



Keeping Parents in the Dark About Their Kids' Health (Bill S.8352-May/A.6761-Reyes)

MEMORANDUM OF OPPOSITION

Bill S.8352-May/A.6761-Reyes is a dangerous, anti-parent piece of legislation that should be soundly rejected in bipartisan fashion by the New York State Legislature. It is disappointing and sobering that a bill like this has been introduced in the first place.

Unfortunately, New York law already allows minors to receive certain types of sexual and reproductive health care without their parents' knowledge or consent. The proposed legislation would make matters worse by keeping parents out of the loop on many other areas of their children's health care as well. The key language in this bill reads as follows: "Any person, including a minor, who comprehends the need for, the nature of, and the reasonably foreseeable risks and benefits involved in any contemplated medical, dental, health, and/or hospital services, and any alternatives thereto, may give effective consent to such services for themselves, and the consent of no other person shall be necessary."

This legislation would give minors broad authority to consent to medical treatment, mental health treatment, substance abuse treatment, and immunizations without parental involvement, so long as they can convince providers that they comprehend the risks and benefits of that treatment.¹ Section Three of the bill would go further, expressly allowing mental health professionals to provide substance abuse treatment to minors even if their parents have

¹ New York law bars persons under the age of 18 from obtaining body piercings without parental consent. Similarly, it is illegal in New York for a person under 18 to buy a pack of cigarettes or obtain a tattoo, with or without parental consent. Apparently, the sponsors of this legislation are untroubled by the glaring inconsistency between giving some teenagers the authority to make major medical decisions behind their parents' backs and banning those same teenagers from obtaining tattoos and nose rings.

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refused to consent to that treatment. The legislation would even require medical professionals to hide portions of a minor's medical records from that minor's parents in situations where a minor has consented to medical care without parental consent.

To add insult to injury, Section Nine of the bill would require New York taxpayers to foot the bill for medical treatment secretly obtained by minors without parental involvement. The bill language would allow minors who are "unable to use another source of health insurance" to enroll in Medicaid to obtain insurance coverage for treatment to which they have consented behind their parents' backs.

In their bill memorandum, the sponsors of this legislation declare that "the need for parental consent can be a huge barrier" that impedes minors from obtaining necessary health care. Given that no information is offered in support of this assertion, the reader is left to wonder whether any minor in New York has ever been unable to receive needed health care due to parental noncooperation or whether this bill is merely a "solution" in search of a problem. In the sponsors' judgment, "decisionally-capable young people...who are mature enough to understand the need for, the nature of, and the reasonably foreseeable risks and benefits involved" in health care decisions should be allowed to make those decisions on their own. In negligent and cavalier fashion, the sponsors would leave it to busy medical professionals to make judgement calls about which teenagers are "decisionally-capable" and which ones are not. The results could be truly disastrous. It is not difficult to envision a scenario in which this legislation would allow a supposedly "decisionally-capable" young person to make a life-altering medical decision on her own—the decision to undergo so-called sex reassignment surgery, for example—that she might deeply regret later.

For nearly a century, the Supreme Court of the United States has recognized "the liberty of parents and guardians to direct the upbringing and education of children under their control." *Pierce v. Society of Sisters*, 268 U.S. 510, 534-535 (1925). If passed, Bill S.8352-May/A.6761-Reyes would infringe upon that liberty. The sponsors of this legislation give lip service to the need for parental involvement in minors' health decisions, but their rhetoric rings hollow; this proposal would eviscerate parental authority over their children's medical care. The truth is this: Parents—not medical professionals, not the state, and not minor children—are best situated to determine what medical treatments are in their children's best interests. Parental involvement in children's lives and choices is not a nuisance or an impediment; rather, it is a protection.

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