

## Parental Rights

CMDA affirms that children at all stages of development are precious human beings bearing the image of God. Children are loved by God, belong to their families, and share in their communities. The family is the normal environment wherein children are to be cherished, protected, and prepared to take on adult responsibilities. Families are prior to the state, which has the obligation to protect children and the family structure. As the family is foundational to a well-functioning society, mothers and fathers both have the responsibility to rear their children. Parental rights are an extension of parental responsibility. Parents' claim to authority over their children, while basic, is not unlimited. The state also has a legitimate, though limited, interest in the welfare of minor children as well as in public health, for which reason laws and policies have been established to balance these interests with parental rights.

CMDA members, as healthcare professionals, have important roles in caring for children and families by providing medical and dental care as well as education regarding health issues. Healthcare professionals caring for children are ethically obligated to honor parents' wishes regarding medical treatment decisions, except in certain situations when there is clear evidence that doing so would risk imminent harm. In duly considering the best interests of the child and family, prevention of harm to children should be the primary guiding principle. This guidance is based on the following parameters:

### The Parent-Child Relationship before God

1. The parent-child relationship is established by God.
  - A. Parental responsibilities assigned by the Creator include nurturing, disciplining, teaching the child correct behavior, and imparting a knowledge of and respect for the Creator (Deut 4:9, Deut 6:6-7, Pr 23:15, Pr 29:15, Ps 78:5-6). The rights of parents to make decisions for their minor children are derived from these God-given responsibilities.
  - B. Parents are responsible for making decisions on behalf of minors, because the young have neither the developmental capacity nor the life experiences to make wise decisions (Pr 22:15, 1Cor 13:11).
2. All human beings are created in God's image (Gen 1:27), thus both parent and child have equal value in God's eyes.
  - A. A child is a gift from God to parents (Pr 17:6, Ps 127:3-5, Ps 128:3).
  - B. A child is a person from conception, not a product or extension of a parent, nor the property of the state (Ps 139:13, Jer 1:5).
  - C. Although having children is a scripturally supported good and a mandate for humanity (Gen 1:28, 9:7), no person may presume to have an unassailable right to become or continue to be a parent on his or her own terms (Gen 16:1-12, 30:1-2).
3. Parental rights do not extend to actions that do not benefit but cause harm to their children (Jer 7:31, Jer 19:5).

## **Parental Rights and the State (government at all levels)**

1. God, who established the family, has also established government to protect the innocent (Rom 13:1,4). Both of these human institutions—the family and the state—are humanly imperfect and degraded by the Fall and thus should be subject to checks and balances.
  - A. Scripture assigns primary responsibility, including the right to make decisions for minor children, to parents (see references in 1A and 1B above). The United States Supreme Court has generally upheld the right of parents to make decisions for their minor children (Appendix). Parents should have the freedom of conscience to rear their children with the beliefs they hold true.
  - B. Regrettably, not all parents act in their children's best interests, and when children are at immediate risk of harm, it is sometimes necessary for the state to overrule parental authority or, in cases of great harm or potential death, physically remove children from their parental home. The state may also mandate actions it considers necessary for the general welfare, ignoring parental objections. State action in these cases is legitimate, provided that its authority is not abused (see CMDA statement on Immunization).
  - C. Although the state has the duty to prevent harm, historically governing authorities have at times been the cause of harm to children. Examples include, but are not limited to:
    - i. Scripture documents the persecution of believers, even children, because of their faith in God (Ex 1:22, Matt 2:16, Acts 16:16-24).
    - ii. The first victims of the 20th century Nazi Holocaust were physically and mentally disabled children, who were euthanized in the mistaken belief that their elimination would improve the genetic "hygiene" of the public.
    - iii. Rogue states have deployed chemical weapons, including nerve agents, against their own people, including children.
    - iv. Government forces in some countries turn a blind eye to or, in some instances, perpetrate child trafficking, including recruitment of child soldiers, forced labor, and commercial sexual exploitation.
    - v. Courts have ruled against parents who opposed their minor children's desire to receive puberty-blocking drugs or undergo sex change surgery or removed from the home children whose parents homeschooled them, on the mistaken logic that "misgendering" children by denying them access to specific medical procedures or providing religious instruction in the home constitutes child abuse.
    - vi. Governments have subjected families to mandated abortions.
    - vii. Governments have supported, tacitly or explicitly, or by funding, research that creates and destroys children at the embryonic stage of development.

