

# The Legal System: Laws that Promote the Health of Children and Youth in and Aging Out of Foster Care

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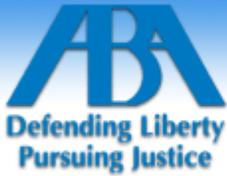
ABA Center on Children and the Law

# Significant Health Care Needs

- Many children/youth enter care with complex health care needs
- Many have acute illnesses or compromised systems from their abuse or neglect
- Significant % of children in care do not receive basic health care
  - Nearly 90% of children entering foster care have physical health problems
  - Over 50% have two or more chronic conditions
  - One-third have dental and oral health problems
  - High behavioral health needs
- Addressing children's health needs is integral part of well-being
- Comprehensive and coordinated health care is critical to well-being and long-term outcomes

# Medicaid/EPSTD

- Nearly all children in foster care categorically eligible for Medicaid
- All children under age 21 enrolled in Medicaid are entitled to Early Periodic Screening Diagnosis and Treatment (EPSTD) services
- Services include:
  - Immunizations
  - Hearing
  - Dental
  - Vision
  - Lead exposure screening
  - Physical health care
  - Mental health care



# Federal Statutory Requirements

- **Fostering Connections to Success and Increasing Adoptions Act of 2008**
  - To ensure children in foster care receive high-quality, coordinated health care services, including appropriate oversight of prescription medications
- **Child and Family Services Improvement and Innovations Act of 2011**
  - State plans must outline protocols for appropriate use and monitoring of psychotropic medications and how state will address trauma associated with abuse and neglect
- **Patient Protection and Affordable Care Act of 2010**

# Fostering Connections

## Health Oversight & Coordination Plans

- States must develop plan for ongoing oversight and coordination of health care services, including mental health and dental health
- In coordination with State Medicaid agency and in consultation with pediatric experts
- Must describe how:
  - Initial and follow-up health screening will be provided
  - Identified health needs will be monitored and treated
  - Medical information will be updated and appropriately shared
- Must also detail:
  - Steps that are or will be taken to ensure continuity of health care services, including possibility of establishing a medical home for every child in care
  - What will be done to ensure oversight of prescription medications including psychotropic drugs

# Medical Homes for Children in Foster Care

- Due to changes in placement and other factors, children in care less likely to receive on-going care by same provider
- Contact with single health provider crucial for this population
- Harmful experiences of children in care can negatively impact health and well-being
- Knowledgeable medical home provider can:
  - Detect subtle changes in child over time
  - Support and educate foster parents as primary therapeutic intervention
- AAP recommends enhanced preventative health care schedule

# Medical Homes for Children in Foster Care

- AAP recommendations re: “critical child welfare junctures”
  - System entry
  - Placement transitions
  - Significant changes in home environment
  - When significant issues around visitation arise
  - When concerns about potential abuse or neglect arise
  - Deterioration in child behavior or developmental skills
  - Deterioration in health
  - System exit

# Medical Homes for Children in Foster Care: What Judges and Advocates Can Do

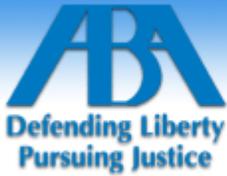
- Require a medical home
- Help each child access a dental home
- Ask at each hearing when a child's last medical appointment was and when next one is scheduled
- Require additional appointments as recommended by AAP
- Ask social worker to obtain health update after each visit and meaningfully incorporate information into case plan
- Ensure all current and potential caregivers know doctor's name and number

# Affordable Care Act

- Including information about health care in transition plans
  - Youth who age out of care are less likely to report having health insurance or seeing a health/dental care provider within past year
- Extending coverage for former foster youth to age 26
- Expanding Medicaid and CHIP
- Promoting oral health
- Funding Home Visitation programs
- Promoting health homes (medical homes)
- Requiring power of attorney/health care proxy

# Judges and Attorneys

- Must have knowledge of:
  - health and development issues
  - relevant federal and state laws and regulations
  - critical issues and red flags
- Promote best practices
  - Resource Guidelines
  - ABA Standards of Practice for Attorneys
- Accountability for child welfare outcomes
  - CFSRs
  - Court performance measurement



# Medical-Legal Partnerships

- ABA policy “encourages lawyers, law firms, legal services agencies, law schools and bar associations to develop medical-legal partnerships with hospitals, community-based health care providers, and social service organizations to help identify and resolve diverse legal issues that affect patients’ health and well-being”
- Address the social determinants of health that create hardships for vulnerable populations through the integration of free legal services in the healthcare setting
- Currently serve patients at nearly 200 hospitals and health centers nationwide



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