2009 SENATE HUMAN SERVICES

SB 2394

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2394

Senate Human Services Committee

☐ Check here for Conference Committee

Hearing Date: 2-11-09

Recorder Job Number: 9193

Committee Clerk Signature Mary K Monson

Minutes:

Senator J. Lee opened the hearing on SB 2394 relating to consent for prenatal care and other pregnancy care services provided to minors.

Senator Karen Krebsbach (District 40) introduced SB 2394. Attachment #1

Bruce Levi (NDMA) testified in support of SB 2394. Attachment #2

Senator Dever said this bill appears to be a later iteration of the bill as it was last session.

Mr. Levi said there are some changes to the bill as introduced in the Senate last session. There are also differences in this bill to the bill that came out of the House Human Services Committee and went to the floor of the House last session. The bill is very specific now in stating that what is talked about is pregnancy testing, prenatal care, and pain management related to pregnancy. The definition in the bill introduced in the Senate last session was broader.

Senator Dever asked if there were attempts to accommodate the concerns of the opponents.

Mr. Levi said yes and went on to explain some.

Senator Erbele asked what frequency a minor would seek a physician's counsel and is turned away because of the law as it is.

Mr. Levi said his understanding is that it is a frequent situation to the extent that physicians feel the law needs to be changed. It is a problem and they need the ability to have a tool that they have sufficient discretion to work with a pregnant minor when she does not want to involve her parents.

Senator Dever asked about babies that end up in intensive care nursery and the frequency in which the mothers have not had prenatal care.

Mr. Levi said that Dr. Orser would be talking about that.

Dr. Jerry Obritsch (A practicing obstetrician and gynecologist at the Center for Women) testified on his own behalf in support of SB 2394. There are three areas practicing obstetricians come up against that affect their practices. This bill would provide them with support for: (1) pregnancy testing for the minor (2) providing the prenatal care and (3) pain management. The obstetricians feel it challenging to provide care to the minor who does not have a relationship with her parent or guardian. Obstetricians desire parental involvement and minors talking to their parents or guardians about pregnancy. However, that doesn't exist in all cases. The goal of the obstetrician is to provide the optimal outcome for pregnancy and delivery of a healthy baby. If their hands are tied because of the law, they can't provide the quality care that is needed. This bill is carefully constructed to address the concerns of parents regarding the intrusion of the state into the lives of children. This bill has nothing to do with anything other than the three points outlined above.

Senator Heckaman asked how this bill would relate to the pain management.

Dr. Obritsch gave a specific example relating to pregnancy. There have been instances where the parent has not signed for consent of their minor to receive a labor epidural which is an invasive procedure requiring a parental consent.

Dr. Shari Orser (Obstetrician/Gynecologist) testified on her own behalf in support of SB 2394. Attachment #3

Senator Heckaman asked how she envisioned funding or health insurance working.

Dr. Orser said those are things that have to be worked out when the patients presents for care.

Senator Dever restated his earlier question about the likelihood of a baby being in intensive care nursery without prenatal care as opposed to having it.

Dr. Orser said there is significantly more of a chance. Accessing care late in pregnancy is a risk for early delivery. Any baby born before about 36-37 weeks has a high probability of ending up in the neonatal intensive care unit at least for a short period of time.

Arnold Thomas (NDHA) testified in support of SB 2394. Attachment #4

Kelly Moe Litke testified on her own behalf in support of SB 2394. Attachment #5

Nadia Smetana (a nurse) testified on her own behalf in opposition to SB 2394. Attachment #6

Senator Dever pointed out the need to add a perspective to the discussion. When talking about the relationship between daughter and parents it is important. At the same time there are a lot of people in dysfunctional families where there is no relationship between children and parents. How do we get those without parental support the care they need.

Ms. Smetana replied that we have had 30 some years of confidential health care and the problems have got worse not better. That demonstrates that providing confidential services has not worked. It may have inadvertently made it worse.

Senator Dever said he struggles with when the government is the cause of the problem or when it is dealing with it.

Ms. Smetana said through the Title 10 clinics that exist most of these girls should have access to confidential care anyway. If there is abuse or neglect on the part of the parent, couldn't those authorities that become aware of it bring it to the courts and the girl could then be treated without the involvement of the parents.

Bill Schuh submitted testimony in opposition to SB 2394. Attachment #7

Senator Pomeroy asked what the rights of the unborn child are.

Mr. Schuh said the unborn child has a right to life and care. This bill circumvents the parents entirely at the wish of the pregnant girl. The more appropriate way to approach it, in his view, would be a process to decide when the parent has a right to know.

Senator Pomeroy asked if the immediacy of getting a test would be beneficial to that unborn child.

Mr. Schuh said the tests can be given right now. His objection is not giving the test. It is putting in law the parents have no right to know.

Senator Pomeroy – as the law is now, wouldn't the doctor be put in a precarious position if he doesn't involve the parents?

Mr. Schuh said he would be interested in knowing how many doctors have been sued successfully and for a substantial amount of money for doing a pregnancy test in ND. There are things in this that could be dealt with piecemeal without excluding parents.

Tom Freier (ND Family Alliance) testified in opposition to SB 2394. Attachment #8

Senator Heckaman asked why minors aren't bringing the parents with them.

Mr. Freier said every case is going to be different.

Senator Heckaman – if there are 5% out there not getting this why is it ok?

Mr. Freier said he believes there is a way to approach those without removal of the parental approval. There are programs in place now through human services. If there is a threat to the pregnant minor that vehicle is already there.

Senator Erbele addressed the abortion issue. Will we save a life here? Do we create a better life with this law? Are the parental rights more important than the healthy baby in the end?

Mr. Freier agreed with most of what Senator Erbele had to say. The part he took issue with was: by removal of that parental involvement and approval are we really enhancing the life issue. He didn't philosophically believe it would.

Senator Dever stated that last session when the bill was heard in committee there was no opposition to it. The complete focus at that time was on proper care for the expectant mother and the child. The bill passed unanimously on the floor. The focus shifted the next day with an article in the paper with the headlines "Bill Would Let Pregnant Teens Keep Secret". That shifted completely to the focus on parental rights. Now they are faced with making a decision between the care for the mother and child, the parents of the mother and grandparents of the child, and when the child is born the mother has the parental right. What is being dealt with is something that has lifetime medical implications to the child.

Steve K. (Independent Consultant Scientist) this bill is well conceived in many ways and well intentioned. He asked the committee to think about 2000 documented years of precedent which is parental primacy. He asked them to think about the first time their child lied to them. Trust was broken and turmoil started in the family. What we are talking about here is, by law, institutionalizing deception between parents and child. This needs to be addressed but with due process in specified situations.

The hearing on SB 2394 was closed.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2394

Senate Human Services Committee

☐ Check here for Conference Committee

Hearing Date: 2-16-09

Recorder Job Number: 9527

Committee Clerk Signature Mary K Monson

Minutes:

Senator J. Lee opened SB 2394 for discussion.

Copies of informationfor an amendment from **Senator Dever** were provided for the committee on Limited Physician Exemption from the Responsibility for Informing the Parent During Early-Term Care of Pregnant Minors. Attachment #9

Senator J. Lee asked Linda Goetz Kleiman to step to the podium to address concerns with this.

Linda Goetz Kleiman (Pediatrician in Fargo) had concerns with this statement and the word "must" in the first paragraph. She didn't believe that was a reasonable thing to ask given some of the issues with adolescents and pregnancy. Her concern with this is that 30 days might not be enough time to counsel the patient to involve the parents or guardian. It isn't a reasonable thing if you are trying to provide services.

There was discussion on the use of "must". It's a must to inform the parents and there are two choices on how to do it. It's not a choice of informing the parent or not informing the parent. Exceptions were discussed as stated in 4a-e on page 1-2.

Senator Dever made a point that they consider the law and Dr. Kleiman deals with the application of it.

Dr. Goetz Kleiman said this bill allows her to be able to counsel patients and work through the issues without a time frame. With adolescents there are a lot of issues that could take more than a month to get through depending on when the contact is made during the pregnancy. She didn't think there was a need for must because if the parents are going to be involved that usually happens fairly quickly.

The basis for this bill is to protect the mother and the unborn child by giving them health care.

Discussion followed on how to talk to the pregnant minor about telling her parents.

Dr. Goetz Kleiman said this isn't a moral issue. It's a medical issue that needs to be carefully nurtured during this period of time.

Senator J. Lee voiced concerns that section 1 is in the abortion control act. This bill isn't intended to do anything with our laws concerning abortion control. The legislative intent of this bill in her opinion is to provide for the health and safety of the mother and child. It is not to make sure that there is abortion control. That's off the table because it's not even part of the discussion.

Discussion continued on dealing with this bill as the committee feels it should be dealt with and not with how they think the House would like it.

Senator Pomeroy asked the doctor if she ever talks to the parents.

The doctor replied that she does not talk to the parents unless the child gives permission on these particular issues. Otherwise she would have no trust of her patient which is imperative to get them to open up.

Senator Dever asked if she considered herself, under current law, to be prevented from continuing care with that child without parental consent.

She said she does for contraception. That is what she deals with because she does not take care of pregnant women. She does counsel girls when they become pregnant and refers them to someone who does prenatal care.

Senator Erbele voiced his agreement with **Senator J. Lee** that it is their bill and their committee and they need to try to bring it to the Senate chamber in the best shape possible. He didn't see anything he wanted changed at this point.

There was agreement with most of the committee.

Senator J. Lee said she respected the concerns of those who brought the issues to the committee and they have tried to address them. It's such a gray area.

Senator Heckaman addressed the doctor. When you refer somebody to an obstetrician now does she have to bring her parents with her to that meeting?

The doctor answered no.

Senator Heckaman asked how this law would change anything.

The doctor wasn't sure they even go and if they do they might say they are going for other reasons.

Senator Erbele said, as a pro life proponent, it's easy to take the high and moral road and speak to the moral issues of things. At some point something needs to be done that actually saves a life rather than creates this truth/condemnation. A bill like this has a greater potential of saving a life, preventing abortion, than any high sounding moral statement he could make.

Senator Pomeroy moved a **Do Pass**.

Seconded by **Senator Erbele**.

Roll call vote 6-0-0. **Motion carried**.

Carrier is Senator Erbele.

Date: 2-16-09

Roll Call Vote #: _____

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. SB 2394

Senate Human Services Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do Pass ☐ Do Not Pass ☐ Amended

Motion Made By Sen. Pomeroy Seconded By Sen. Erbele

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee, Chairman	✓		Senator Joan Heckaman	✓	
Senator Robert Erbele, V.Chair	✓		Senator Richard Marcellais	✓	
Senator Dick Dever	✓		Senator Jim Pomeroy	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Erbele

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2394: Human Services Committee (Sen. J. Lee, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2394 was placed on the Eleventh order on the calendar.

2009 HOUSE HUMAN SERVICES

SB 2394

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2394**

House Human Services Committee

☐ Check here for Conference Committee

Hearing Date: **4 March 2009**

Recorder Job Number: 10203

Committee Clerk Signature

Minutes:

Chairman Weisz opened the hearing of SB 2394.

Senator Karen Krebsbach, District 40, introduced the bill. (Attachment 1)

Senator Erbele, District 28, testified in support of the bill. I do believe it is vitally important to have healthy babies especially in the case of minors. Without prenatal care they tend to deliver early and if they don't have proper care they have babies with their health compromised which can be very expensive too. For several sessions I've chaired the pro-life caucus and I know this is an issue that has divided the pro-life people. I don't believe that any of us are pro abortion. I always look at a bill and ask "will this save a life?" Not every young person comes from a solid and loving home and this can be a very difficult issue. We need to help to move forward to save lives.

Bruce Levi, representing the ND Medical Association, testified in favor of the bill. **(Attachment 2)**

Chairman Weisz: Any idea how often this murky area occurs? Where a minor comes to a doctor and he has to send her away?

Levi: I would defer that question to . . .

Representative Hofstad: Would you review the ages as they relate to HIPPA? At what age do you have to have consent?

Levi: I would have to look that up and provide it to you.

Representative Potter: In Section 1, part 1, "a minor may provide consent and contract for. . ." What is involved in a minor contracting for?

Levi: Under ND law minors can basically disaffirm a contract at any time and there are certain statutes that allow minors to contract under certain circumstances. This is recognizing that in any situation where the parents aren't involved and looking at the reimbursement for those services that there could be a relationship with the minor to contract directly with a minor for those services and then minor would not be the position to disaffirm that contract. Insurance issues come up when a minor is seeking confidential care. An EOB may be issued.

Representative Damschen: Is it considered a normal thing for minors to seek medical treatment without notifying the parents? Would the parents ultimately be responsible for the contract?

Representative Porter: While you are looking in to that, I would like to know if the minor can bankrupt out of the debt that is accumulated.

Levi: I will look in to those issues.

Dr Jerry Obritosh, clinical professor for UND School of Medicine, testified in favor of the bill.

I have a wonderful profession I bring new life into the world. It is always a wonderful thing to deliver a healthy baby and have a healthy mom post partum. We all know there are cases and reason why this isn't always the case. Most of it is medical. Healthy babies require good prenatal care is a process from the time pregnancy is diagnosed through labor and delivery.

