DECLARATION OF JOHN S. SANTELLI, M.D., M.P.H.

I, JOHN S. SANTELLI, M.D., M.P.H., declare and state the following:

1. I am Chairman of the Heilbrunn Department of Population and Family Health and Professor of Clinical Population and Family Health at Columbia University's Mailman School of Public Health. I am also Professor of Clinical Pediatrics at Columbia University's College of Physicians and Surgeons. My curriculum vitae is attached.

2. As Chairman of the Heilbrunn Department of Population and Family Health, I provide strategic direction to an academic department with major domestic and

6. I have served on the editorial board of a number of academic journals, including *AIDS Education and Prevention*, the *Journal of Adolescent Health* (the official journal of the Society for Adolescent Medicine), *Perspectives on Sexual and Reproductive Health*, and the *American Journal of School Health*. I also serve as a peer-reviewer for numerous journals, including the *Journal of the American Medical Association*, *Pediatrics* (the official journal of the American Academy of Pediatrics), the

Controls in Randomized Clinical Trials, 70 CONTRACEPTION 407, 408 (2004); CTRS. FOR

HEALTH, U.S. DEP'T OF HEALTH & HUMAN SERVS., HOW HIV CAUSES AIDS (2004)

[redacted]

[hereinafter NIAID], *available at* http://www.niaid.nih.gov/factsheets/howhiv.htm.

14. Rates of condom effectiveness for HIV are calculated by studying serodiscordant couples, *i.e.*, couples with one HIV-positive and one HIV-negative

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condom efficacy published on or before June 2000. Based on this research, we

concluded that "consistent condom use decreased the risk of HIV/AIDS transmission by

20. Since June 2000 – the cutoff date for studies included in the NIH Report – well-designed, peer-reviewed studies published in leading journals have shown that condoms provide protection against gonorrhea, chlamydia, syphilis, and herpes simplex virus-2 in men and women. *See* Holmes, *supra* ¶ 11, at 455-59; Willard Cates, Jr., *The NIH Condom Report: The Glass is 90% Full*, 33 FAM. PLAN. PERSP. 231, 232 (2001). For gonorrhea and chlamydia, numerous studies show that this level of protection is significant, although less than the level of protection provided by condoms against HIV, for the reasons discussed in ¶ 12, *supra*. *See* L. M. Niccolai et al., *Condom Effectiveness*

100 women (2%) will experience an unintended pregnancy over a one-year period.

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Warner, *Male Condoms*, at 333-34. By contrast, with "typical use," meaning when

condoms are only used some of the time or are used incorrectly, approximately 15 out of 100 (15%) of women will experience an unintended pregnancy over a one-year period. *Id.* at 334. In other words, the typical use failure rate includes data for couples who identify as condom users, but who do not use condoms every time they have sex. It also

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A. Condoms and HIV

26. For example, the Teen-Aid curricula compare relying on condoms to prevent STIs to playing "the insane game of Russian roulette." *Me, My World, My Future* at 215, 258; *Sexuality, Commitment and Family* at 19. The curricula explain that in Russian roulette, "[a] cartridge is loaded into one of the six chambers of a revolver. The first 'player' spins the cylinder, points the gun at his/her head and pulls the trigger. He/she has only one in six chances of being killed. But if one continues to perform this [redacted]

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the game ends as one of the players dies." *Me, My World, My Future* at 215, 258; *Sexuality, Commitment and Family* at 19. Similarly, they state that "[c]ondoms are like Russian roulette. Condoms do not prevent pregnancy, STI's [sic] or AIDS; they only delay them. Theoretically, the longer one relies on them, they will fail and the 'game' is [redacted]

27. The Teen-Aid curricula also claim that "[c]ondoms appear to reduce the risk of heterosexual HIV infection by only 69%," relying on what is deemed to be a "meticulous review of condom effectiveness . . . reported by Dr. Susan Weller in 1993."

Me, My World, My Future at 214, 256 (citing Susan C. Weller, *A Meta-Analysis of Condom Effectivness in Reducing Sexually Transmitted HIV*, 36 SOC. SCI. MED. 1635 (1993)); *Sexuality, Commitment and Family* at 19, 36 (citing same). The *Why kNOw* curriculum also cites Dr. Weller's 1993 meta-analysis for the proposition that condoms fail to prevent HIV transmission 31% of the time during heterosexual sex. *See Why kNOw* at 90 (citing same). However, Dr. Weller has co-authored two more recent meta-analyses of condoms and HIV in 1999 and 2002, in which she concluded that condoms afford significantly greater protection from HIV than was originally reported in 1993. *See* Weller & Davis-Beaty, *supra* ¶ 13 (finding that condoms reduce the rate of HIV infection by 80%); Davis & Weller, *supra* ¶ 16 (finding that condoms reduce the rate of

frequency of intercourse and infected partner's viral load, stage of infection, and

treatment). Now, with the benefit of an additional twenty years of research, we know that condoms are highly effective in preventing HIV transmission. *See, e.g.*, NIH REPORT, *supra* ¶ 9, at 14; Weller & Davis-Beaty, *supra* ¶ 13, at 1; Davis & Weller, *supra* ¶ 16, at

