual rates of untreated STDs among teens would likely increase if access to STD treatment required parental consent. These repercussions would disproportionately affect sexual health outcomes for minority and disadvantaged adolescents because of their documented higher rates of STDs. In addition, young women would be at greater risk than their male counterparts due to more severe negative gynecologic and reproductive effects from untreated STDs, thus exacerbating current gender inequalities in burdens of morbidity from STDs.

Public health and medical advocates who challenged

the initial version of SB 1309 demonstrated to lawmakers that requiring parental consent for STD treatment would lead to increased health-care costs. For example, the estimated medical cost of untreated Chlamydial infection could range from \$1,060 to \$3,626 per case of PID.⁶ The excess medical cost solely from the projected 400 female adolescents with PID in Maricopa County would range from \$425,000 to \$1.5 million per year.

Collateral harms stemming from parental consent provisions originally proffered in SB 1309 would ensue as well. For example, medical providers could be prevented from administering patient-delivered partner therapy (PDPT) to adolescents with STDs. Arizona legalized the practice of PDPT, also known as expedited partner therapy, in 2008.³¹ Under PDPT protocols, STD patients may be given an extra dose or prescription of medication for treatment of their sexual partners without the partner being seen directly by a clinician.³² SB 1309 as originally introduced would have required not only the consent of the parent of the adolescent patient seeking STD treatment, but also the consent of the parent of the patient's adolescent partner to dispense the partner's prescription. Requiring consent of the parent of the partner would effectively nullify the option to provide PDPT and violate the index patient's confidentiality. Without PDPT, partner treatment efforts would be stymied, thus likely increasing the chance of reinfection from untreated partners.

Health-care providers also informed lawmakers that the repeal of A.R.S. §44-132.01 would eliminate minors' existing privacy protections under both Arizona law and the HIPAA Privacy Rule. Arizona's legal exception allowing minors to restrict disclosure of medical information relating to STD treatment is premised on their legal right to consent to such treatment under A.R.S. §44-132.01.²⁶ Similarly, the HIPAA Privacy Rule gives minors control over the uses and disclosure of their health information for medical treatment for which they may consent under state law. Repeal of this right to consent to STD treatment under A.R.S. §44-132.01 would nullify minors' existing legal right to control the disclosure of such sensitive medical information.

CONCLUSION

Due to the collaboration of multiple community stakeholders working to inform Arizona legislators of the negative health ramifications of untreated STDs in adolescents, SB 1309 was amended to preserve adolescents' rights to receive diagnosis and treatment for STDs without parental consent. Critical to the effort was the involvement of public health agencies and professional medical organizations, which have histori-

cally and in this instance opposed mandatory parental consent requirements for minors' STD diagnosis and treatment.³ Without these efforts, the original version of SB 1309 may have passed, making Arizona the only state to deny minors the ability to seek STD treatment without parental consent. County, state, and national public health programs and health-care professionals providing services to adolescents may learn from this experience to identify and deploy evidence-based advocacy to respond to future proposed legislation that may threaten the health of minors.

The findings and conclusions in this article are those of the authors and do not necessarily represent the views of the Centers for Disease Control and Prevention, Arizona Department of Health Services, Maricopa County Department of Public Health, Arizona State University Public Health Law and Policy Program, or Mayo Clinic.