It usually requires around 10 visits during that time and we do quite a few medical procedures and laboratory studies and blood pressure checks, etc. The whole process is designed to lower par natal morbidity and mortality. In my practice about 98% of minors who present to my office for prenatal care have the support of their parents and/or guardian. We embrace the participation of the future grandmother with her daughter's care and subsequent grandchild. About 2% do not feel, for whatever reason, that they can inform their parent or guardian of the pregnancy and usually this is borne out of an issue of lack of trust and/or fear. This is unfortunate, but what is more unfortunate is the subsequent result of not accessing early prenatal care. What happens is that we eventually make up for what has happened previously or problems now have occurred resulting in adverse outcomes particularly in the young, adolescent female regarding preterm labor and preterm delivery.

Chairman Weisz: Have you ever had a foster care child that came to you? The state has liability.

Obritosch: Yes, usually we have a guardian in place and the state then does what is right and they come in for prenatal care. That's an easy case to solve there. I look at liability in different terms than you do in terms of if we don't provide prenatal care who is going to be liable for the cost of neonatal care of a premature infant. We are back to the state. So how much does our state want to participate in? Early prenatal care—relatively inexpensive; or the aftermath of caring for morbidly?

Representative Porter: You talked about the normal routine for the visits to your practice as being 10. What week of pregnancy is the first visit?

Obritosch: At approximately 8 – 12 weeks. This is extremely important because of a number of medical reasons. One, we want to establish the pregnancy is in the right part of the body—

uterine instead of tubal. Two, we want to make sure the patient is getting the proper nutrition. A simple prenatal vitamin is the most important part of nutrition.

Representative Conrad: Regarding this child that came in to the emergency room with appendicitis and had her baby, did you get some sense from that she would have come in if she had known that she could keep it quiet for a while? In that family do you think she could have been encouraged to talk to her parents and that they would have brought her to your office earlier?

Obritosch: This is the rest of the story. When I had a chance to visit with her post partum, she was so afraid of what her parents would think. Because she was in fear of her parents finding out she never told them. I had a nice talk with her parents and they told me if she would have told them they would have been happy to participate. This tells me as a health care provider that I could have got the two together easily. I try to get parents involved early. Adolescents need an advocate. We are asking for the opportunity to work with the young girl. Most parents are very supportive.

Representative Damschen: You said that in 98% the family is supportive. I'm just concerned that number might go down if this bill was law because if you have the option of accomplishing something that you are not comfortable with and can avoid telling your parents about and still make everything else all right it is really tempting to not tell your parents. I'm concerned that number might go the wrong way and the number of pregnant minor who aren't seeking medical attention still won't.

Obritosch: It's not that easy in terms of what your concerns are because the presence of pregnancy in a woman most all of the time you can figure it out along the way. There are instances where they hide their pregnancy where they can get by. Another thing too, we still have a very strong family network in our state and I think that is still going to persist. Don't

forget about us obstetricians who really want to see parental and guardian supportiveness because we know that is part of optimum outcomes.

Representative Damschen: We can't know that more minors will go seek medical attention. We can hope that.

Obritosch: I would like to see that. It would give me the opportunity to work with them to get the support they need. I would like to have that opportunity.

Representative Nathe: If this bill is passed, how do you see it working as far as getting the word out so you can have that opportunity?

Obritosch: I'm not sure how we work out the details. That would be something we would want to do. When a patient calls that would be the first step and we would have the opportunity to interact with them. They ask these questions and then we take it from there. I don't think there is going to be a big public media campaign regarding this but it is going to go on in the offices like it is going on with the other laws. This is long overdue and we would like your help to do what we do best--provide good prenatal care and optimal outcomes for a healthy mom and a healthy baby.

Dr. Shari Orser, OB-Gyn, Medcenter One Health Systems, testified in favor of the bill. **(Attachment 3)** Her testimony included a guideline for routine prenatal care. She also distributed and read the written testimony of **Richard Vetter, MD, Medical Director of Firstchoice Clinic, Fargo. (Attachment 4)**

Arnold Thomas, president of the ND Healthcare Association, testified in favor of the bill. **(Attachment 5)**

Carrie Gross, Bismarck Public Schools, Students in Transition Program, testified in favor of the bill. My job is to locate and identify children who are homeless and overcome barriers to education. My opinion here is my own but I want you to know what I see on our city streets

here in Bismarck. This year I have served over 450 children aged kindergarten to 21, who are experiencing homelessness. When we speak about a parent being involved in a child's life in a normal household that is correct. I have encountered girls who are 17 and pregnant whose parents are refusing to even acknowledge they exist and their boyfriend is trying to get them an abortion. Where can we send this child to get proper intervention and healthcare before she makes some random choice to do something inappropriate? I see more kids that are pregnant and fear their parents because of abuse, addition or mental health issues. When you are there to advocate on behalf of a minor, I find that sending them to a clinic is the best care they can receive. Not only can they mediate to bring the parents in, but it takes a little bit of time especially if there are a lot of anger issues and the kid has been kicked out of the home or anything of that nature. You just can't expect it to be remedied within a day or two. It takes some intervention but in the meantime they are pregnant. I don't know how the issue of costs can be resolved. If a family is homeless and on medical care anyhow, what's the difference if the parent is there or not. The child is still pregnant and what are we doing to help them in the long run. Right now I have had 9 pregnancies and out of those have only 2 that are supported by their parents and in the meantime what do we do for the rest of them.

Opposition:

Tom Freier, ND Family Alliance, testified in opposition to the bill. **(Attachment 6)**

Representative Conrad: There are two things I want to get your comments on. One is the testimony from the Dr. at the Firstchoice clinic in Fargo and that is an alternative to abortion program that we fund to make sure that there is an alternative for care. We also have testimony from the lady that works with kids that are homeless that she works with the individual girl who is abused by her parents and her boyfriend wants her to have an abortion.

So if this girl goes to the Firstchoice clinic as an alternative to abortion, she cannot be provided with care because of the law. I want to know what you think about this.

Freier: In a general sense you are referencing what is culturally wrong with our state right now in that we have those situations occur. Does this law really help that? More specifically, right now there is an educational and informational void. I heard that 2% of the pregnancies do not tell their parents and if they were given the proper information they may do that. On the other hand we are hearing they are going to a pregnancy center and are being turned away. I believe they are including their parents and that's why they are there.

Representative Conrad: If the minor does not agree to have her parents there, he cannot treat her.

Freier: I don't believe he referenced the percentages that come there that do not have their parents involved. The Firstchoice Clinic is a great facility and it does what we all want.

Representative Potter: With the 2% that feel that they cannot talk to their parents I would like to get your thoughts as to what, if I am interpreting you correctly it sounds to me that 2% is kind of a disposable 2% and the babies are disposable because we cannot take care of them. For a group like Family Alliance that is supposed to be people and family oriented I just can't believe that this 2% is disposable. What do you comment to that.

Freier: That is not our intention. I think that 2% is very important. That 2% is the group that everyone in this room should be attempting to reach through education. The message should be good prenatal care and the involvement of their parents. That's what the message should be. By no means are we saying that we are happy it's only 2%.

Representative Pietsch: Just recently we passed a bill where we define what a human being is. If we don't care for these minor children are we not responsible for that minor's baby who is a human being?

Freier: Yes, we are responsible. I'm maybe not following. . .

Representative Pietsch: If that minor does not have the prenatal care could that be child abuse. Could that minor be guilty of child abuse?

Freier: I am not sure of that. It would not be any different than right now without this bill.

Representative Damschen: As I'm listening to these questions, it almost implies that if we don't pass this bill we are denying some minor prenatal care but we are not saying that, we are just saying that the parents have to be notified.

Freier: That's correct. We have testified many times over that we believe very strongly in the family and the role of the parents of children and the well being—it all works together. This bill does not necessarily prevent prenatal care, but it does take the parent's involvement away.

Representative Conklin: It's not the parents; it's the grandparents that you are taking away.

Christina Rondeau, representing ND Family Alliance, testified in opposition to the bill. **(Attachment 7)**

Representative Frantsvog: I just want to refer you to the testimony that was given us by a member of the local public school district in talking about 7 or 8 girls that were under the age of 18 and pregnant that came from homeless and dysfunctional families. If this bill doesn't pass and we were talk to her a year from now, I'm sure the statistics would be the same. What advice would you give her? What's her solution? What would you suggest?

Rondeau: Judicial bypass already exists for minors seeking abortion and I don't see why something like that couldn't be looked at in a situation where parents are abusive or unavailable. I know our obstetricians say that is not ideal because it takes time but nothing that was presented here is idea. We just need to be creative in how we can deal with that.

William Schuh testified in opposition to the bill. **(Attachment 8)**

Representative Potter: Something is lacking here. I haven't heard any kind of discussion about the baby and what is really best for the baby. That is the direction the doctors are going. It is all about this rights and rights and rights. A few weeks ago we heard about the rights of human being, the unborn. We don't have anything about any kind of care about that in all of this discussion. Do you think the bill could be rearranged to address the rights of the baby to get care? It is bothersome to me that we are leaving that totally out.

Schuh: I don't see any of this writing off the rights of the baby. We all want that. That right cannot be framed in such a way that it overturns institutions. We have to find a way to do what you are saying to pick up that other 2% without adding the negative impact that we are talking about. We have all struggled with this for a long time. There are a lot of complications. The core of the problem with whole thing—it is a balancing act—but the parents are not in it. This is not the power of the parent versus the power of the child. It is the power of the parent to exercise their responsibility for the child. What we are talking about here is not to not do something for these kids. We are talking about finding a way to do something for them without taking it down to the next level where they don't have to tell their parents. We need to work out a way to do this without wrecking the house.

Representative Holman: I looked at your testimony. Would you agree to one visit without parental consent?

Schuh: Yes, with conditions.

John Lengenfelder, parent of seven children and 10 grandchildren, testified in opposition. I have six children by caesarian section. Each one is fairly healthy is taken care of. When you deal with physicians you deal with a different mentality. If you listen to these physicians I would only have two children instead of six. It also brings other health professionals opinions into the family unit that are contrary to family thinking and belief systems and what goes on

every day with parents which creates a alienation between a great number of people out there with using a personal law to implement actions against the family unit. Many people who think like I do in regards to family authority are separating themselves from society and from the mentality of what is being pushed to seek other doctors because that other doctor understands them and cares for their mentality, their morality, and what they believe in their heart. They divorce themselves from your society and your thinking. They completely think that government does not apply to their thinking and beliefs and what happens is there becomes two different types of society. I did talk to family doctors and they have daughters and my family doctor said "I would never have this bill in effect if I had my say about it." That's a family doctor who cares about people and who has morals that most of us in believe in. A great percentage of society is coming out and saying "please don't do this to us. We take care of our children." Like I said I have seven children and I have people who wanted to inject their ideas and their concepts on my family. I believe in a patriarch type of family—I am the head of the family. I believe in the matriarch head of the family which is my wife. We brought our children up. I have a business which I turned over to my children. It wouldn't be there if I hadn't brought this family up with those morals and beliefs. What is happening is we have to create another society in order to protect ourselves. We have no choice. We have to create our own home schools. We create our own loyalties and my children grow up and have no abortions. Those doctors who are in accord to our beliefs get our business and get our loyalty. Let's not create two societies here.

There being no further testimony, Chairman Weisz closed the hearing of SB 2394.

Not appearing, but providing testimony in favor of the bill:

Kelly Moe Litke (Attachment 8)

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2394

House Human Services Committee

☐ Check here for Conference Committee

Hearing Date: March 23, 2009

Recorder Job Number: 11428

Committee Clerk Signature Vicky Crabtree

Minutes:

Chairman Weisz: Let's take up 2394. Rep. Damschen, do you have amendments?

Rep. Damschen: Yes I do. Would you like me to explain the amendments?

Chairman Weisz: If you would please.

Rep. Damschen: I tried to meet everybody's wishes and probably offended everybody. Page 1, line 8. **See attachment #1.**

Chairman Weisz: What if parent disassociated themselves and don't give permission (inaudible) to prenatal care?

Rep. Damschen: As I read it, it does. They would relinquish their authority almost if they disowned or abandoned the child. I think the child would actually be under social services at that point if parent wouldn't assume responsibility. (Continues to read amendments.) I would amend the amendments and strike the last part of the last line in d, "without the consent of the minor". I'd have that stricken from the language.

Rep. Potter: Why is that?

Rep. Damschen: Because it transfers the authority to the minor and the physician if they make the decision, they should incur the expense unless the minor is willing to pay it. It doesn't

say the minor can't pay it, but the minor can't authorize the physician to bill the parent or the insurance.

Rep. Holman: If the minor consented in your last sentence here then that would because a minor is ok (inaudible).

Rep. Damschen: If this says if costs incurred, let me read this again, if the minor is seeking treatment without wanting a parent notified or without checking with parents first, then we are trying to eliminate the parents from getting a bill for a co-pay from the insurance or from the clinic and if the child okays contacting the parent it should be a nonissue anyway.

Rep. Holman: Taking it off if you want almost implies that the third party payer is not allowed to pay at all, even if this child wanted to contact the parents.

Chairman Weisz: Under this section the minor was without consent.

Rep. Conrad: What if child is abandoned and still on health insurance. Could the parent still be billed?

Chairman Weisz: If they still had legal custody of child. In that case I would assume this would apply.

Rep. Damschen: I would propose with these amendments and automatic repealer that if the Freedom of Choice Act is passed there is a concern that that would negate our ND abortion laws. There is a clause in the existing language of this bill that says, does not authorize a minor to consent to abortion (inaudible) supersedes requirements in Chapter 14-02.1.

