



REPRODUCTIVE RIGHTS & HEALTH

DISCRIMINATION AGAINST HEALTH CARE PROVIDERS WHO PROVIDE OR SUPPORT ABORTION

Health care professionals across the country report hostility and outright discrimination from employers due to their support for abortion access or participation in abortion care. From denying admitting privileges to rescinding job offers to prohibiting health care professionals from speaking out publicly about abortion, employers are unfairly penalizing those who provide or support abortion. Discrimination prevents and deters health care professionals from providing abortion, even outside of their employment setting, making it harder for patients who have decided to have an abortion to access care.

The National Women's Law Center has heard reports from health care professionals in 13 states and D.C. about being punished for supporting or providing abortions. Federal and state laws offer some explicit protections for these health care professionals, but more protection is needed.

Health Care Professionals face Discrimination for Providing or Supporting Abortion

Discrimination against health care professionals takes many forms, and occurs in all kinds of health care institutions, including public and private hospitals, small and large institutions, religiously affiliated institutions, and secular institutions.

- Employees face threats to their careers. One physician was directly threatened by a senior partner of a private ob/gyn practice during a job interview: "If I ever find out you did elective abortion any time in your professional life, you'll never practice medicine in [this state] again. Do you understand that?"¹

- Abortion providers have job offers rescinded. Clinicians who have provided abortions in the past, or who engage in public advocacy around abortion, report having job offers suddenly rescinded once the prospective employers learn of the clinician's past or ongoing participation in abortion care and advocacy.
- Employees are forced to stop moonlighting as abortion providers. It is very common for health care professionals to moonlight, or to take on secondary jobs.² But if the second job is as an abortion provider, a health care professional may face discrimination from their primary employer. A physician in the West reported working happily for many years in private practice and worked one day a week providing abortions at a local clinic. However, when her practice was purchased by a Catholic health care system, she was told that she if she did not stop moonlighting as an abortion provider, she would be fired.
- A physician in another state reported that her employer found out that she was scheduled to testify in opposition to a bill restricting abortions before the state legislature. The employer told her that if she showed up before the legislature, she would likely be fired.
- Employees are fired for their private views in support of abortion. A Catholic health care institution in New Mexico fired an employee when an administrator discovered private communications with his girlfriend discussing abortion.⁴

Discrimination against Abortion Providers Reduces Patient Access to Abortion

The kind of discrimination abortion providers face reduces patient access to abortion overall. Abortion providers have grown increasingly scarce over the last decade: In 2014, 87% of counties in the U.S. had no abortion provider, and 34% of women aged 15-44 lived in those counties.⁵ When hospitals and other health care employers prohibit or deter their employees from taking secondary employment as abortion providers or otherwise threaten or punish health care professionals who provide abortion, patients lose



access to abortion. In fact, one study found that hostile work environments were a greater deterrent to OBGYN's becoming abortion providers than the threat of clinic violence.⁶

Federal and State Laws Protect Health Care Providers from Discrimination – but More Protections Are Needed

Discrimination based on employees' participation in abortion– or willingness to participate in abortion – has been illegal under federal law since 1976.⁷ Federal law also protects physicians and health care personnel from discrimination because of their moral convictions on abortion.⁸

A handful of states have laws that also explicitly protect health care professionals against discrimination based on their participation in abortion.⁹ However, these laws vary widely in the kinds of conduct they protect, and the ways they are enforced. Health care professionals need better protections to ensure that their employer will not discriminate against them because of their participation in abortion or views about abortion.

State and local legislators should enact laws that explicitly protect health care professionals. Better laws will lead not only to better workplace protections for health care providers, but also to better care for patients.

- 1 Lori Freedman, Uta Landy, Philip Darney, & Jody Steinauer, *Obstacles to the Integration of Abortion Into Obstetrics and Gynecology Practice*, 42 PERSP. SEXUAL & REPROD. HEALTH 148 (May 2010).
- 2 Beth Thomas Hertz, *Moonlighting: Physicians expand income, experience by taking on secondary employment*, MEDICALECONOMICS.MODERNMEDICINE.COM (July 24, 2014), <http://medicaleconomics.modernmedicine.com/medical-economics/content/tags/career-advice/moonlighting-physicians-expand-income-experience-taking>.
- 3 Erik Eckholm, Doctor, *Warned to Be Silent on Abortions, Files Civil Rights Complaint*, NYTIMES.COM (May 2, 2016), https://www.nytimes.com/2016/05/03/us/doctor-warned-to-be-silent-on-abortion-files-civil-rights-complaint.html?_r=0.
- 4 Olivier Uyttendaele, *Ex-councilor Files Suit Over Dismissal*, ABQJOURNAL.COM (Aug. 6, 2016), <https://www.abqjournal.com/821375/excouncilor-files-suit-over-dismissal.html>.
- 5 Data Center, GUTTMACHER INST., <https://data.guttmacher.org/states/table?state=US&topics=57+58+59+71+72+73&dataset=data> (last visited Aug. 17, 2017).
- 6 Freedman, et al., *supra* note i, at 146.
- 7 Church Amendments, 42 U.S.C. § 300a-7 (2017).
- 8 *Id.*
- 9 These states are California, Indiana, Iowa, Kentucky, Michigan, Pennsylvania, South Dakota, Texas, and Washington.