At such times, healthcare professionals share in the obligation to protect the vulnerable, draw public attention to these harms, and articulate reasons why those responsible should be held accountable.

- D. The state determines the age at which a person is no longer considered a minor and, therefore, has the right to make medical decisions independently of his or her parents. Emancipated minor laws alter this age on a case-by-case basis, setting aside parental

authority for those minors considered “emancipated.” These “emancipated minors” may still be in need of adult guidance.

## **Recommendations**

1. Healthcare professionals caring for children should begin with the assumption that a child's parents (whether biologic, adoptive, or legally appointed guardians) are concerned about the child's welfare and intend to make decisions that are in the best interest of the child.
2. When parents disagree with medical recommendations and the child's welfare is not at immediate risk, healthcare professionals should continue to provide compassionate care and work with the parents in ongoing mutual dialogue in the prayerful hope that they will come to trust the professional's recommendation.
3. When parents disagree with medical recommendations and the child's welfare is at immediate risk, healthcare professionals should, when necessary, intervene with assistance from the state on behalf of the child. Parental rights, as understood both scripturally and legally, do not extend to causing harm to a child from abuse or neglect or the refusal of life-saving or health-preserving care (see CMDA statement on Limits to Parental Authority in Medical Decision-Making).
4. It is appropriate that the minor patient be allowed to participate in medical decision-making to the extent that he or she has the capacity to understand the nature and rationale of treatment. Assent to treatment should always be sought for adolescents and mature minors.
5. When a minor patient disagrees with his or her parents regarding a medical decision, healthcare professionals should consider the developmental cognitive capacity and values of the patient and strive for consensus toward the medical recommendation. When consensus cannot be reached and the medical team has concerns about the appropriateness of the legally authorized decision-maker's judgment, external review or legal action may be required.
6. It should not be assumed that laws alone can protect children. Professionals must exercise moral responsibility in order for ethical principles and just laws to have their intended effect. The healthcare professional who has knowledge of harm to a child has a responsibility to alert and cooperate with state agencies to protect the child.
7. Removal of a child from the parents' care should be undertaken only when there is evidence of serious physical or psychological harm to the child and should not be based solely on the parents' religious beliefs, moral teaching, or educational choices.
8. Procedures for which there is no legitimate medical indication proven medical benefit include:
  - a. Female genital mutilation, which causes is known to cause permanent physical and psychological harm.<sup>1</sup>

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<sup>1</sup> Von Rège I, Campion D. Female genital mutilation: implications for clinical practice. Br J Nurs 2017; 26(18): S22-S27.

- b. Gender reassignment hormonal or surgical interventions in children with gender dysphoria (see CMDA statement on Transgender Identification).
9. When state actions or mandates affecting children usurp parental authority unjustly, are incompatible with medical ethics, or risk harming children, then healthcare professionals have a duty to express concern proportionate to the seriousness of the harm, to educate, and to apply their knowledge and skill to advocate for and protect the children under their care.

*Unanimously approved by the House of Representatives  
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Ridgcrest, North Carolina*

## **Appendix: Selected Legal Cases with Excerpts**

*Meyer v. State of Nebraska*, 262 U.S. 390 (1923)

. . . The American people have always regarded education and acquisition of knowledge as matters of supreme importance which should be diligently promoted. The Ordinance of 1787 declares:

'Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.'

Corresponding to the right of control, it is the natural duty of the parent to give his children education suitable to their station in life; and nearly all the states, including Nebraska, enforce this obligation by compulsory laws.

<http://caselaw.findlaw.com/us-supreme-court/262/390.html>

*Pierce v. Society of Sisters*, 268 U.S. 510 (1925)

. . . As often heretofore pointed out, rights guaranteed by the Constitution may not be abridged by legislation which has no reasonable relation to some purpose within the competency of the state. The fundamental theory of liberty upon which all governments in this Union repose excludes any general power of the state to standardize its children by forcing them to accept instruction from public teachers only. The child is not the mere creature of the state; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations. . . .

<http://caselaw.findlaw.com/us-supreme-court/268/510.html>

*Prince v. Commonwealth of Massachusetts*, 321 U.S. 158 (1944)

It is cardinal with us that the custody, care and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder. . . .