Chairman Weisz: Are we going to repeal this whole language? Why appeal this part?

Rep. Damschen: The concern is if the child is able to visit a doctor seeking pre-natal care without contacting their parent.

Chairman Weisz: If it takes that away in the description we have, if it passes, then it doesn't matter because we can't limit it, but we can still control it. We'd have to change at some point to coincide with the federal law is my understanding.

Rep. Damschen: I'm not real clear as we discuss it either. Maybe that's a good reason to have it or not to have it. It was a concern for some people on one side of the issue. There was a suggestion of a sunset clause, but I don't know how you monitor it.

Rep. Hofstad: On b, when you are allowing the one visit in the second and third trimester, if the doctor finds an issue with the pregnancy, is that going to cause some ethical issues?

Rep. Damschen: I think in the bill it says something that if there is a serious health issue (drops sentence).

Chairman Weisz: Subsection 3a on line 23, page 1.

Rep. Potter: Does 3 a say if there was some kind of serious issue found in the first trimester of girl's pregnancy, could the physician continue helping this gal without notifying the parent?

Chairman Weisz: If the there is a serious issue then they will notify the parent or guardian.

Rep. Conrad: If the parents would do something stupid, the doctor still could give the care?

Chairman Weisz: Mr. Levi, would you come up here? What happens in the situation where there is a serious condition with the minor and the parent doesn't give permission give permission to go ahead with whatever, what do you do?

Bruce Levi: There is an exception to emergency care then you may have an abuse or neglect situation and then it would be resolved in that manner.

Chairman Weisz: Currently what do you do?

Bruce Levi: The same as was said before.

Voice Vote: Motion Carried.

Rep. Conrad: I have an amendment here. I would like a study (reads amendment). **See Attachment #2.**

Rep. Conrad: Motion for Amendment.

Rep. Potter: Second

Rep. Hofstad: I'm trying to understand the language. (Reads part of the amendment line 4 starting at "The study".) At the end of the sentence you are talking of parental abuse.

Rep. Conrad: You've heard about situations where parents are overwhelmed by the situation and we need to have some support services for them. Minot has a support group for grandparents raising their grandchildren. This helps them. Need to give these resources so they can be the good parents they never thought they could be. Maybe looking for a guardianship for the minor in these situations when parents can't cope with pregnancy.

Rep. Holman: I experienced grandparent support. We met every 2 weeks for 6 or 8 weeks and shared experiences. It is very effective sometimes. Didn't work so well for us in the end, but it works for most people.

Voice Vote: Motion Carried.

Rep. Damschen: Motion Do Pass As Amended.

Rep. Holman: Second.

Roll Call Vote: 13 yes, 0 no, 0 absent.

Motion Carried Do Pass.

Bill Carrier: Rep. Damschen.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2394

House Human Services Committee

☐ Check here for Conference Committee

Hearing Date: March 24, 2009

Recorder Job Number: 11482

Committee Clerk Signature Vicky Crabtree

Minutes:

Chairman Weisz: I have asked some of you to bring this back and we can make a minor change.

Rep. Potter: Motion to bring back SB 2394.

Rep. Kilichowski: Second

Voice Vote: Motion Carried.

Chairman Weisz: The concern was having to do with reimbursement. They believe the language doesn't clarify that if they get consent of the parents, that all the services could be billed and paid for. If the minor comes in the first trimester two or three times they can't bill for those services even at the parent's consent at that point.

Rep. Porter: After third party payer in Sub. B, if we inserted the language, "unless consent is obtained by the parent or guardian?

Chairman Weisz: Correct. That is exactly what they are after.

Rep. Porter: Move amendment.

Rep. Damschen: Second.

Voice Vote: Motion Carried.

Rep. Conrad: Motion Do Pass on Amended Bill.

Rep. Kilichowski: Second.

Roll Call Vote: 12 yes, 0 no, 1 absent, Rep. Nathe.

Motion Carried:

Bill Carrier: Rep. Damschen.

#2

98323.0104
Title.

Prepared by the Legislative Council staff for
Representative Conrad
March 17, 2009

PROPOSED AMENDMENTS TO SENATE BILL NO. 2394

Page 1, line 3, after "minors" insert "; and to provide for a legislative council study"

Page 2, after line 3, insert:

"**SECTION 2. SERVICES FOR PREGNANT MINORS - LEGISLATIVE COUNCIL STUDY.** During the 2009-10 interim, the legislative council shall consider studying existing services for minors who are pregnant and whether additional education and social services would enhance the potential for a healthy child and a positive outcome for the minor. The study must consider the potential benefits of support services for parents of these minors and guardianship for the minor for cases in which parental abuse or neglect may be an issue. The study also must consider the benefits to the minor of subsidies for open adoptions and supportive housing and child care for single parents enrolled in secondary and postsecondary educational institutions. The study also must determine the most desirable evidence-based service delivery system and the amount and sources of adequate funding. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly."

Renumber accordingly

#1

98323.0105
Title.

Prepared by the Legislative Council staff for
Representative Damschen
March 20, 2009

PROPOSED AMENDMENTS TO SENATE BILL NO. 2394

Page 1, line 8, replace "A minor may provide consent and contract for and receive" with "a. A physician or other health care provider may provide" and remove the underscored comma

Page 1, line 9, remove "prenatal care," and replace ", and the consent of no" with "to a minor without the consent of a parent or guardian.

b. A physician or other health care provider may provide prenatal care to a pregnant minor in the first trimester of pregnancy or may provide a single prenatal care visit in the second or third trimester of pregnancy without the consent of a parent or guardian.

c. A physician or other health care provider may provide prenatal care beyond the first trimester of pregnancy or in addition to the single prenatal care visit in the second or third trimester if, after a good-faith effort, the physician or other health care provider is unable to contact the minor's parent or guardian.

d. The costs incurred by the physician or other health care provider for performing services under this section may not be submitted to a third-party payer ~~without the consent of the minor~~"

Page 1, line 10, remove "other person is required" and after the underscored period insert:

"e."

Renumber accordingly

Date: 3-23-07

Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2394

House HUMAN SERVICES Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do Pass ☐ Do Not Pass ☐ Amended

Motion Made By Rep. Damschen Seconded By Rep. Porter

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN ROBIN WEISZ			REP. TOM CONKLIN		
VICE-CHAIR VONNIE PIETSCH			REP. KARI L CONRAD		
REP. CHUCK DAMSCHEN			REP. RICHARD HOLMAN		
REP. ROBERT FRANTSVOG			REP. ROBERT KILICHOWSKI		
REP. CURT HOFSTAD			REP. LOUISE POTTER		
REP. MICHAEL R. NATHE					
REP. TODD PORTER					
REP. GERRY UGLEM					

Voice

Total (Yes) 13 No 0

Absent 0

Bill Carrier _____

If the vote is on an amendment, briefly indicate intent:

Motion passed on amendment

Adopted by the Human Services Committee
March 20, 2009

VR
3/24/09

PROPOSED AMENDMENTS TO SENATE BILL NO. 2394

Page 1, line 3, after "minors" insert "; and to provide for a legislative council study"

Page 1, line 8, replace "A minor may provide consent and contract for and receive" with "a. A physician or other health care provider may provide" and remove the underscored comma

Page 1, line 9, remove "prenatal care," and replace ", and the consent of no" with "to a minor without the consent of a parent or guardian.

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d. The costs incurred by the physician or other health care provider for performing services under this section may not be submitted to a third-party payer"

Page 1, line 10, remove "other person is required" and after the underscored period insert:

"e."

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"**SECTION 2. SERVICES FOR PREGNANT MINORS - LEGISLATIVE COUNCIL STUDY.** During the 2009-10 interim, the legislative council shall consider studying existing services for minors who are pregnant and whether additional education and social services would enhance the potential for a healthy child and a positive outcome for the minor. The study must consider the potential benefits of support services for parents of these minors and guardianship for the minor for cases in which parental abuse or neglect may be an issue. The study must also consider the benefits to the minor of subsidies for open adoptions and supportive housing and child care for single parents enrolled in secondary and postsecondary educational institutions. The study must also determine the most desirable evidence-based service delivery system and the amount and sources of adequate funding. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly."

Renumber accordingly

Date: 3-23-09
Roll Call Vote #: 2

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2394

House HUMAN SERVICES Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do Pass ☐ Do Not Pass ☒ Amended

Motion Made By Rep. Potter Seconded By Rep. Conrad

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN ROBIN WEISZ			REP. TOM CONKLIN		
VICE-CHAIR VONNIE PIETSCH			REP. KARI L CONRAD		
REP. CHUCK DAMSCHEN			REP. RICHARD HOLMAN		
REP. ROBERT FRANTSVOG			REP. ROBERT KILICHOWSKI		
REP. CURT HOFSTAD			REP. LOUISE POTTER		
REP. MICHAEL R. NATHE					
REP. TODD PORTER					
REP. GERRY UGLEM					

Total (Yes) 11 No 2

Absent _____

Bill Carrier _____

If the vote is on an amendment, briefly indicate intent:

Motion Rep. Conrad's amendment Carried

Date: 3-23-04

Roll Call Vote #: 3

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2394

House HUMAN SERVICES Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do Pass ☐ Do Not Pass ☒ Amended

Motion Made By Rep. Damschen Seconded By Rep. Holman

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN ROBIN WEISZ	✓		REP. TOM CONKLIN	✓	
VICE-CHAIR VONNIE PIETSCH	✓		REP. KARI L CONRAD	✓	
REP. CHUCK DAMSCHEN	✓		REP. RICHARD HOLMAN	✓	
REP. ROBERT FRANTSVOG	✓		REP. ROBERT KILICHOWSKI	✓	
REP. CURT HOFSTAD	✓		REP. LOUISE POTTER	✓	
REP. MICHAEL R. NATHE	✓				
REP. TODD PORTER	✓				
REP. GERRY UGLEM	✓				

Total (Yes) 13 No 0

Absent 0

Bill Carrier Damschen

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2394: Human Services Committee (Rep. Weisz, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2394 was placed on the Sixth order on the calendar.

Page 1, line 3, after "minors" insert "; and to provide for a legislative council study"

Page 1, line 8, replace "A minor may provide consent and contract for and receive" with "a. A physician or other health care provider may provide" and remove the underscored comma

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d. The costs incurred by the physician or other health care provider for performing services under this section may not be submitted to a third-party payer"

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Page 2, after line 3, insert:

"**SECTION 2. SERVICES FOR PREGNANT MINORS - LEGISLATIVE COUNCIL STUDY.** During the 2009-10 interim, the legislative council shall consider studying existing services for minors who are pregnant and whether additional education and social services would enhance the potential for a healthy child and a positive outcome for the minor. The study must consider the potential benefits of support services for parents of these minors and guardianship for the minor for cases in which parental abuse or neglect may be an issue. The study must also consider the benefits to the minor of subsidies for open adoptions and supportive housing and child care for single parents enrolled in secondary and postsecondary educational institutions. The study must also determine the most desirable evidence-based service delivery system and the amount and sources of adequate funding. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly."

Renumber accordingly

Date: 03/24/09
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2394

House HUMAN SERVICES Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken reconsider ☐ Do Pass ☐ Do Not Pass ☐ Amended

Motion Made By Potter Seconded By Kilichowsky

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN ROBIN WEISZ			REP. TOM CONKLIN		
VICE-CHAIR VONNIE PIETSCH			REP. KARI L CONRAD		
REP. CHUCK DAMSCHEN			REP. RICHARD HOLMAN		
REP. ROBERT FRANTSVOG			REP. ROBERT KILICHOWSKI		
REP. CURT HOFSTAD			REP. LOUISE POTTER		
REP. MICHAEL R. NATHE					
REP. TODD PORTER					
REP. GERRY UGLEM					

Voice

Total (Yes) _____ No _____

Absent _____

Bill Carrier _____

If the vote is on an amendment, briefly indicate intent:

2394 voice vote reconsider bill

Adopted by the Human Services Committee
March 20, 2009

VR
3/24/09

PROPOSED AMENDMENTS TO SENATE BILL NO. 2394

Page 1, line 3, after "minors" insert "; and to provide for a legislative council study"

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Renumber accordingly

Date: 03/24/09
Roll Call Vote #: 2

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2394

House HUMAN SERVICES Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do Pass ☐ Do Not Pass ☐ Amended

Motion Made By Porter Seconded By Damschen

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN ROBIN WEISZ			REP. TOM CONKLIN		
VICE-CHAIR VONNIE PIETSCH			REP. KARI L CONRAD		
REP. CHUCK DAMSCHEN			REP. RICHARD HOLMAN		
REP. ROBERT FRANTSVOG			REP. ROBERT KILICHOWSKI		
REP. CURT HOFSTAD			REP. LOUISE POTTER		
REP. MICHAEL R. NATHE					
REP. TODD PORTER					
REP. GERRY UGLEM					

Total (Yes) _____ No _____

Absent _____

Bill Carrier _____

If the vote is on an amendment, briefly indicate intent:

voice vote passed on amendment

Date: 03/24/09

Roll Call Vote #: 3

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2394

House HUMAN SERVICES Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken ☒ Do Pass ☐ Do Not Pass ☒ Amended

Motion Made By Conrad Seconded By Kilichowski

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN ROBIN WEISZ	✓		REP. TOM CONKLIN	✓	
VICE-CHAIR VONNIE PIETSCH	✓		REP. KARI L CONRAD	✓	
REP. CHUCK DAMSCHEN	✓		REP. RICHARD HOLMAN	✓	
REP. ROBERT FRANTSVOG	✓		REP. ROBERT KILICHOWSKI	✓	
REP. CURT HOFSTAD	✓		REP. LOUISE POTTER	✓	
REP. MICHAEL R. NATHE					
REP. TODD PORTER	✓				
REP. GERRY UGLEM	✓				

Total (Yes) 12 No 0

Absent 1

Bill Carrier Damschen

If the vote is on an amendment, briefly indicate intent:

library

REPORT OF STANDING COMMITTEE

SB 2394: Human Services Committee (Rep. Weisz, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2394 was placed on the Sixth order on the calendar.

