Exhibit No. 10
Date 2-2-05
SB 330

CONFIDENTIALITY PROVISIONS IN THE TITLE X FAMILY PLANNING PROGRAM SHOULD NOT BE UNDERMINED

Under Title X, all patients, regardless of age, are guaranteed confidentiality.[24] Although the law requires Title X clinics to encourage family participation in young people's reproductive health decisions,[25] family involvement may not be mandated. When the U.S. Department of Health and Human Services proposed the so-called "squeal rule" in 1982 requiring Title X clinics to notify parents when prescribing contraceptives to minors, most states opposed the rule.[26] Citing legislative intent and the clear statutory language encouraging – not mandating – parental involvement, two federal courts of appeal in 1983 prohibited enforcement of the new policy.[27]

Title X clinics have served as an invaluable source of confidential services for young people. In fact, 30 percent of those receiving contraceptive services from publicly funded family planning providers are under 20 years old.[28] Any attempt to eradicate Title X's guarantee of confidentiality will dramatically affect teens, while drastically modifying the current framework and intruding upon individual states' confidentiality protections.

MEDICAL EXPERTS DO NOT SUPPORT MANDATORY PARENTAL INVOLVEMENT

– Footnotes attached.

The United States medical community has reached a remarkable consensus that reproductive health and contraceptive services should be available to adolescents on a confidential basis. Major health organizations, including the American College of Obstetricians and Gynecologists, the American Academy of Pediatrics, the American Medical Association, the American Medical Women's Association, the American Nurses Association, the American Public Health Association, and the Society for Adolescent Medicine, agree that although health professionals should support "efforts to encourage family involvement in adolescent health care . . . the potential health risks to adolescents if they are unable to obtain certain health services are so compelling that lack of confidentiality can actually jeopardize adolescent health care."[29] The following health organizations have issued the statements below:

- The American Medical Association (AMA) maintains that "physicians should permit a competent minor to consent to medical care and should not notify parents without the patient's consent" unless the law requires otherwise.[30] Moreover, the AMA "oppose[s] regulations that require parental notification when prescription contraceptives are provided to minors through federally funded programs, since they create a breach of confidentiality in the physician-patient relationship."[31]

- The American College of Obstetricians and Gynecologists states, "The potential health risks to adolescents if they are unable to obtain reproductive health services are so compelling that legal barriers and deference to parental involvement should not stand in the way of needed health care for patients who request confidentiality. Therefore, laws and

regulations that are unduly restrictive of adolescents' confidential access to reproductive health care should be revised."[32]

Focus on contraception (not as covered in testimony)

- The American Public Health Association urges "that contraceptive services be made available to minors in a confidential, nonjudgmental atmosphere, and that efforts be made to clarify or change laws regarding parental consent in those states where the legality of providing such services is now in doubt . . . and strongly opposes policies requiring parental consent or notification as a qualification of minors for initial or continued receipt of prescription contraceptives."[33]

- The American Academy of Pediatrics states, "There is no evidence that refusal to provide contraception to an adolescent results in abstinence or postponement of sexual activity. In fact, if adolescents perceive obstacles to obtaining contraception and condoms, they are more likely to have negative outcomes to sexual activity. In addition, no evidence exists that provision of information to adolescents about contraception results in increased rates of sexual activity, earlier age of first intercourse, or a greater number of partners."[34]

- The American Academy of Family Physicians (AAFP) states, "The physician should offer the adolescent an opportunity for examination and counseling separate from parents/guardians, and their privacy should be respected." Recognizing the importance of confidential access to family planning services, the AAFP concludes that mandatory parental involvement "may discourage adolescents from seeking necessary medical care and counseling, and may create barriers to open communication between patient and physician. Protection of confidentiality is needed to appropriately address issues such as depression, suicide, substance abuse, domestic violence, unintended pregnancy and sexual orientation."[35]

CONCLUSION

Although young people should be encouraged to seek parental advice when making reproductive health care decisions, evidence shows that laws restricting access to confidential services could have serious negative health effects on adolescent health. Many young people delay or avoid seeking family planning care and treatment of sexually transmitted diseases if they are required to notify their parents or obtain parental consent beforehand. Unimpeded access to confidential reproductive health services remains critical in addressing and treating the reproductive health needs of America's youth.

May 11, 2004

Notes:

1. 42 U.S.C.A. § 300 (WESTLAW through P.L 108-134).

2. *Carey v. Population Servs. Int'l*, 431 U.S. 678, 687, 694 (1977).

3. Diane M. Reddy et al., *Effect of Mandatory Parental Notification on Adolescent Girls' Use of Sexual Health Care Services*, 288 JAMA 710, 712-713 (2002).

4. Thera M. Maehan et al., *The Impact of Parental Consent on the HIV Testing of Minors*, 87 AM. J. PUB. HEALTH 1338, 1340 (1997); Update, *Letting Minors Consent to HIV Tests*, 30 FAM. PLAN. PERSP. 2 (1998).

5. D. Hollander, *Some Teenagers Say They Might Not Seek Health Care If They Could Not Be Assured of Confidentiality*, 25 FAM. PLAN. PERSP. 187 (1993), *citing* T.L. Cheng et al., *Confidentiality in Health Care: A Survey of Knowledge, Perceptions, and Attitudes Among High School Students*, 269 JAMA 1404-07 (1993).

6. American Academy of Pediatrics (AAP), "Confidentiality in Adolescent Health Care (RE9151)," Policy Statement (April 1989). This statement was approved as policy by: the American Academy of Family Physicians (AAFP), the American College of Obstetricians and Gynecologists (ACOG), NAACOG—The Organization for Obstetric, Gynecologic, and Neonatal Nurses, and the National Medical Associations.