But the family itself is not beyond regulation in the public interest, as against a claim of religious liberty. *Reynolds v. United States*, 98 U.S. 145 ; *Davis v. Beason*, 133 U.S. 333 , 10 S.Ct. 299. And neither rights of religion nor rights of parenthood are beyond limitation. Acting to guard the general interest in youth's well being, the state as *parens patriae* may restrict the parent's control by requiring school attendance,<sup>9</sup> regulating or prohibiting the

child's labor,<sup>10</sup> and in many other ways. <sup>11</sup> Its authority is not nullified merely because the parent grounds his claim to control the child's course of conduct on religion or conscience.

<http://caselaw.findlaw.com/us-supreme-court/321/158.html>

*Ginsberg v. New York*, 390 U.S. 629 (1968)

Constitutional interpretation has consistently recognized that the parents' claim to authority in the rearing of their children is basic in our society, and the legislature could properly conclude that those primarily responsible for children's well-being are entitled to the support of laws designed to aid discharge of that responsibility.

<http://caselaw.findlaw.com/us-supreme-court/390/629.html>

*Wisconsin v. Yoder*, 406 U.S. 205 (1972)

Indeed, it seems clear that, if the State is empowered, as *parens patriae*, to "save" a child from himself or his Amish parents by requiring an additional two years of compulsory formal high school education, the State will, in large measure, influence, if not determine, the religious future of the child. Even more markedly than in *Prince*, therefore, this case involves the fundamental interest of parents, as contrasted with that of the State, to guide the religious future and education of their children. The history and culture of Western civilization reflect a strong tradition of parental concern for the nurture and upbringing of their children. This primary role of the parents in the upbringing of their children is now established beyond debate as an enduring American tradition.

<https://www.law.cornell.edu/supremecourt/text/406/205>

*Cleveland Board of Education v. LaFleur*, 414 U.S. 632 (1974)

This Court has long recognized that freedom of personal choice in matters of marriage and family life is one of the liberties protected by the Due Process Clause [p640] of the Fourteenth Amendment. *Roe v. Wade*, 410 U.S. 113; *Loving v. Virginia*, 388 U.S. 1, 12; *Griswold v. Connecticut*, 381 U.S. 479; *Pierce v. Society of Sisters*, 268 U.S. 510; *Meyer v. Nebraska*, 262 U.S. 390. See also *Prince v. Massachusetts*, 321 U.S. 158; *Skinner v. Oklahoma*, 316 U.S. 535. As we noted in *Eisenstadt v. Baird*, 405 U.S. 438, 453, there is a right "to be free from unwarranted governmental intrusion into matters so fundamentally affecting a person as the decision whether to bear or beget a child."

<https://www.law.cornell.edu/supremecourt/text/414/632>

*Moore v. East Cleveland*, 431 U.S. 494 (1977)

... Our decisions establish that the Constitution protects the sanctity of the family precisely because the institution of the family is deeply rooted in this Nation's history and tradition. <sup>12</sup> It is through the family that we inculcate and [431 U.S. 494, 504] pass down many of our most cherished values, moral and cultural. <sup>13</sup>

Ours is by no means a tradition limited to respect for the bonds uniting the members of the nuclear family. The tradition of uncles, aunts, cousins, and especially grandparents sharing a household along with parents and children has roots equally venerable and equally deserving of constitutional recognition. <sup>14</sup> Over the years millions [431 U.S. 494, 505] of our citizens have grown up in just such an environment, and most, surely, have profited from it. Even if conditions of modern society have brought about a decline in extended family households, they have not erased the accumulated

wisdom of civilization, gained over the centuries and honored throughout our history, that supports a larger conception of the family. Out of choice, necessity, or a sense of family responsibility, it has been common for close relatives to draw together and participate in the duties and the satisfactions of a common home. Decisions concerning child rearing, which Yoder, Meyer, Pierce and other cases have recognized as entitled to constitutional protection, long have been shared with grandparents or other relatives who occupy the same household - indeed who may take on major responsibility for the rearing of the children. <sup>15</sup> Especially in times of adversity, such as the death of a spouse or economic need, the broader family has tended to come together for mutual sustenance and to maintain or rebuild a secure home life.