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Renumber accordingly

2009 TESTIMONY

SB 2394

SB 2394

#1

Senate Human Services Committee
February 11, 2009
9:00 a.m.

Madam Chairman,
Members of Senate Human Services Committee,

For the record, I am Karen Krebsbach, Senator from District 40.

There are several instances for which we as legislators have included language in the ND Century Code authorizing minors to consent for health care services. Those services include the examination, care and treatment for alcoholism, drug abuse and sexually transmitted diseases, as well as emergency medical services. These are situations in which the public policy is to encourage young people to access medical services, rather than discourage them from seeking the appropriate help they need.

Senate Bill 2394 would recognize that this same kind of situation arises often with respect to a young person who finds herself pregnant and is not yet ready to involve her parents – that as a matter of public policy we ought to encourage that young person to seek appropriate prenatal care and other health care for her

and her unborn child. ~~If a minor patient asks for confidential services, physicians are ethically bound~~ to ~~encourage that young person to seek appropriate prenatal care and other health care for her and her unborn child~~. If a minor patient asks for confidential services, physicians are ethically bound to encourage the minor to involve their parents. More clarity is needed, however, on the legal environment for physicians and other health professionals in working with young people who seek pregnancy-related health care services for themselves and their unborn children.

I introduced Senate Bill 2394 at the request of a number of health care organizations seeking this clarity, including the North Dakota Chapter of the American College of Obstetricians and Gynecologists, the North Dakota OB-GYN Society, the North Dakota Medical Association, and the North Dakota Healthcare Association representing hospitals. Senate Bill 2394 would authorize a minor to consent and contract for prenatal care and other pregnancy-related care, but not abortion services which are covered by another law, as well as identify difficult situations in which the physician or other health professional may inform the minor's parents or guardian even if the minor is not ready to

involve them. I introduced a similar bill in both the 2005 and 2007 sessions. So if this sounds familiar that's why.

Senate Bill 2394 strikes an appropriate balance – a balance that recognizes the need to encourage young people to seek the medical care they need for themselves and their unborn child, as well as to encourage them to involve their parents.

Thank you, Senator Lee and members of the Committee. There are representatives of various organizations here to describe more fully the rationale and scope of the bill, and answer questions you have.

#2

NORTH DAKOTA MEDICAL ASSOCIATION

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Director of Membership
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Annette Weigel
Administrative Assistant

Senate given to House

Testimony in Support of Senate Bill No. 2394
Senate Human Services Committee
February 11, 2009

Madam Chairman Lee and Committee members, I'm Bruce Levi representing the North Dakota Medical Association. NDMA is the professional membership organization for North Dakota's physicians, residents and medical students. With me today is Dr. Shari Orser. Dr. Orser has been actively involved in the North Dakota OB-GYN Society and also serves as the Immediate Past President of the North Dakota Medical Association. Also with me is Dr. Jerry Obritsch of Mid Dakota Clinic.

The North Dakota Medical Association strongly supports SB 2394, as do a number of other physician professional organizations including the ND Section of the American College of Obstetricians and Gynecologists, the ND Chapter of the Academy of Pediatrics, and the ND Chapter of the Academy of Family Physicians.

As a member of the medical profession, a physician is required to recognize responsibility to patients first and foremost. Standards of conduct adopted as Principles of Medical Ethics by the American Medical Association proscribe that physicians be dedicated to providing competent medical care, with compassion and respect for human dignity and rights; that physicians respect the law and recognize a responsibility to seek changes in those laws that are contrary to the best interests of the patient; that physicians safeguard patient confidences and privacy within the constraints of the law; and that physicians support access to medical care for all people.

SB 2394 is about fulfilling all those ethical imperatives by creating an appropriate legal environment for providing access by a pregnant minor to prenatal care and other pregnancy care that ensures the best possible outcome for her unborn child, when that pregnant minor is not yet ready to involve her parents or guardian.

SB 2394 follows a principled approach that strikes a proper balance between ensuring access of the minor mother and her unborn child to the health care they need, and supporting the appropriate role of parents to be involved in and direct the health care provided to their children.

Under current North Dakota law [NDCC 23-12-13], if a pregnant minor seeks confidential prenatal care from a physician or other health professional, that care may not be provided without the consent of the minor's parent or guardian. As such, physicians face a real problem when a pregnant minor in crisis comes seeking health care, but is not yet ready or willing to tell her parents. A physician can encourage her to involve her parents, and is ethically bound to encourage the minor to do so, but she may still refuse. Under current law, physicians have only one option – they must refuse to provide her the prenatal care or other pregnancy care she and her unborn child need, and send her on her way.

Ironically, the law provides that once the child is born, the minor has the capacity to make health care decisions for her newborn child, no matter the minor's age.

When confidentiality is a barrier to a pregnant minor seeking care, the health consequences can be significant as the pregnant minor may not seek appropriate prenatal care for herself and her unborn child. Dr. Orser will discuss those clinical consequences as pregnant teens are the least likely to of all age groups to get early and regular health care and are at greater risk of complications.

SB 2394 is about creating an appropriate legal environment for physicians to address this situation. It is akin to efforts made in the past by the Legislative Assembly to address other difficult situations involving young children – situations that require some form of intervention to protect the life and health of the child. For example, the "Baby Moses" law adopted in 2001 [NDCC 50-25.1-15] which you are again reviewing this session in SB 2400, allows the parent of an infant child to abandon that child at a hospital in an unharmed condition. While none of us would condone a parent abandoning their child, this was a situation that was occurring and the Legislative Assembly agreed these situations needed to be addressed in the form of an alternative to child abandonment in unsafe places. That

environment was created to protect the infant child. SB 2394 is designed to protect both the pregnant teen and her unborn child.

SB 2394 would follow the lead of at least thirty-five other states in providing statutory authority for a physician or other health care professional to rely on the consent of a minor for pregnancy-related health care. SB 2394 is actually a hybrid of statutes from Minnesota and Montana.

In summary, SB 2394 would authorize a minor to consent and contract for pregnancy testing, prenatal care, and pain management related to pregnancy. The bill does not authorize a minor to consent to abortion. A physician or other healthcare professional would not be compelled against their best judgment to treat a minor based on the minor's own consent. The bill also recognizes the ethical imperative for physicians that they encourage the minor to involve her parents or guardian.

The bill recognizes that the pregnant minor's decisions cannot threaten her own health or the health and life of the unborn child. A physician or other healthcare professional would be authorized under the bill to inform the minor's parents or guardian about any health care services given or needed after discussion with the minor, if (1) failure to inform the parent or guardian would seriously jeopardize the health of the minor or her unborn child, (2) major surgery or prolonged hospitalization is needed, or (3) informing the parent or guardian would benefit the health of the minor or her unborn child.

Medical ethics require that when a young person comes to a physician asking for confidential medical care, physicians should encourage that young person to involve his or her parents or guardian. The American Medical Association Code of Medical Ethics addresses the issue of confidential care for minors, and a copy of the ethics opinion is included as an attachment to my written testimony.

If a minor who is hesitant to involve her parents at the beginning of her pregnancy is assured of confidentiality she will feel able to seek health care earlier in the pregnancy to improve pregnancy outcomes, as well as potentially limit the risks and eliminate the cost of additional

treatment for complications. At the same time, physicians can encourage the pregnant minor to involve her parents. This includes making efforts to obtain the minor's reasons for not involving her parents and correcting misconceptions that may be motivating her objections.

SB 2394 encourages pregnant minors who are not ready to involve their parents to choose childbirth and not seek an abortion, which a pregnant minor can now seek without parental consent through juvenile court. For pregnant minors, without SB 2394, abortion could become the path of least resistance. Statistics from the ND Department of Health indicate that 194 children were born from a minor parent in 2007, compared to 182 in 2005. In that same year, 52 minors aborted their unborn child, compared to 36 minors who aborted their unborn child in 2005 which we reported to you last session.

The purpose of the bill is not to diminish the role of parents in raising their children. The bill does not say that physicians are to rely solely on the consent of a minor in every situation involving a request for pregnancy-related care. In most instances the parents of the minor are in fact involved and acting in the best interests of their child and her unborn child. For over thirty-five years in North Dakota, our statutes have recognized the ability of minors to make some health care decisions without the consent of a parent or guardian:

- NDCC Section 14-10-17: Examination, care, and treatment for sexually transmitted disease, alcoholism, or drug abuse of minors age fourteen and older
- NDCC Section 14-10-17.1: Examination, care, or treatment in a life-threatening situation involving any minor

The first law was enacted in 1971 to allow minors to contract and consent for care for venereal disease. In 1973, the law was expanded to drug abuse. And in 1977, the law was made to apply to alcoholism and emergency care.

The motivation behind these laws, then in the 1970s and now in SB 2394, is to create an environment that assures that minors receive the care they need – even if, for whatever reason, the minor is not ready or unable to involve his or her parents.

In conclusion, concern about confidentiality is often a major obstacle to the delivery of health care to minors. Access to confidential services is often essential, because many minors will not seek care for themselves or their unborn child if they are not ready to inform a parent or have their parents' consent. These laws encourage young people to seek the health care services they need and enable them to talk candidly with their physician or other health professional. They help build a relationship – a relationship in most cases that works in favor of, not against, involving parents.

A brief review of the bill follows:

Subsection 1: The language in subsection 1 provides authorization for a minor to consent for pregnancy-related services, specifically "pregnancy testing, prenatal care, and pain management." The consent of no other person would be required. The authorization does not include abortion services, which are governed by the state's Abortion Control Act [NDCC 14-02.1]. The Abortion Control Act provides for specific consent and notification requirements that would not be affected by this legislation.

Subsection 2: The first sentence in subsection 2 is derived from the American Medical Association Code of Medical Ethics (E-5.055). That language recognizes that as a general proposition if a minor requests confidential services to determine the presence of or to treat pregnancy and conditions associated with pregnancy, the minor should be encouraged to involve her parents or guardian. The subsection also states specifically that a physician cannot be compelled against their best judgment to treat a minor based on the minor's own consent. That language in subsection 2 is derived from Montana law [Mont. Code Ann. 41-1-407]. This provision provides the necessary medical discretion to allow the physician or other health professional to work within the ethical guidelines that address confidential care for minors, considering such factors as the maturity of the minor and the circumstances surrounding the minor's request for confidential medical care.

Subsection 3: The language in subsection 3 authorizes disclosure to parents or guardian under certain circumstances deemed appropriate in the physician's or other health professional's judgment, but only if the physician or other health care professional discusses with the minor

the reasons for informing the parent or guardian before the disclosure. This prior discussion requirement is consistent with the AMA Ethics Code. The circumstances that may result in disclosure to the parent or guardian include:

- Failure to inform the parent or guardian would seriously jeopardize the health of the minor or unborn child (serious jeopardy standard with respect to the minor is recognized in AMA Ethics Code, Minnesota and Montana);
- Major surgery or prolonged hospitalization is needed (Mont. Code Ann. 41-1-403); or
- Informing the parent or guardian would benefit the health of the minor or her unborn child (similar to Mont. Code Ann. 41-1-403).

NDMA urges you to support SB 2394 with a "Do Pass" recommendation.

I will attempt to answer any questions you have. Drs. Shari Orser and Jerry Obritsch have prepared testimony and can answer your questions from their experience in providing medical care to pregnant minors.

E-5.055 Confidential Care for Minors
AMA Code of Medical Ethics
Physicians who treat minors have an ethical duty to promote the autonomy of minor patients by involving them in the medical decision-making process to a degree commensurate with their abilities. When minors request confidential services, physicians should encourage them to involve their parents. This includes making efforts to obtain the minor's reasons for not involving their parents and correcting misconceptions that may be motivating their objections.

Where the law does not require otherwise, physicians should permit a competent minor to consent to medical care and should not notify parents without the patient's consent. Depending on the seriousness of the decision, competence may be evaluated by physicians for most minors. When necessary, experts in adolescent medicine or child psychological development should be consulted. Use of the courts for competence determinations should be made only as a last resort.

When an immature minor requests contraceptive services, pregnancy-related care (including pregnancy testing, prenatal and postnatal care, and delivery services), or treatment for sexually transmitted disease, drug and alcohol abuse, or mental illness, physicians must recognize that requiring parental involvement may be counterproductive to the health of the patient. Physicians should encourage parental involvement in these situations. However, if the minor continues to object, his or her wishes ordinarily should be respected. If the physician is uncomfortable with providing services without parental involvement, and alternative confidential services are available, the minor may be referred to those services. In cases when the physician believes that without parental involvement and guidance, the minor will face a serious health threat, and there is reason to believe that the parents will be helpful and understanding, disclosing the problem to the parents is ethically justified. When the physician does breach confidentiality to the parents, he or she must discuss the reasons for the breach with the minor prior to the disclosure.