MED. ASS'N 3155, 3159 (1990) (concludes that study results demonstrate the need for STI/AIDS risk reduction education that focuses, in part, on training on how to increase and improve condom use); Steven E. Keller et al., Letter to the Editor, *The Sexual Behavior of Adolescents and Risk of AIDS*, 260 J. AM. MED. ASS'N 3586 (1988) (outdated, not peer reviewed); Marsha F. Goldsmith, *Stockholm Speakers on Adolescents*

33. Apart from discussing condoms in relation to HIV and chlamydia, the Teen-Aid curricula fail to give information on the effectiveness of condoms as a means of preventing other STIs, despite the fact that the curricula discuss the symptoms, treatment, and possible long-term effects of a number of other diseases in detail.

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syphilis, herpes simplex virus, and HPV. *See Me, My World, My Future* at 222-30; *Sexuality, Commitment and Family* at 241-49. Similarly, in addition to HIV, *Why kNOw* discusses syphilis, gonorrhea, chlamydia, herpes simplex virus 2, HPV, and hepatitis B, yet the curriculum does not give information on condom efficacy that is specific to these diseases. *See Why kNOw* at 90-95. By failing to even mention condoms, the curricula leave the erroneous impression that condoms provide no protection for these STIs. Yet the medical literature shows that condoms, when used consistently and correctly, provide some protection against all of these diseases. [redacted]

35. The Teen-Aid curricula claim that "[d]uring vaginal intercourse condoms have been reported to break or slip off 14.6% of the time." *Me, My World, My Future* at 214 (citing James Trussell et al., *Condom Slippage and Breakage Rates*, 24 FAM. PLAN. PERSP. 20 (1992)); *Sexuality, Commitment and Family* at 19 (citing same). However

more recent studies based on better data – including the NIH Report and materials authored and edited by the authors of the 1992 study cited by Teen-Aid – report a

significantly lower range of condom slippage and breakage. *See* NIH REPORT, *supra* ¶ 9,

37. Compounding the exaggerated breakage and slippage rates, one Teen-Aid curriculum also give a wide range of additional statistics on condom failure – a total of fourteen different percentages ranging from 0.6% to 15.1% – that serve to misleadingly suggest both that condoms are unreliable and that the public health community cannot establish, within a narrow range of percentage points, the actual rate of method failure.

[redacted]

communities agree that condoms are reliable; and, recent, reliable resources cite rates of

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condom for every act of intercourse. It is not, as the curricula suggest, a reflection of condom method failure. The Teen-Aid curricula also claim that notwithstanding the

see also id. at 96 (concluding that "the failure rate of the condom to prevent AIDS is logically much worse than its failure rate to prevent pregnancy"). However, the comparison between acquiring an STI and becoming pregnant is not valid because the risk of acquiring an STI depends on completely different factors than the risk of pregnancy. To acquire an STI, one must engage in sexual activity with a partner who is infected with the STI; therefore, the risk of contracting an STI depends on the prevalence of the virus in the population and is affected by condom use and efficacy in preventing that particular disease. *See*, *e.g.*, discussion, ¶ 15, *supra*. The risk of pregnancy depends on a women's fertility during intercourse and is affected by contraceptive use (including condom use) and the efficacy of the contraceptive method used in preventing pregnancy. Thus, the comparison of these two risks as presented in *Why kNOw* and the Teen-Aid

curricula is not scientifically accurate.

42. *Why kNOw* builds on its misleading statistics about condoms and pregnancy by inviting students to "consider" that a human sperm is 450 times larger than the HIV virus. *Why kNOw* at 90. The curriculum includes directions for an in-class illustration of this size difference, using an 18.75 ft. model of a sperm (named "Speedy")

pregnancy rates in the United States between 1995 and 2002 were primarily attributable

Later Risk of Teenage Pregnancy in Girls, 11 DEV. PSYCHOPATHOLOGY 127 (1999); Yu-Wen Chen et al., *Mental Health, Social Environment, and Sexual Risk Behaviors of Adolescent Service Users: A Gender Comparison*, 6 J. CHILD & FAM. STUD. 9 (1997)); *see also* John S. Santelli, *Abstinence-Only Education: Politics, Science, and Ethics*, 73 SOC. RES. 835, 843-44 (2006) ("[R]esearch shows that early sexual activity and

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intercourse, sexual abuse, unsupportive social environments, and individual mental health problems such as conduct disorder and substance abuse. Thus, certain mental health problems are associated with early sexual activity, but these peer-reviewed studies suggest that sexual activity is a consequence of pre-existing mental health problems.").

CONCLUSION

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I declare under penalty of perjury that the foregoing is true and correct.

Dated: 4/18/07