<http://caselaw.findlaw.com/us-supreme-court/431/494.html>

*Smith v. Organization of Foster Families*, 431 U.S. 816 (1977)

Thus the importance of the familial relationship, to the individuals involved and to the society, stems from the emotional attachments that derive from the intimacy of daily association, and from the role it plays in "promot[ing] a way of life" through the instruction of children, *Wisconsin v. Yoder*, [406 U.S. 205, 231](#) -233 (1972), as well as from the fact of blood relationship. No one would seriously dispute that a deeply loving and interdependent relationship between an adult and a child in his or her care may exist even in the absence of blood relationship. <sup>51</sup> At least where a child has been placed in foster care as an infant, has never known his natural parents, and has remained continuously for several years in the care of the same foster parents, it is natural that the foster family should hold the same place in the emotional life of the foster child, and fulfill the same socializing functions, as a natural family. <sup>52</sup> For this reason, we cannot dismiss the foster family as a mere collection of unrelated individuals. [[431 U.S. 816, 845](#)] Cf. *Village of Belle Terre v. Boraas*, [416 U.S. 1](#) (1974).

But there are also important distinctions between the foster family and the natural family. First, unlike the earlier cases recognizing a right to family privacy, the State here seeks to interfere, not with a relationship having its origins entirely apart from the power of the State, but rather with a foster family which has its source in state law and contractual arrangements. The individual's freedom to marry and reproduce is "older than the Bill of Rights," *Griswold v. Connecticut*, supra, at 486. Accordingly, unlike the property interests that are also protected by the Fourteenth Amendment, cf. *Board of Regents v. Roth*, [408 U.S., at 577](#), the liberty interest in family privacy has its source, and its contours are ordinarily to be sought, not in state law, <sup>53</sup> but in intrinsic human rights, as they have been understood in "this Nation's history and tradition." *Moore v. East Cleveland*, ante, at 503. . .

<http://caselaw.findlaw.com/us-supreme-court/431/816.html>

*Quilloin v. Walcott*, 434 U.S. 246 (1978)

We have recognized on numerous occasions that the relationship between parent and child is constitutionally protected. See, e. g., *Wisconsin v. Yoder*, [406 U.S. 205, 231](#) -233 (1972); *Stanley v. Illinois*, supra; *Meyer v. Nebraska*, [262 U.S. 390, 399](#) -401 (1923). "It is cardinal with us that the custody, care and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder." *Prince v. Massachusetts*, [321 U.S. 158, 166](#) (1944). And it is now firmly established that "freedom of personal choice in matters of . . . family life is one of the liberties protected by the Due Process Clause of the Fourteenth Amendment." *Cleveland Board of Education v. LaFleur*, [414 U.S. 632, 639](#) -640 (1974).

We have little doubt that the Due Process Clause would be offended "[i]f a State were to attempt to force the breakup of a natural family, over the objections of the parents and their children, without

some showing of unfitness and for the sole reason that to do so was thought to be in the children's best interest." *Smith v. Organization of Foster Families*, [431 U.S. 816, 862](#) -863 (1977) (STEWART, J., concurring in judgment). But this is not a case in which the unwed father at any time had, or sought, actual or legal custody of his child. Nor is this a case in which the proposed adoption would place the child with a new set of parents with whom the child had never before lived. Rather, the result of the adoption in this case is to give full recognition to a family unit already in existence, a result desired by all concerned, except appellant. Whatever might be required in other situations, we cannot say that the State was required in this situation to find anything more than that the adoption, and denial of legitimation, were in the "best interests of the child."

<http://caselaw.findlaw.com/us-supreme-court/434/246.html>

*Parham v. J. R.*, 442 U.S. 584 (1979)

*In defining the respective rights and prerogatives of the child and parent in the voluntary commitment setting, we conclude that our precedents permit the parents to retain a substantial, if not the dominant, role in the decision, absent a finding of neglect or abuse, and that the traditional presumption that the parents act in the best interests of their child should apply. We also conclude, however, that the child's rights and the nature of the commitment decision are such that parents cannot always have absolute and unreviewable discretion to decide whether to have a child institutionalized. They, of course, retain plenary authority to seek such care for their children, subject to a physician's independent examination and medical judgment.*

<https://www.law.cornell.edu/supremecourt/text/442/584>

*Santosky v. Kramer*, 455 U.S. 745 (1982)

The fundamental liberty interest of natural parents in the care, custody, and management of their child does not evaporate simply because they have not been model parents or have lost temporary custody of their child to the State. Even when blood relationships are strained, parents retain a vital interest in preventing the irretrievable destruction of their family life. If anything, persons faced with forced dissolution of their parental rights have a more critical need for procedural protections than do those resisting state intervention into ongoing family affairs. When the State moves to [[Page 455 U. S. 754](#)] destroy weakened familial bonds, it must provide the parents with fundamentally fair procedures. [[Footnote 7](#)] . . .