For minors who are mature enough to be unaccompanied by their parents for their examination, confidentiality of information disclosed during an exam, interview, or in counseling should be maintained. Such information may be disclosed to parents when the patient consents to disclosure. Confidentiality may be justifiably breached in situations for which confidentiality for adults may be breached, according to Opinion 5.05, "Confidentiality." In addition, confidentiality for immature minors may be ethically breached when necessary to enable the parent to make an informed decision about treatment for the minor or when such a breach is necessary to avert serious harm to the minor. (IV) Issued June 1994 based on the report "Confidential Care for Minors," adopted June 1992; Updated June 1996.

#3

Testimony in Support of Senate Bill 2394
Senate Human Services Committee
February 11, 2009

Story given to House

Senator Lee and members of the Human Services Committee,

For the record, my name is Shari Orser, an obstetrician-gynecologist. I am an employee of Medcenter One Health Systems, but today I am testifying on my own behalf.

I believe this bill is vitally important. It offers confidentiality to assure that needed care is given to the minor in those unfortunate circumstances where the parents do not necessarily have the best interest of the minor in mind or the minor feels unable to confide in her parents. This is especially important when young women are pregnant in order to assure the best possible outcome for the newborn child and the mother.

In surveys, minors and providers consistently identify concerns about lack of confidentiality as a barrier to obtaining health care. Minors who are pregnant, have STD's, abuse drugs and alcohol, or have emotional problems may avoid seeking health care if they must inform their parents.

Our best opportunity for optimal pregnancy outcomes is to begin prenatal care early. Statistics from the State Department of Health indicate that on average 40% of teenage mothers start prenatal visits late. Many minors do not present for prenatal care until the mid-to-late second trimester, often when they can no longer conceal the pregnancy from their parents. This significantly delays the opportunity for treatment with folic acid, providing iron for anemia, counseling about healthy diet, discussion of other high risk behaviors such as smoking, alcohol and drug use, early treatment of STD's and identification of other risk factors for poor outcome. Some minors do not even come in until they are already in labor and have not received any prenatal care. In either situation, the health of both the mother and child is put in jeopardy. These are high risk pregnancies simply due to the age of the minor child.

Accessing care late in a pregnancy is a risk factor for early delivery, and babies that are born too early result in 60% of infant morbidity and mortality. The cost of one day in our NICU (Neonatal Intensive Care Unit) is substantial. If minors are assured of confidentiality they will feel able to seek health care earlier in the

pregnancy and this would improve pregnancy outcomes as well as potentially limit the risks and eliminate the cost of additional treatment for complications.

When minors know their confidentiality will be respected, they will be able to develop a relationship of trust with the health care provider and in turn the health care provider will be able to encourage the minor to seek parental involvement or facilitate discussions with the minor and the parent if needed.

We would like to believe that all parents are loving and have only their child's best interest at heart, but the sad truth is that that is not always the case.

I am aware of a situation in which a parent refused to consent to an epidural for her 16-year old daughter. She felt that since her child got herself into the situation, she deserved to endure the pain of labor. This bill would enable the minor and her physician to determine the best course of treatment and prevent this sort of abuse of parental authority. In some cases parental involvement is just not to a minor's benefit.

During previous attempts to pass a similar bill, opponents have tried to make the bill about parental rights. This bill is about the health of unborn children and providing them with the best possible start in life. If a young woman makes the decision to have her baby shouldn't we support her and make it as easy as possible to get prenatal care? Isn't it hypocritical to be pro-life, yet deny care if the young mother-to-be doesn't meet certain criteria?

I believe this bill is important to the health and well-being of young mothers and their unborn children and would urge you to support SB 2394 with a "**Do Pass**" recommendation.

Thank you for the opportunity to testify today. I would be happy to answer any questions you may have.

part of #3.

ICSI

INSTITUTE FOR CLINICAL SYSTEMS IMPROVEMENT

Health Care Guideline for Patients and Families: Routine Prenatal Care

September 2007

The numbers in the boxes correspond with the specific table notes on the following pages for more detailed information. Not all items will have a table note.

Event [1]	Preconception Visit [2]	Visit 1 [3] [**] 6-8 weeks	Visit 2 10-12 weeks	Visit 3 16-18 weeks	Visit 4 22 weeks
Screening Maneuvers	Risk profiles [4] Height and weight/BMI [5] Blood pressure [6] History and physical [7] Cholesterol & HDL [2] Cervical cancer screening [2] Rubella/rubeola [8] Varicella [9] Domestic abuse [10]	Risk profiles [4] GC/Chlamydia [4] Height and weight/BMI [5] Blood pressure [6] History and physical [7*] Rubella [8] Varicella [9] Domestic abuse [10] Hemoglobin [15] ABO/Rh/Ab [16] Syphilis [17] Urine culture [18] HIV [19] [Blood lead screening [20]] [VBAC [21]] Hepatitis B S Ag [25]	Weight [5] Blood pressure [6] Fetal heart tones [27] Fetal Aneuploidy Screening [23]	Weight [5] Blood pressure [6] Fetal heart tones [27] Fetal Aneuploidy Screening [23] OB Ultrasound (optional) [28] Fundal height [29] [Cervical assessment [30]]	Weight [5] Blood pressure [6] Fetal heart tones [27] Fundal height [29] [Cervical assessment [30]]
Counseling Education Intervention	Preterm labor education and prevention [11] Substance use [2] Nutrition & weight [2] Domestic abuse [10] List of medications, herbal supplements, vitamins [12] Accurate recording of menstrual dates [13]	Preterm labor education and prevention [11] Prenatal & lifestyle education [22] • Physical activity • Nutrition • Warning signs • Course of care • Physiology of pregnancy • Follow-up modifiable risk factors Discuss fetal aneuploidy screening [23]	Preterm labor education and prevention [11] Prenatal & lifestyle education [22] • Fetal growth • Review labs from visit 1 • Breastfeeding • Physiology of pregnancy • Follow-up modifiable risk factors	Preterm labor education and prevention [11] Prenatal & lifestyle education [22] • Physiology of pregnancy • Second trimester growth • Quickening • Follow-up modifiable risk factors	Preterm labor education and prevention [11] Prenatal & lifestyle education [22] • Classes • Family issues • Length of stay • Gestational Diabetes Mellitus [32] (GDM) • Follow-up modifiable risk factors • [RhoGam [16]]
Immunization & Chemoprophylaxis	Tetanus booster [3] Rubella/MMR [4] [Varicella/VZIG [9]] Hepatitis B Vaccine [7,25] Folic acid supplement [14]	Tetanus booster [3] Nutritional supplements [24] Influenza [26] [Varicella/VZIG [9]]		[Progesterone [31]]	

Event	Visit 5 28 weeks	Visit 6 32 weeks	Visit 7 36 weeks	Visit 8-11 38-41 weeks
Screening Maneuvers	Preterm Labor risk [4] Weight [5] Blood pressure [6] Fetal heart tones [27] Fundal height [29] [Cervical assessment [30]] Gestational diabetes mellitus (GDM) [32] Domestic abuse [10] [Rh antibody status [16]] [Hepatitis B Ag [25]] [GC/Chlamydia [4]]	Weight [5] Blood pressure [6] Fetal heart tones [27] Fundal height [29]	Weight [5] Blood pressure [6] Fetal heart tones [27] Fundal height [29] Cervix exam [34] Confirm fetal position [35] Culture for group B streptococcus [36]	Weight [5] Blood pressure [6] Fetal heart tones [27] Fundal height [29] Cervix exam [34]
Counseling Education Intervention	Preterm Labor labor education and prevention [11] Prenatal & lifestyle education [22] • Work • Physiology of pregnancy • Preregistration • Fetal growth • Follow-up modifiable risk factors Awareness of fetal movement [33]	Preterm Labor labor education and prevention [11] Prenatal & lifestyle education [22] • Travel • Sexuality • Pediatric care • Episiotomy • Follow-up modifiable risk factors Labor & Delivery issues Warning signs/pregnancy-induced hypertension [VBAC [21]]	Prenatal & lifestyle education [22] • Postpartum care • Management of late pregnancy symptoms • Contraception • When to call provider • Discussion of postpartum depression • Follow-up modifiable risk factors	Prenatal & lifestyle education [22] • Postpartum vaccinations • Infant CPR • Post-term management • Follow-up modifiable risk factors Labor and delivery update
Immunization & Chemoprophylaxis	[ABO/Rh/Ab] [RhoGAM [16]]			

Numbers refer to corresponding notes within the guideline text. All terms are defined in the notes.
[Bracketed] items refer to high-risk groups only.

* It is acceptable for the medical history, physical exam, and laboratory tests listed under Visit 1 to be deferred to Visit 2 if both the patient and provider agree.

** Should also include all subjects listed for the preconception visit if none occurred.

#5

Senate Human Services Committee

Chairperson Judy Lee

Vice-Chairperson Robert Erbele

Same given to House

Senate Bill No. 2394:

A Bill for an Act to create and enact a new section to chapter 14-10 of the North Dakota Century Code, relating to consent for prenatal care and other pregnancy care services provided to minors.

My name is Kelly Moe Litke. I am here today to provide testimony in support of Senate Bill 2394, relating to consent for prenatal and other pregnancy care services provided to minors.

Teen pregnancy is not a comfortable topic for many of us to talk about. As a mother of a twelve year old daughter, I share a particular interest. The reality is, although teen pregnancy rates in North Dakota are low compared to other states, every fourteen hours a teen gives birth in North Dakota. Reflecting on that statistic alone, this is an issue we should all take notice of.

There are many reasons why I encourage your support of Senate Bill 2394:

- All women, regardless of their age, should have access to prenatal care. To prohibit that access, even under the guise of what's in the best interest of the minor, is unfair. The importance of prenatal education and services are well documented and not my area of expertise. But as a woman and a mother, I believe that access to these services is a basic right. Access and availability of prenatal care is vital to the health of mothers and their babies.
- It is not uncommon for women of any age to be hesitant to seek out prenatal care. We have all heard horror stories of teens delivering babies in public restrooms or in their own bedrooms, having hid the pregnancy from everyone. Young women seeking out medical care should not be fearful to access those services for any reason. By allowing confidential access to prenatal services, you are encouraging mothers to seek out the support and care vital to their health and the health of their baby.

- As the parent of a young daughter, I understand the important role parents play in the lives of their children. I believe I have a strong relationship with my daughter and I hope if she is ever faced with any difficult situation, she knows she can come to me for help. But even in the most supportive families, the difficult discussion of a teen pregnancy could delay the initiation of vital pregnancy services, potentially causing harm to mother and baby.
- Finally, it is important to point out the sad reality that many youth do not grow up in environments that are supportive and responsive to their needs. Making the general assumption that all minors faced with a pregnancy are best served by involving their parents is not only naïve but potentially dangerous. Family violence is a reality, as is teen pregnancy, and many times, there is a correlation between the two. Young women in these situations have limited resources and are left with even fewer options. Health care professionals can provide support and the necessary link to services for these young women.

In closing, this bill does not eliminate the role parents play in the lives of their children. In fact, it explicitly states that the health care professional shall encourage the minor to involve her parents. What it does do is put the best interest of the mother and her child at the forefront, where it belongs. As a mother, I don't believe that my rights as a parent are more important than my daughter's right to access medical care. And if she were ever faced with such a difficult decision, I would want her to get the support, information, and services she needed – no matter if that was from me or her physician.

I urge your support of Senate Bill 2394. Thank you for your time.

Sincerely,

Kelly Moe Litke

#6

SB 2394

Nadia Smetana
8481 32 Ave NW
Lansford, ND 58750

Chairman Lee, and members of the Committee, my name is Nadia Smetana from Lansford, ND. I am here to testify in opposition of SB 2394. I am speaking for myself.

The concern I have about the passage of this law can be summarized in the following true incident:

A school teacher in Illinois had sexually molested a 13-year-old student. The teacher took the student to a clinic to get a shot of Depo-Provera, a contraceptive, so he could keep on having sex with her. Her parents were not permitted to be told of the medical visit.

Over the past 30 plus years, many states have expanded minors' authority to consent to health care concerning sexual activity. This trend toward "confidential" health care for minors began at the federal level in 1970 with the passage of the Title X family planning program. Title X supported clinics provide contraceptive services and other reproductive health care to minors without parental consent.

This bill would expand "confidential" care for minors regarding their sexual activities. As I understand it, the motivation behind this is a concern that sexually active girls may avoid seeking needed health care if they must involve their parents.

Since there has been more than 30 years of experience in the United States with laws that remove the requirement for parental consent, it seems it would be wise to examine how well they are working before we expand this right for the teenagers in North Dakota.

There is ample evidence that leaving the parents out of decisions concerning sexuality is not working to benefit the teens it is supposed to help.

Increased Dating Violence

According to WEB MD, dating violence is at an all time high among United States teens, with 33% reporting some kind of abuse and 12% reporting physical abuse. Teens often do not have the experience or maturity to recognize that they are involved in an abusive relationship. Sexually active females are 5 times more likely to be victimized by dating violence than girls who are abstinent.

Increased Suicide

For females, recent dating violence is a primary cause of attempted suicide. A 2007 published study reported that girls who have been physically abused by a boyfriend are 60 percent more likely to attempt suicide than those who have not. Both the Centers for Disease Control and Prevention and the National Mental Health Association cite that

suicide rates for teens have tripled since 1960 -- making it the third leading cause of adolescent death and the second cause among college students.