REFERENCES

1. S.B. 1309, State of Arizona Senate, 49th Leg., 2nd Reg. Sess. (2010).
2. Ariz. Rev. Stat. Ann. §44-132.01 (2011).
3. 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.
4. Forhan SE, Gottlieb SL, Sternberg MR, Xu F, Datta SD, McQuillan GM, et al. Prevalence of sexually transmitted infections among female adolescents aged 14 to 19 in the United States. *Pediatrics* 2009;124:1505-12.
5. Gavin L, MacKay AP, Brown K, Harrier S, Ventura SJ, Kann L, et al. Sexual and reproductive health of persons aged 10–24 years—United States, 2002–2007. *MMWR Surveill Summ* 2009;58(6):1-58.
6. Chesson HW, Blandford JM, Gift TL, Tao G, Irwin KL. The estimated direct medical cost of sexually transmitted diseases among American youth, 2000. *Perspect Sex Reprod Health* 2004;36:11-9.
7. Centers for Disease Control and Prevention (US), Division of STD Prevention. Sexually transmitted disease surveillance 2008. Atlanta: Department of Health and Human Services (US); November 2009.
8. Centers for Disease Control and Prevention (US). CDC report finds adolescent girls continue to bear a major burden of common sexually transmitted diseases: disproportionate impact on racial minorities persist [press release]; 2009 Nov 16 [cited 2011 Mar 8]. Available from: URL: <http://www.cdc.gov/nchhstp/newsroom/STDsurveillancepressrelease.html>
9. Haggerty CL, Gottlieb SL, Taylor BD, Low N, Xu F, Ness RB. Risk of sequelae after Chlamydia trachomatis genital infection in women. *J Infect Dis* 2010;201 Suppl 2:S134-55.
10. Ness RB, Soper DE, Holley RL, Peipert J, Randall H, Sweet RL, et al. Effectiveness of inpatient and outpatient treatment strategies for women with pelvic inflammatory disease: results from the PID Evaluation and Clinical Health (PEACH) randomized trial. *Am J Obstet Gynecol* 2002;186:929-37.
11. Fleming DT, Wasserheit JN. From epidemiological synergy to public health policy and practice: the contribution of other sexually transmitted diseases to sexual transmission of HIV infection. *Sex Transm Infect* 1999;75:3-17.
12. Centers for Disease Control and Prevention (US). Sexually transmitted disease surveillance, 2009. Atlanta: Department of Health and Human Services (US); 2010.
13. Arizona Department of Health Services. Sexually transmitted diseases in Arizona: 2009 annual report. Phoenix (AZ): Arizona Department of Health Services; 2010. Also available from: URL: <http://www.azdhs.gov/phs/oids/std/pdf/STD%20Annual%20Report%202009%20.pdf> [cited 2011 Apr 4].
14. Ariz. State Leg., 49th Leg., 2nd Reg. Sess., Bill Status Overview.
15. 49th Leg., 2nd Reg. Sess., Committee on Government, Minutes of Meeting, April 6, 2010.

16. Arizona Medical Association. Please oppose Senate Bill 1309 ("parental rights") [cited 2011 Apr 23]. Available from: URL: <http://www.azmedassn.org/publications/S1309TalkingPoints.pdf>
17. Ariz. State Leg., 49th Leg., 2nd Reg. Sess., House changes to Senate Bill 1309 (2010).
18. Rosenbaum S, Abramson S, MacTaggart P. Health information law in the context of minors. *Pediatrics* 2009;123(Suppl 2):S116-21.
19. Guttmacher Institute. State policies in brief: an overview of minors' consent law [cited 2011 Apr 20]. Available from: URL: http://www.guttmacher.org/statecenter/spibs/spib_OMCL.pdf
20. Cal. Health & Safety Code §123115 (2011).
21. Conn. Gen. Stat. §19a-216 (2011).
22. Me. Rev. Stat. Ann. tit. 22 §1505 (2004).
23. Mass. Gen. Laws Ch. 112 §12F (2011).
24. McGuire AL, Bruce CR. Keeping children's secrets: confidentiality in the physician-patient relationship. *Houston J Health Law and Policy* 2008;8:315-33.
25. Guttmacher Institute. State policies in brief: minors' access to STI services [cited 2011 Apr 10]. Available from: URL: http://www.guttmacher.org/statecenter/spibs/spib_MASS.pdf
26. Ariz. Admin. Code §§R9-1-302-302.1 (2011).
27. 45 C.F.R. §164.502(g)(3)(i)(A) (2010).
28. 42 C.F.R. §59.5(a)(4) (2010).
29. Ariz. Op. Att'y Gen. No. 77-37 (1977).
30. Jones RK, Boonstra H. Confidential reproductive health services for minors: the potential impact of mandated parental involvement for contraception. *Perspect Sex Reprod Health* 2004;36:137-91.
31. Ariz. Rev. Stat. Ann. §32-1401(27)(ss)(v) (2011).
32. Hodge JG Jr, Pulver A, Hogben M, Bhattacharya D, Brown EF. Expedited partner therapy for sexually transmitted diseases: assessing the legal environment. *Am J Public Health* 2008;98:238-43.