

## A Lawyer's Role: Ensuring the Health of Children and Youth in Foster Care

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Too often, legal professionals only come into contact with children and youth when they are involved in some type of court action—whether before a judge in dependency cases, for delinquency or status offenses, or in domestic relations proceedings (such as custody, visitation, child support, and domestic violence). Judges and lawyers are trained to identify legal, rather than medical, issues. They need to focus, however, on the health and well-being of their clients when safety considerations require that a child be removed from his or her home and placed in foster care.

Many children and youth enter foster care with complex health care needs—many have acute illnesses or compromised systems

from their abuse or neglect. Nearly 90 percent of children entering foster care have physical health problems, while over 50 percent have two or more chronic conditions (Leslie et al. 2005). One-third has dental and oral health problems (AAP 2013). Many have high behavioral health needs, often leading to inappropriate or excessive use of psychotropic medications. Addressing children's health needs is an integral part of well-being, and comprehensive and coordinated health care is critical to well-being and positive long-term outcomes for children in care.

To promote healthy outcomes for court-involved children and youth, the American Bar Association Center on Children and the Law works with other disciplines to distill and dissem-

### LAWS PROMOTING HEALTH AND WELL-BEING

Attorneys can find support in several federal laws and programs for their efforts to address the health needs of their child and adolescent clients:

- **The Adoption and Safe Families Act** made states accountable for providing services to address the safety, permanency, and well-being of children and families. For the first time, states were required to ensure that:
  - families have enhanced capacity to provide for their children's needs,
  - children receive appropriate services to meet their educational needs, and
  - children receive adequate services to meet their physical and mental health needs.
- **The Fostering Connections to Success and Increasing Adoptions Act** addresses many issues that promote permanency and affect the health and well-being of children and youth in foster care, including:
  - increasing resources that help birth families stay together or reunite;
  - helping students stay in the same school or promptly transfer when they enter care;
  - making it easier for relatives to care for children; and
  - requiring states to develop plans to coordinate and oversee health services for children in foster care, in consultation with health care and child welfare experts.
- Each state's plan must include a coordinated strategy to identify and respond to children's health care needs, including mental and dental health.
- **The Child and Family Services Improvement and Innovation Act** requires states to account for the oversight and coordination of health care services for any child in foster care, including monitoring and treatment of emotional trauma associated with a child's maltreatment and removal from home, as well as protocols for the appropriate use and monitoring of psychotropic medications.
- **The Patient Protection and Affordable Care Act** includes provisions that specifically apply to children and youth in foster care or at risk of entering care. Most significant is the expansion of Medicaid coverage for youth who age out of foster care—states are now required to make "former foster care children" eligible for Medicaid until they turn 26, provided that they turned 18 while in care or aged out of care and were receiving Medicaid at the time they exited care. In addition, child welfare agencies must now include several health-related issues in transition plans for youth aging out of foster care, including information about health insurance options and the importance of designating a health care power of attorney or health care proxy.

inate the health information legal professionals need to know. Many opportunities exist for lawyers who serve children and their families to maintain a multidisciplinary approach to policy and practice issues related to health and well-being. Through their advocacy efforts, attorneys can significantly influence the achievement of positive well-being outcomes for court-involved youth, as well as reductions in disparities and barriers that limit their access to quality, comprehensive health care such as mental health and dental care.

## HOW LAWYERS CAN MAKE A DIFFERENCE

While federal and state laws govern how child welfare cases are handled within each state, attorneys can focus their attention on each individual child client and his or her health needs. Each case is unique, but certain general policy and practice approaches can improve child health and well-being outcomes.

- **Medical Homes for Children in Foster Care:** Continuity of care through a medical home promotes better outcomes for children, and attorneys can advocate for its many benefits, including increased immunization rates, fewer emergency department visits, decreased hospitalization, and improved perceptions of quality of care. Foster care medical homes can maintain a detailed health record for a child who may move among placements or even in and out of the system, develop care plans for children with special health care needs, assume responsibility for care coordination, and exchange health information with child welfare agencies at regular intervals.
- **Quality, Evidence-Based Interventions and Services:** Attorneys can ask critical questions about service effectiveness, both for the child and his or her parents. Based on validated screenings and assessments, attorneys can advocate for appropriate services to meet the child's specific health needs. Likewise, if parents are not receiving appropriate, quality services that address the circumstances that brought the child into the system, then the agency is not fulfilling its responsibility to make reasonable efforts to achieve the permanency goal, especially when that goal is to reunify the family.
- **Psychotropic Medication:** Multiple studies have found children in foster care to be vulnerable to excessive or inappropriate use of psychotropic medication. When advocating for the best interests of their child clients, attorneys should ask important questions to ensure that any medication is appropriately prescribed. These include whether other evidence-based therapies have been tried, who is monitoring the medication, what side effects are possible, and whether the child agrees with taking this medication.
- **Pregnant and Parenting Teens:** Teen girls in foster care become pregnant at a higher rate than teens in the general population. One-third of girls in foster care are pregnant by age 17 or 18, compared to just 14 percent of their general population peers (Courtney et al. 2011). In some cases, a teen's pregnancy may cause placement changes or disruptions that negatively affect both the teen mother and her child. Advocates for such young mothers need to ensure

the health needs of both mother and child are addressed.

- **Children with Disabilities:** Children with disabilities have special needs that must be addressed during their child welfare cases, and attorneys can use advocacy strategies that protect them and enhance their participation in court.
- **Trauma-Informed Legal Advocacy:** Children in care are more likely to have been exposed to multiple forms of traumatic experiences and may be subject to further stresses upon entering the system. Multiple encounters with trauma and stress can have significant consequences for the physical, emotional, and social well-being of children in care. Attorneys can ensure their interactions with clients are trauma-informed and advocate for use of trauma-focused screening, functional assessments, and evidence-based practices to support the child's resiliency and well-being.
- **Medical-Legal Partnerships:** Lawyers and doctors can work together to address families' legal and medical problems. Medical-Legal Partnerships (MLPs) help families address issues such as landlord-tenant problems or loss of public benefits that may have a direct impact on a child's health, such as mold removal from an apartment to prevent recurrent asthma flares. By ensuring that a family's basic needs are met, MLPs increase children's chances for positive health outcomes and may prevent the need for foster care placement.

## CONCLUSION

It is only through knowledge of available resources and partnership with other disciplines that legal professionals can fully understand the health-related issues they need to address on behalf of their child clients. With increased in-court attention to the health needs of children and youth in foster care, well-being outcomes for such children can significantly improve.

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## SOURCES

American Academy of Pediatrics (AAP), "Dental and Oral Health," <[http://www.aap.org/fostercare/dental\\_health.html](http://www.aap.org/fostercare/dental_health.html)>, accessed November 2013.

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