Statutory Rape

Statutory Rape Crime Statistics show that the relationships with adults and older partners comprise a large percentage of all sexual relationships for girls of a younger age. Data from 21 states from 1996 through 2000 reported that of the 7,557 statutory rape incidents reported to law enforcement, 95 percent involved female victims with male offenders. About 60 percent of the female adolescents were aged 14 or 15. The median age difference between the female adolescent and the male was six years. Approximately 45 percent of the male participants were age 21 or over, 25 percent were age 24 or older.

Lack of Reporting for Statutory Rape

Evidence shows that providers of "confidential" healthcare for teens often fail to report statutory rape. Lila Rose, President of Live Action and student at UCLA, has released the second in a series of incriminating videos against Indiana's Planned Parenthood clinics. Posing as a 13-year-old girl, Lila tells an Indianapolis clinic worker that she was impregnated by a 31-year-old man. Two clinic workers were caught on tape stating that they "don't care" about the age difference, despite the state law requiring that they report statutory rape and sexual abuse. "The surrounding states don't have parental consent," one employee says quietly. "I can't tell you any more." In Bloomington, Indiana, a clinic worker was recorded encouraging an actress to lie about her boyfriend's age.

High STI Rates

Despite the tremendous amount of state and federal "confidential" resources dedicated to the prevention of sexually transmitted infections, the rates are higher than ever. According to the Guttmacher Institute, recent estimates suggest that while men and women aged 15–24 make up 25% of the sexually experienced population, they account for nearly half of all new STIs..

Teen Pregnancies

It is my belief that "confidential" pregnancy testing and pre-natal care has an unintended effect of promoting irresponsible sexual behavior among teens. To see an example of this, we can review what happened at a high school in Gloucester, Massachusetts, during the last school year. It was widely reported in the media that 18 students became pregnant, which was more than four times the previous year's total. In October, school officials noted that an unusual number of girls began filing into the school clinic for "confidential" pregnancy tests. By May, several students had returned multiple times to get pregnancy tests. School Principal Joseph Sullivan reported that, "some girls seemed more upset when they weren't pregnant than when they were." Nearly half the expecting students, none older than 16, confessed to making a pact to get pregnant and raise their babies together. Gloucester high had a school-based health clinic providing "confidential" reproductive services. They did everything by the book, and the spike in pregnancies occurred anyway.

Lack of a Clear Message

Regrettably, relatively few teens receive a clear message about the harmful effects of early sexual activity. Safe sex/comprehensive sex-ed programs send the implied message that society expects and condones teen sexual activity. The message is that it's okay for teens to have sex as long as they use condoms.

Harmful Effects

Early sexual activity among teens has many documented harmful effects, including:

- More likely to be depressed and are more likely to attempt suicide.
- Greatly increased probability of becoming infected with sexually transmitted diseases.
- More likely to have abortions.
- More likely to become pregnant out of wedlock and become single mothers.
- Higher levels of child and maternal poverty.
- Seriously undermines the ability of girls to form stable marriages as adults. When compared to women who began sexual activity in their early 20s, girls who initiated sexual activity at ages 13 or 14 were less than half as likely to be in stable marriages in their 30s. Beginning sexual activity at an older age, however, is linked to higher levels of personal happiness in adult years.

What Does Work?

The evidence presented shows that "confidential" reproductive services for teens has not produced the desired results. This begs the question – what does work? The answer may surprise you.

According to the Medical Institute for Sexual Health, parents have more impact on their child's sexual decision making than any other influence- including that child's peers! Multiple studies demonstrate that parent-child communication has an important protective effect on adolescent sexual behavior. Parents need to be actively involved with their teens and take time to clearly communicate their own values and expectations. Specific findings include:

- Teens who feel close to their parents are much less likely to engage in risky behavior.
- Teens whose parents express disapproval of nonmarital sex and contraceptive use are less likely than their peers to have sex.
- Teens who talk to a parent about sex tend to wait to have sex, have fewer sexual partners, and are more likely to name a parent than a peer as a good source of information about sex.

Further evidence that parental involvement is superior to "confidential" care is demonstrated by the effect on abortion rates. According to the Family Research Council, parental notification or consent laws have dramatically reduced the teen abortion rate in

states where these laws exist. This is especially true where states require the consent of both parents, as is the case in North Dakota.

Parents are often kept in the dark, thanks to faulty health care policies which view them as a threat to their daughter's best interests. Lawmakers should change these policies -- and give parents the opportunity to teach their children well. To continue to undermine and erode parental authority is to destroy the very fabric of American life.

I believe that both the responsibility and the authority for raising children rest primarily with their biological or adoptive parents. Government should empower parents to control the upbringing of their children and minimize its interference with the exercise of parental authority, except in cases of demonstrable abuse or neglect. Medical procedures should not be performed on minors without parental consent, except in cases of medical emergency.

On September 2, 1987, President Reagan signed an Executive Order that prohibited government from taking any action until it had answered specific questions related to how it would affect the family. We would do well to apply these standards to our deliberations here today.

1. Does this action by government strengthen or erode the stability of the family and, particularly, the marital commitment?
2. Does this action strengthen or erode the authority and rights of parents in the education, nurture and supervision of their children?
3. Does this action help the family perform its functions, or does it substitute governmental activity for the function?
4. What message, intended or otherwise, does this program send to the public concerning the status of the family?
5. What message does it send to young people concerning the relationship between their behavior, their personal responsibility and the norms of our society?

#7

Testimony to the North Dakota Senate Health and Human Services Committee
Submitted by W.M. Schuh on February 11, 2007

Same given to House

Honorable Members of the Senate Health and Human Services Committee

PLEASE VOTE DO NOT PASS ON SB 2394

Senate bill 2394, addressing medical care for teen pregnancy, is one of the most dangerous and destructive bills for the family, and for the rights of parents to guide the development of their children that this legislature had considered in many years.

- **The language of this bill strips parents of their authority to guide the medical care of their minor daughters in a period of pregnancy crisis.**

- Ostensibly it is a measure to circumvent decisions of "bad" parents. But **it has no objective way of determining what a "bad parent" is.**

In reality its' power grant strips ALL parents of the authority for decisions concerning their child's medical care in a key crisis situation and turns it over to non parental adults in the medical profession. In doing so it utterly destroys the meaning of "minority" under a parent or legal guardian. While stripping power from parents, the bill is laced with patronizing and meaningless statements regarding parental "involvement" which have no legal significance, no compelling standard, no penalty and no power. They only serve as fluff to disguise the power transfer.

- The power kernel of the bill is in Section 1.1, which states that:

A minor may provide consent and contract for and receive medical, mental, and other health care services to determine the presence of or to treat pregnancy and conditions associated with pregnancy, and the consent of no other person is required.

- **A minor. Any minor! can provide *their own consent* for medical care without any parental control, consent or guidance, or even consultation whatsoever!** The parents, ALL PARENTS , both good and bad, are totally out of the loop.

There is no age limit. Your 16-year old, 14-year old, 12-year old daughter...need not tell their parents. They can provide their own consent for medical care and totally circumvent parents!

- **According to this language, the children can "*contract*" on their own!** Since when can a minor engage a contract without parental permission? Where else can they do so?

- **There is no fiscal note. The parents and their insurance will be billed.** Yet, they are not consulted concerning their own minor children.

- **Under SB 2394 an irresponsible unemancipated minors can legally contract for their parents.** Parents have no right to know what is going on with their own minor daughter, no right to have a say on the course of care, no authority whatsoever! Only the obligation to be saddled with the invoice. **SB 2394 utterly destroys the meaning of legal guardianship.**

- **All language related to parental power or involvement is meaningless fluff.**

SB 2394 states: *"The physician or other health care professional shall encourage the minor to involve her parents or guardian"*

"shall encourage the minor to involve ," **means that the child, an unemancipated minor, decides what her parents have a right to know.** There is no requirement, and no mandatory standard to determine abuse or neglect. In legal terms this is utterly meaningless as a safeguard! There is no obligation to the parent at all.

SB 2394 states: *"a physician or other health care professional or a health care facility may not be compelled against its best judgment to treat a minor based on the minor's own consent."*

Note that the health care provider is absolved of all responsibility to accept the "contract". The provider is thoroughly empowered and protected. **Only the parent is stripped.**

SB 2394 states: that the health care professional:

" may inform the parent or guardian of the minor.... if the physician or other health care professional discusses with the minor the reasons for informing...."

the word ***may*** **has no legal force whatsoever.** There is no legal requirement that they tell parents anything. ***"if the physician or other health care professional discusses with the minor"*** **means that the child, not the parent, MUST be consulted.**

SB 2394 states (The parent *may* be told if):
"in the judgment of the physician or other health care professional:
(a) Failure to inform the parent or guardian would seriously jeopardize the health of the minor;
(b) Major surgery or prolonged hospitalization is needed;
(c) Informing the parent or guardian would benefit the minor's physical and mental health.

"in the judgment" **means that it is ENTIRELY up to the health care providers and what they wants to reveal.** They are not compelled by law or penalty to inform or consult the parent **even if** the child is jeopardized, requires hospitalization, or if the the minors physical or mental health would be served.

- SB 2394 **teaches minors that parents are powerless.**
- It **sends a broad message to teens that all parents cannot be trusted and can be used and manipulated.**
- **Those that would consult parents will not because of this bill.** It lowers the bar.
- Those inclined to be promiscuous will know all about this before they are even sexually active. Minors will know that their **parents are not in control, that they are not legitimate authorities, and that state law has said so.**
- SB 2394 is a dangerous nail in coffin of the family.
- **None of the claimed benefits justify the social problems that it will perpetrate.**

A BRIEF HISTORY OF PARENTAL DISEMPOWERMENT IN NORTH DAKOTA

W.M. Schuh

The Right to Guide Children

The right to exercise our obligations to raise, guide and protect our children is the most fundamental right in any decent society. The natural relationship between parent and child is most suited to the protection of the child. In recent years this right is under constant attack.

The Typical Form of Attack on Parental Authority

(1) A social problem is defined by the worst case scenario.

(2) A law or social system to solve that problem, and based on the assumption that parents are absent or incompetent is applied not to the narrow case, but to all.

(3) Responsible parents are marginalized and undercut and separated from substantive control of their children.

Recent History

- (Late 1980s and early 1990s) The Carnegie Middle School (Turning Points) and Starting Points which propose to guide the education of preschoolers in the home asserted that parents were to be excluded from their private relationship with the child. For example, after proposing that it is important that adolescents have another "non parent" adult to guide them, Turning Points states that:

> "Parents should understand that communications between advisors and students are confidential and that advisors are not free to pass along information they receive from students." (Turning Points, p68)

And after describing conditions for school-based health care, Turning Points states that:

> "Clinic staff members make it clear from the very beginning that any information shared with them will not be shared with other adults, unless it indicates a student may take an action harmful to himself or herself, and then the student is informed first." (Turning Points p63).

- (Early 1990s - Federal Education Law) Under Title IV, Sec. 1018 CONTRACEPTIVE DEVICES of Goals 2000 it is stated that :

> "The Department of Health and Human Services and the Department of Education shall ensure that all federally funded programs which provide for the distribution of contraceptive devices to unemancipated minors develop procedures to encourage, to the extent practical, family participation in such programs. "

Please observe that there is nothing here about respecting parental values or wishes. The law only directs the school to try to bring the parent along with its viewpoint " as much as possible",

- In 1995 SB 2410 stated that any counselor could form a confidential relationship with a child (without parental consent) and the parent could be told nothing without the consent of the child. After initial amendment this bill allowed police and Health officials to be told. ONLY PARENTS were excluded from knowing what was going on with their child. Ostensibly intended to protect children in cases of sexual abuse, this broad bill was very similar to SB 2394 in that it virtually destroyed parental authority and the privileged relationship of parent and child. It was eventually modified to apply only in abused adult resource centers. When thus limited to the narrow case, it ceased to be a general problem for family integrity.

- In 1995 SB 2042 would have mandated and funded basic health services in schools (the 1995 school nurse bill proposed by the League of Women Voters). Michael Petit of the Child Welfare League, who served as the State paid consultant in preparation for the bill described the role of the school nurse as:

> "I think that relative to this question of teenage pregnancy there are really two things. One is not getting pregnant at first. I think that some of these kids, they need someone to talk to that can give the information about choices in their lives... So I think that a school nurse in my mind should emerge as a person that is used as a friendly source of information, both in terms of addressing sexuality of the individual kid, and also in addressing the subject of contraceptives. I've said the C word, and I'll say it again. At some point we have to recognize that there is a causal relationship between teenage pregnancy and teenage sex. *(laughter ripples through the room)*". League of Women Voters forum Bismarck, November, 1994, *transcribed from videotape*).

SB 2042 was amended to forbid dispensing contraceptives in the school. This caveat amendment was similar to the abortion caveat now in SB 2394. In a meeting of health and education officials (observed and recorded by a mother) they were laughing about how the nurse would circumvent this amendment by referring the students to District Health services for contraceptives.

In testimony before the Senate Health Committee then Senator Yokhim (sp?) asked one of the recorded attendees directly if they had stated their intention of referring. She lied.

The bill failed, but contraceptives are being dispensed to minors at District Health services without parental knowledge and consent.