7. ALAN GUTTMACHER INSTITUTE (AGI), U.S. TEENAGE PREGNANCY STATISTICS: OVERALL TRENDS, TRENDS BY RACE AND ETHNICITY AND STATE-BY-STATE INFORMATION 11 (2004).

8. AGI, *Teen Sex and Pregnancy*, FACTS IN BRIEF, 1999.

9. THE HENRY J. KAISER FAMILY FOUND. (KFF), MTV & TEEN PEOPLE, WHAT TEENS DON'T KNOW ABOUT STDS PUTS THEM AT RISK 2 (1999), *available at* http://www.kff.org/youthhivstds/loader.cfm?url=/commonspot/security/getfile.cfm&PageID=14696.

10. AMERICAN SOCIAL HEALTH ASSOC., SEXUALLY TRANSMITTED DISEASES IN AMERICA: HOW MANY CASES AND AT WHAT COST? 8 (1998), *available at* http://www.kff.org/womenshealth/1445-std_rep.cfm.

11. Fact Sheet, KFF, Sexually Transmitted Diseases in the U.S. (2003).

12. Stephanie J. Ventura & Sally C. Curtin, *Recent trends in teen births in the United States*, STAT. BULL. – METROPOLITAN LIFE INS. COMPANY, Jan. 1, 1999, at 1.

13. THE ANNIE E. CASEY FOUND., KIDS COUNT INDICATOR BRIEF: PREVENTING TEEN BIRTHS 2 (2003).

14. Namkee Ahn, *Teenage Childbearing and High School Completion: Accounting for Individual Heterogeneity*, 26 FAM. PLAN. PERSP. 17, 18 (1994).

15. AGI, *supra* note 8.

16. NAT'L RES. COUNCIL, RISKING THE FUTURE 130 (1987).

17. ROBIN HOOD FOUND., KIDS HAVING KIDS: A ROBIN HOOD FOUNDATION SPECIAL REPORT ON THE COSTS OF ADOLESCENT CHILDBEARING 9 (Rebecca A. Maynard ed. 1996).

18. Cynthia Dailard, *New Medical Records Privacy Rule: The Interface with Teen Access to Confidential Care*, GUTTMACHER REP. ON PUB. POL'Y, Mar. 2003, at 6; State Policies in Brief, AGI, Minors Access to STD Services (2003).

19. Cynthia Dailard, *New Medical Records Privacy Rule: The Interface with Teen Access to Confidential Care*, GUTTMACHER REP. ON PUB. POL'Y, Mar. 2003, at 6; State Policies in Brief, AGI, Minors Access to Contraceptive Services (2003).

20. 431 U.S. at 694.

21. PATRICIA DONOVAN, AGI, OUR DAUGHTERS' DECISIONS: THE CONFLICT IN STATE LAW ON ABORTION AND OTHER ISSUES 7 (1992). *See Younts v. St. Francis Hospital and School of Nursing, Inc.*, 469 P.2d 330, 337-38 (Kan. 1970) (recognizing the "mature minor" exception to the general rule requiring parental consent for surgery on a minor); *Cardwell v. Bechtol*, 724 S.W.2d 739, 749 (Tenn. 1987) (holding "that the mature minor exception is part of the common law of Tennessee" and "[i]ts application is a question of fact for the jury to determine whether the minor has the capacity to consent to and appreciate the nature, the risks, and the consequences of the medical treatment involved").

22. *Planned Parenthood Affiliates of California v. Van De Kamp*, 181 Cal. App. 3d 245, 268-69 (Ct. App. 1986).

23. *Planned Parenthood Association of Utah v. Matheson*, 582 F. Supp. 1001, 1009 (D. Utah 1983).

24. 42 C.F.R. § 59.11 (WESTLAW through Dec. 16, 2003).

25. 42 U.S.C.A. § 300 (WESTLAW through P.L.-108-134).

26. AGI, *The Debate Goes On . . . Should Government 'Squeal' On Teens Seeking Contraception?* ISSUES IN BRIEF, Mar. 1984, at 1,2.

27. *Planned Parenthood Federation of America, Inc. v. Heckler*, 712 F.2d 650 (D.C. Cir. 1983); *State of New York v. Heckler*, 719 F.2d 1191 (2d Cir. 1983).

28. Jennifer J. Frost & Michele Bolzan, *The Provision of Public-Sector Services By Family Planning Agencies in 1995*, 29 FAM. PLAN. PERSP. 8 (1997).

29. *See, e.g.*, Letter from American Academy of Pediatrics et al., to House and Senate Members on Tiahrt Amendment (June 7, 2001) (on file with NARAL Pro-Choice America), *available at* http://www.apa.org/ppo/ppan/sltr2congtiahrt.html.

30. American Medical Association (AMA), "Confidential Care for Minors," Ethical Opinion 5.055, *Code of Medical Ethics* (last updated July 17, 2002).

31. House of Delegates, AMA, "Opposition to HHS Regulations on Contraceptive Services for Minors," HOD Policy 75.998, *Policy Compendium* (1998).

32. ACOG, "Policies and Materials on Adolescent Health of the American College of Obstetricians and Gynecologists," *Adolescent Health Care Page, available at* http://www.acog.org/from_home/departments/printerFriendly.cfm?recno=7&bulletin=127.

33. American Public Health Association, "8224: Parental Notification of Prescription Contraceptives for Teenagers," *APHA Public Policy Statements* (1982).

34. AAP, "Contraception and Adolescents (RE9841)," Policy Statement, vol. 104, no. 5 (Nov. 1999), 1161-66.

35. AAFP, "Adolescent Health Care," *AAFP Policies on Health Issues* (2000).