<https://supreme.justia.com/cases/federal/us/455/745/case.html>

*Reno v. Flores*, 507 U.S. 292 (1993)

"The best interests of the child," a venerable phrase familiar from divorce proceedings, is a proper and feasible criterion for making the decision as to which of two parents will be accorded custody. But it is not traditionally the sole criterion-much less the sole *constitutional* criterion-for other, less narrowly channeled judgments involving children, where their interests conflict in varying degrees with the interests of others. Even if it were shown, for example, that a particular couple desirous of adopting a child would *best* provide for the child's welfare, the child would nonetheless not be removed from the custody of its parents so long as they were providing for the child *adequately*. See *Quilloin v. Walcott*, [434 U. S. 246](#), 255 (1978). Similarly, "the best interests of the child" is not the legal standard that governs parents' or guardians' exercise of their custody: So long as certain minimum requirements of child care are met, the interests of the child may be subordinated to the interests of other children, or indeed even to the interests of the parents or



guardians themselves. See, e. g., *R. C. N. v. State*, 141 Ga. App. 490, 491, 233 S. E. 2d 866, 867 (1977).

"The best interests of the child" is likewise not an absolute and exclusive constitutional criterion for the government's exercise of the custodial responsibilities that it undertakes, which must be reconciled with many other responsibilities. . . .

<https://supreme.justia.com/cases/federal/us/507/292/case.html>

*Washington v. Glucksburg*, 521 U.S. 702 (1997)

The Due Process Clause guarantees more than fair process, and the "liberty" it protects includes more than the absence of physical restraint. *Collins v. Harker Heights*, 503 U. S. 115, 125 (1992) (Due Process Clause "protects individual liberty against 'certain government actions regardless of the fairness of the procedures used to implement them'" (quoting *Daniels v. Williams*, [474 U. S. 327](#), 331 (1986))). The Clause also provides heightened protection against government interference with certain fundamental rights and liberty interests. *Reno v. Flores*, [507 U. S. 292](#), 301-302 (1993); *Casey*, 505 U. S., at 851. In a long line of cases, we have held that, in addition to the specific freedoms protected by the Bill of Rights, the "liberty" specially protected by the Due Process Clause includes the rights to marry, *Loving v. Virginia*, [388 U. S. 1](#) (1967); to have children, *Skinner v. Oklahoma ex rel. Williamson*, [316 U. S. 535](#) (1942); to direct the education and upbringing of one's children, *Meyer v. Nebraska*, [262 U. S. 390](#) (1923); *Pierce v. Society of Sisters*, 268 U. S. 510 (1925); to marital privacy, *Griswold v. Connecticut*, [381 U. S. 479](#) (1965); to use contraception, *ibid.*; *Eisenstadt v. Baird*, [405 U. S. 438](#) (1972); to bodily integrity, *Rochin v. California*, [342 U. S. 165](#) (1952), and to abortion, *Casey*, *supra*. We have also assumed, and strongly suggested, that the Due Process Clause protects the traditional right to refuse unwanted lifesaving medical treatment. *Cruzan*, 497 U. S., at 278-279.

. . . Our Nation's history, legal traditions, and practices thus provide the crucial "guideposts for responsible decisionmaking," *Collins*, *supra*, at 125, that direct and restrain our exposition of the Due Process Clause. As we stated recently in *Flores*, the Fourteenth Amendment "forbids the government to infringe ... 'fundamental' liberty interests at *all*, no matter what process is provided, unless the infringement is narrowly tailored to serve a compelling state interest." 507 U. S., at 302.

<https://supreme.justia.com/cases/federal/us/521/702/case.html>

*Troxel v. Granville*, 530 U.S. 57 (2000)

. . . it cannot now be doubted that the Due Process Clause of the Fourteenth Amendment protects the fundamental right of parents to make decisions concerning the care, custody, and control of their children.

. . . the Due Process Clause does not permit a State to infringe on the fundamental right of parents to make child rearing decisions simply because a state judge believes a "better" decision could be made.

<https://supreme.justia.com/cases/federal/us/530/57/case.html>