- (Late 1990s and early 2000s) Opening of teen health clinics. Radio and television interviews constantly claim that "parents have to understand that we have a confidential relationship with the adolescent." In other words, the reproductive health, is severed from the parents and their guidance. The health provider is taking over.

- (Early 2000s) HIPPA is passed. Places walls of "privacy" within families - between parents and children and between spouses. Says that parents have know right to know what is going on.
- (2007) SB 2181 says parents not only have no right to know and guide. The children can contract on their own and send them the bill. Passes in the Senate, fails in the house.

- (2007-8) The Canadian Mounties pamphlet "Surviving Adolescence" is in most Bismarck clinic waiting rooms inviting teens to "take one." The pamphlet subtly undercuts parents by stressing their responsibility, but demeaning their competence and authority. The pamphlet tells teens, "the truth is, no one but you can decide when you are ready to begin having sex and with whom."

- (2009) SB 2394 resubmits the previous SB 2181.

Examples of the Consequences of Parental Marginalization

- At Park River High School in 1989, when two "guest speakers" (medical students) brought a life-size erect crystal model of a penis into the classroom and demonstrated the fitting of condoms for students. Parents were neither consulted nor notified. Guest speakers later justified their actions to outraged parents by stating that they had "stressed abstinence" (Walsh County Press, November 20, 1989).

- At Hazen High School in 1989, where a State Health Department speaker offered to help the students set up secret accounts to obtain contraceptives without parental knowledge. According to one student:

> The speaker went on to tell us where various health clinics in the state are, and that these clinics can help us to set up secret accounts so our parents will not find out if we should need treatment or supplies of any kind.... Then, pulling a silver dollar condom from his pocket ant treating sex as a toy, ... he threw the 'coin' (the joke condom) into our audience saying that it should be used soon because they don't keep forever." (Bismarck Tribune, March 21 1989).

- Parents of a high school girl directed a dermatologist who was treating their daughter for acne that they did not want their daughter to be given a contraceptive injection to use a drug treatment for acne. The physician acknowledge their objection as though it would be followed. When the daughter came home from treatment, she had been given the contraceptive injection against the express directions of the parents. If the injection was required by label, the physician should have resorted to a different treatment.

- In Fargo a school counselor referred a minor girl and her eighteen-year-old boyfriend to a reproductive clinic, without parental knowledge and consent. One year later, the girl was pregnant and the boy was charged with having sex with a minor. The parents were left with the mess. (Source is the attorney retained by the parents seeking legal regress).

- On March of 1996 all sixth-grade girls in J.T. Lambert School in Pocono, Pennsylvania were forced to "partially undress, bend and compromise and submit to a genital examination by medical staff in the school, without prior warning, without parental consent, and over the pleas of the girls to be excused and to call their parents.
" (World, August 17, 1996).

There have been plenty of examples of medical atrocities based on eugenics.

- An earlier example. In the 1930s some counties in southern states would forcibly remove children deemed to be "unintelligent" from their families, institutionalize them and forcibly sterilize them.

Some Rules of Thumb for Legislation

1. All authorities are imperfect. A global transfer of power from parents to another authority will only subject children to the imperfections of that new authority.

2. Legislation dealing with the parent-child relationship must be narrowly crafted to deal with the specific abusive case, so as not to restrict or disempower all parents and destroy the family.

3. Improvements can be made with narrowly crafted legislation. No legislation will solve all problems.

4. SB 2394 is not narrowly crafted. It is a marginalizing bill in the worst sense.

Questions for Legislators

Do you want to live in a society wherein other non parental parties who may not share your values, your knowledge of your children and their needs and personalities, and your comfort zone with respect to risk can interfere personally, psychologically, and medically with your children and grand children without your permission or guidance? Even if you personally are comfortable with SB 2394, what is the long-term ramification of this principle of allowed interference with respect to your right as a parent to guide your own children? And where might it lead in another case?

#8

North Dakota
FAMILY
ALLIANCE

A Trusted Voice

Tom D Freier
EXECUTIVE DIRECTOR

DEDICATED TO STRENGTHENING FAMILIES

Senate Human Services Committee
February 11, 2009
SB 2394

Madame Chair and members of the Senate Human Services Committee. I am Tom Freier, with the North Dakota Family Alliance, and am here in opposition to SB 2394.

The purpose of SB 2394 is to make available prenatal care to minors with out parental consent. The issue becomes very clear. Should a pregnant minor have the benefit of prenatal care? We agree. Should that care be made available without the notification and approval of the parent or legal guardian? We disagree.

We can have components, parental notification and approval, and prenatal care. We have that today. With the passage of this bill, the role of the parent will be transferred to the physician. The parent will remain financially responsible, but the authority will be transferred.

While the bill as is includes prenatal care, the key decision to be made is—is the greater good accomplished by removal and transferal of parental rights?

We would ask the committee to maintain the commitment to both parental rights and prenatal care for minors, by placing a Do Not Pass on SB 2394.

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2-16-09

2394

#9

Limited Physician Exemption from the Responsibility for Informing the Parent During Early-Term Care of Pregnant Minors

1. A physician or health care professional may provide care for a pregnant minor, including pregnancy testing and prenatal care, but excluding genetic testing, for up to 30 days from the time of first contact, and shall not be held legally responsible during that period for informing the parent of the minor. A physician or health care professional who elects to provide prenatal services for a minor, when the parent or legal guardian has not been informed, must encourage the minor to inform her parent or legal guardian, and must offer assistance, either directly or through associated or referred services and personnel, in informing the parent. Pursuant to the requirements of chapter 14-02.1, this section does not authorize the attending physician to perform an abortion, counsel in favor of an abortion, or to refer the minor, either directly or indirectly, for an abortion by another party.

2. Notwithstanding the exemption of responsibility for informing the parent specified in subsection 1, provision of treatment does not constitute the emancipation of the minor from parental guidance, nor is it intended to exclude or impair parents or legal guardians in the exercise of their responsibilities toward the pregnant minor. The parent(s) or legal guardian(s), upon becoming aware of the pregnancy, may exercise, at any time, their right and obligation to guide the child, including the right to be present at all examinations and treatments.

3. A physician or other health care professional who, pursuant to subsection 1, provides pregnancy care services to a minor must, either directly or through appropriate referred services, inform the parent or legal guardian of the minor of any pregnancy care services given or needed if, in the judgement of the physician or other health care professional:

a. Failure to inform the parent or guardian would seriously jeopardize the health of the minor or her unborn child.

b. Surgery or hospitalization is needed;

4. Care services described in subsections 1 and 2 may be continued without parental involvement and guidance beyond the specified time if:

a. the parent(s) or legal guardian(s), upon being informed of the pregnancy, indicate a desire to abdicate responsibility for the medical care of the minor through direct refusal to provide medical care, or through otherwise explicitly expressing a lack of interest in guiding and assisting the pregnant minor;

b. the parent(s) or legal guardian(s) cannot be located, or do not respond to reasonably diligent attempts to communicate with them, including at least one registered written request identifying in general terms that a matter concerning their daughter requires attention.

c. legal actions or social service interventions involving possible abuse or neglect are in process;

d. it is evident to the physician or health care professional that the parent(s) or legal guardians(s) are compelling the minor, against her will, to terminate the pregnancy; or

e. the pregnant minor has not been in active residence within the domicile of the parent(s) or legal guardian(s), or financially supported by the parent(s) or legal guardian(s) from a time predating the beginning of the pregnancy.

5. No woman under the care of a physician during labor and delivery, regardless of age, may be denied pain management deemed to be safe for both the mother and the child by the attending physician and standard medical practices.

#1

Sen. Karen Krebsbach

SB 2394
House Human Services Committee
March 4, 2009
1:30 p.m.

There are several instances for which we as legislators have included language in the ND Century Code authorizing minors to consent for health care services. Those services include the examination, care and treatment for alcoholism, drug abuse and sexually transmitted diseases, as well as emergency medical services. These are situations in which the public policy is to encourage young people to access medical services, rather than discourage them from seeking the appropriate help they need.

Senate Bill 2394 would recognize that this same kind of situation arises often with respect to a young person who finds herself pregnant and is not yet ready to involve her parents – that as a matter of public policy we ought to encourage that young person to seek appropriate prenatal care and other health care for her and her unborn child. If a minor patient asks for confidential services, physicians are ethically bound to encourage the minor to involve their parents. More clarity is needed, however, on the legal environment for physicians and other health professionals in working with young people who seek pregnancy-related health care services for themselves and their unborn children.

I introduced Senate Bill 2394 at the request of a number of health care organizations seeking this clarity, including the North Dakota Chapter of the American College of Obstetricians and Gynecologists, the North Dakota OB-GYN Society, the North Dakota Medical Association, and the North Dakota Healthcare Association representing hospitals. Senate Bill 2394 would authorize a minor to consent and contract for pregnancy testing, prenatal care and pain management related to pregnancy, but not abortion services which are covered by another law, as well as identify difficult situations in which the

physician or other health professional may inform the minor's parents or guardian even if the minor is not ready to involve them. I introduced a similar bill last session which passed the Senate almost unanimously but was defeated in the House. SB 2394 passed the Senate by a vote of 40-7.

Senate Bill 2394 strikes an appropriate balance – a balance that recognizes the need to encourage young people to seek the medical care they need for themselves and their unborn child, as well as to encourage them to involve their parents.

Thank you Representative Weisz and members of the Committee. There are representatives of various organizations here to describe more fully the rationale and scope of the bill, and answer questions you have.

#4

March 3, 2009

As Medical Director of the Firstchoice Clinic in Fargo I wish to convey my support for SB 2394. We are many times the first place that minors seek out for information regarding an unplanned pregnancy. We are dedicated to providing accurate compassionate medical care to those who seek our free medical services. The health consequences of the mother and her unborn child are our primary concern. We always strongly encourage the involvement of parents with minor patients and feel this legislation will allow us to reach more of these patients to work with and assist in making life affirming choices.

As the father of 9 daughters I understand the concern of parental notification, however the diagnosis of a pregnancy makes this an urgent time for them to receive early and accurate medical information to help them take proper care of themselves and their unborn child. While they may wish to seek out medical care- their medical provider is unable to provide it under the current law, potentially putting them and their unborn child at risk.

At the Firstchoice Clinic we provide free early pregnancy counseling, education, and support for our patients which is vital to helping these women who are facing the crisis of an unplanned pregnancy. Prior law already allows for minors to make health care decisions without the consent of the parent or guardian in life-threatening situations and for treatment of STD's and chemical dependency situations. My experience is that these unplanned pregnancies can rapidly become life-threatening for either mom or baby. Early and competent medical care will provide these patients an avenue for advice and followup that in many cases can be truly lifesaving.

We need to make decisions which are in the best interest of our patients and place their fears and concerns above our own. Our concern for both the pregnant mother and her unborn child demands our support of this legislation. I strongly urge you to support this legislation.

Dr Richard Vetter, MD, Medical Director Firstchoice Clinic- Fargo

#5

NDHA
North Dakota Healthcare Association

Vision
The North Dakota Healthcare Association will take an active leadership role in major healthcare issues.

Mission
The North Dakota Healthcare Association exists to advance the health status of persons served by the membership.

Same given to Senate

Testimony in Support of SB 2394
House Human Services Committee
March 4, 2009

Chairman Weisz, Members of House Human Services Committee. I am Arnold Thomas, President of the North Dakota Healthcare Association. I am here in support of SB 2394.

SB 2394 seeks to resolve a policy conflict. The conflict is real and has direct human consequences. Let me describe a situation in which the conflict is apparent.

You are a physician. A young women presents. She is a minor and thinks she is pregnant. At this time, she doesn't want her parents to know she is pregnant, but wishes medical care for herself and her unborn child.

Under current law, you may not exercise your medical skills on behalf of the health and well being of this mother and her child without parental consent. If this young mother does not wish this notification to occur, you must deny her access to your professional skills until the baby is born.

SB 2394 would resolve this policy conflict between parental notification and the health and well being of the pregnant mother and unborn child. SB 2394 would permit the physician, with the minor's consent, to treat the minor and her unborn.

Priority setting is never easy. At times there are no clear demarcations between competing principles and standards. This is one of those situations.

PO Box 7340 Bismarck, ND 58507-7340 Phone 701-224-9732 Fax 701-224-9529

SB 2394 says that when a pregnant minor presents for care and does not wish her parent(s) to be notified, the physician may treat in the best medical interest of the mother and unborn child.

SB 2394 does not absolve the physician from counseling and advocating for parental notification. SB 2394 states as a matter of policy, the health and well being of the pregnant minor and her unborn child prevails in those situations in which a pregnant minor does not wish parental notification to occur.

Chairman Weisz, members of the Committee, we respectfully ask your support for this most important policy statement.

North Dakota
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A Trusted Voice
Tom D Freier
EXECUTIVE DIRECTOR
DEDICATED TO STRENGTHENING FAMILIES

#6

House Human Services Committee
March 4th, 2009
SB 2394

Mr. Chairman and members of the House Human Services Committee, I am Tom Freier, with the North Dakota Family Alliance, and am here in opposition to SB 2394.

The purpose of SB 2394 is to make prenatal care to minors available with out parental consent. The issue becomes very clear. Should a pregnant minor have the benefit of prenatal care? We agree. Should that care be made available without the notification and approval of the parent or legal guardian? We disagree.

With the passage of this bill, the role of the parent will be relinquished and the minor will be able to offer the necessary consent to contract for the services. The minor will be able to self-emancipate. The parent will functionally remain financially responsible, but the notification and approval will be removed.

While the bill references pregnancy testing, prenatal care, and pain management, the key decision to be made is—should any or all of this be accomplished by the removal or transferal of parental notification and consent? We think not.

The relationship between parents and their children is paramount to a strong and healthy family. Most families deal with challenging issues which require the family to work together. Dealing with a teen pregnancy should be no different.

We should be promoting family unity. We should not be promoting the separation and division of the family, by removing the parents from this very important family matter.

Even though the bill's intended purpose may be for good, as it is written, it will do far greater harm than good.

We would ask the committee to maintain the commitment to the family, including both parents and their minor children, by placing a Do Not Pass on SB 2394.

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#7

Testimony Concerning SB 2394
House Human Services Committee

Chairman Weisz and members of the House Human Services Committee:

My name is Christina Rondeau, and I am a representative of the North Dakota Family Alliance. I am appearing before you today in opposition to SB 2394 as it is currently written.

As evidenced by the testimony given in support of this bill today, there are definitely some very real concerns that have led to the proposed bill before us. As a mother of two girls, and someone who is acquainted with many moms from several areas across our state, I can state with confidence that while the need for some kind of change in current law is necessary given the changes in our culture and the situation many young girls find themselves in, I, and many moms just like me, are concerned that SB 2394 simply goes too far.

Two of the most common concerns that seem to come up in conversations regarding this bill, are the need for legal protection for physicians when seeing a pregnant minor, especially for the first time, and also the need to have the ability to administer pain medication during labor for pregnant minors over objections the minor's parent may have, especially when those objections appear abusive in nature. I am certain these concerns are well-founded, and therefore I believe it is prudent and an appropriate expression of compassion to look at legislation that creates allowances for these specific situations. SB 2394, however, goes far beyond this, and attempts to emancipate all minors altogether during the situation of pregnancy.

My first concern with this bill is one of "access creating excess." Proponents of SB 2394 suggest we remove any requirements for parental consent in the case of pregnant minors, and rely instead on the ethics of medical professionals to encourage young girls to inform their parents as early as possible. This certainly sounds noble, but in actual practice, I am deeply concerned that when physicians or medical facilities are no longer required to involve the minor's parents at an early stage, it will become easier and easier to simply see the patient/client, without making any real efforts to help her inform or include her parent or guardian as soon as possible. We are all busy. To the extent that we're not required to do something, we often won't. Those things that are required take priority, and those that are not, get pushed aside.

My second primary concern in removing parental notification requirements is that of good prenatal care and overall prenatal health. The primary advocate for a girl's optimum health in any circumstance is naturally going to be her family. I am fully aware that there are situations that are far from ideal, and that some families will not only refuse to provide good support to a minor facing pregnancy, but in some cases, are also abusive. Certainly, laws can and should be

created to deal with those situations. And, while I know they occur to a greater extent than some of us like to admit, I also believe they are far from the norm. Because of this, those situations need to be treated like exceptions, without taking a blow at all families, where early parental involvement is going to result in optimum prenatal care and health. We all know that a young girl facing the pressures and uncertainties of a pregnancy is hardly prepared to be her own best judge when it comes to her physical care and needs. In addition, her age places her at high risk for simply not following through with good prenatal care at home, school, or during extracurricular activities. Early parental involvement is vital to promoting optimal health and care of a pregnant minor. Allowing a girl to receive her first prenatal visit would not only put doctors at ease in confirming her pregnancy, but also allow the medical staff an opportunity to assess whether or not there is a real concern for abuse when the parents are informed. If so, they can direct her to the appropriate places for help. If not, they can provide advice and even assistance in telling the minor's parents, if she wants assistance. In either case, allowing this first visit also gives those medical professionals the opportunity to provide necessary educational information, as well as impress on her the urgency of informing the parents as soon as possible. This, I believe, would provide the best route to optimal prenatal care for a pregnant minor. Also, I mentioned earlier, creating an exception that allows doctors to administer pain medication during labor is something that few conscientious parents would object to. I can't think of any situation where, if the parents object for the right reasons, such an allergic reaction, that the doctor would not also agree. No one agrees with the right of parents to withhold consent for pain medication for reasons that appear simply abusive.

In closing, I would just like to remind us all, that the rights of parenthood come with a high price-tag of responsibility. It is hardly fair to either the parents within our state, most of whom are doing as good a job as you or I could expect, or our youth, to continue unchecked down this path of separating those rights and responsibilities. It is both the right and the responsibility of parents to fight for their child's childhood. However, once a young girl becomes pregnant, it is not just the right, but also the responsibility, of her parents to see that she gets the best possible care she can. And most will, once they know she is pregnant.

This change in our law should be approached with a balance between doing what is necessary for girls who are in real need of outside intervention, and doing what is right by the vast majority of North Dakota's families.

ISIDE #8

TESTIMONY ON SB 2394

William Schuh, 3/4/09

Honorable Members of the House Health and Human Services Committee

Please Vote Do Not Pass on SB2394

SB 2394 is a poorly written and reasoned bill. Contrary to claims, it has not been changed from the previous session's SB2181 in any substantial way. **The core problem is that the entire power structure of the bill consists of enabling in law the self-emancipation of an irresponsible minor from her parents. While the purpose is to serve the few minors with abdicating parents, the law emancipates ALL minors, and marginalizes ALL parents.**

- SB 2394 places in law a statement that she can contract for services, an adult right. Because her parents are still RESPONSIBLE for her, she will, in effect, be contracting for her parents. They will get the bill.

- It states in law that no one has to tell parents- the legal guardians who are responsible for the child, anything. This utterly destroys the meaning of guardianship. How can one be responsible and appropriately guide and protect and know nothing.

- It states in law that a minor can lie to and deceive parents with collusion of medical authorities.

- The language of the law demeans parents, and it will become the new standard. Counselors will tell pregnant minors that they do not need to inform their parents, and this will be the new norm. The medical profession has already done this with contraceptives, without parental knowledge and consent.

- The statements of some testimonies that this is an issue of "parent's rights vs. the rights of the child", as though they were separate, is naive and inappropriate. Except where there is abuse and neglect, the minor has a right to be guided BY the parent. Parents are the ones who bear the child, raise the child, and protect the child out of a natural love. It is the parent who must often force the child BEYOND what they are comfortable with in assisting them to grow up as responsible adults. The parent is the base of love and protection, but the parent also wears the black hat. They are the source of discipline, but also of support.

- The proponents have over-stressed the "comfort" of the child. A minor pregnancy is not about comfort. Of course the girls are uncomfortable. They have done what they were told not to do. Of course facing their parents is difficult. But only when they do so can they, and their family whom they need more than ever, adjust and deal with the problem as families are built to do - as a unit. This bill inappropriately treats what is really a family problem, of the highest order, as a private medical problem. Such a narrow view of the child is dangerous. One suspects also that this bill is addressing the comfort level of the physician at the expense of the parent.

- The abortion disclaimer is inadequate. Because of the power structure of the bill, the abortion disclaimer, referenced to chapter 14-02.1, is insufficient to protect against abortion. Should 14-02.1 be repealed, or nullified by federal legislation, the shunt around parents created by this bill would become a straight rail to abortions, without parents even having sufficient knowledge to discourage their daughters. Parents would never even know what had happened.

SB 2181, in its current language, constitutes another LARGE encroachment of the medical profession into a realm of authority that belongs to parents.

- The language of subsection 3 illustrates the absurd extent of measures proposed by this bill to place the minor in an inappropriate role of authority at the expense, even of the physician, and to place both the physician and the child over the parent. Conditions (a) and (b) specify that the physician MAY inform the parent AFTER discussing with the minor the reason for informing the parent if: "failure to inform the parent or guardian would seriously jeopardize the health of the minor or her unborn child; or that surgery or hospitalization is needed.". MAY tell the parent IF failure to do so would seriously jeopardize the child? If the child is jeopardy without parental knowledge, isn't this a MUST? And while a physician might logically discuss with the child the reasons for treatments, why would we place in law that a MINOR MUST BE CONSULTED BY THE PHYSICIAN. Again, we are emancipating an irresponsible minor, even over the physician.

- Regarding pain control, each year proponents come back with the same complaint of their inability to administer pain control in a few cases, and present to the committees a highly emotional petition based on the pain of childbirth. We don't understand why this has not been already taken off the table. This problem is very limited and has nothing to do with the objectionable power structures of this bill. It does not require the self-emancipation of the minor, nor need it even directly address the issue of minority. Simply state in law that:

"Any woman, regardless of age, who is delivering a baby with the assistance of a physician or other qualified health care professional, cannot be denied pain control treatments deemed by the attending physician or health care professional and by standard and accepted medical practices to be safe for both the mother and the child."

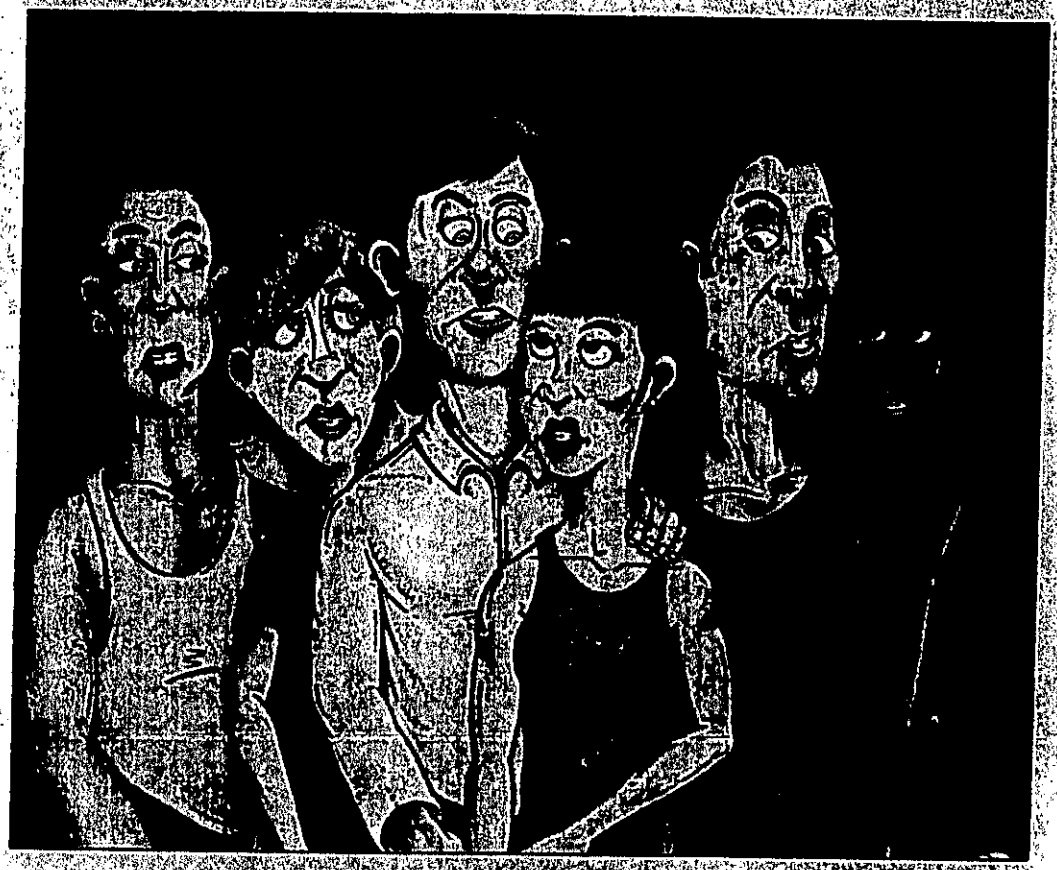
No one has a problem with this.

Do pregnant minors have the right to medical care? Of course they do. But that does not include the right to deconstruct the social order or the family. I have a right to fire protection for my home. But that right does not include the right to burn down your house to achieve it. This bill burns down the village. It attacks the very roots of parental authority and the roots of family integrity. We must find a way to provide additional flexibility without allowing minors to self-emancipate from their parents at a whim, and without placing in law a right for them to lie to their parents and deceive them. This is the issue. Contrary to their claims the proponents of this bill have made no significant changes at all in this ONE KEY ISSUE. Its the same old bill and the same old enormous problem.

they have been exposed and could be infected. Therefore, although they may not necessarily infect every sexual partner they are in contact with, it is possible they are continuing to unknowingly spread the disease to unsuspecting people like Kathy, who may well be the next victim in the chain.

Remember, even if you only physically have sex with one partner, you are taking the same chances as if you have sex with every other person they have ever had sex with.

WHAT SHOULD I DO?



If you were expecting some clear-cut answers here, you're going to be disappointed. The truth is no one but you can decide when you are ready to begin having sex and with whom. One thing is for certain, there are a lot of risks involved in letting your hormones do the thinking for you. Remember: the choices you make now can affect the rest of your life. Do not let anyone pressure you into doing something you are not comfortable with or are unsure about, and don't let anyone make you feel that taking precautions is stupid or unnecessary. Don't even consider a partner who won't practice safer sex, but don't forget that safer sex is still not safe sex!

Your family, your friends, your boyfriend or girlfriend, etc. probably all have their own ideas and thoughts on the subject and you'll probably consider all of their opinions while you are deciding. You may also have religious beliefs to consider. These will have an influence on your decision.