



REPRODUCTIVE RIGHTS & HEALTH

## REFUSALS TO PROVIDE HEALTH CARE THREATEN THE HEALTH AND LIVES OF PATIENTS NATIONWIDE

Across the nation, health care providers are refusing to give patients health care, information, and referrals because of their own moral or religious beliefs. State and federal laws – known as religious exemption laws – often allow such refusals, enabling hospitals and individual health care providers to determine a patient's care based on their religious beliefs, not based on what is best for the patient's health and circumstances. But a health care provider's religious beliefs should never determine the care a patient receives.

### REFUSALS TO PROVIDE CARE

When health care providers refuse to provide health care based on religious beliefs, patients' health and lives are put in danger.

- **Hospitals refuse to provide women with life-saving miscarriage management.** A patient in an urban northeastern Catholic hospital experiencing a miscarriage nearly died because of the hospital's refusal to treat her. The patient's physician recalled that the "woman [wa]s dying before our eyes," but the hospital's religious directives forbid appropriate treatment.<sup>1</sup> Nearly 1 in 4 U.S. women will experience a miscarriage in their lifetime,<sup>2</sup> and they should not have to fear that their providers will turn them away.
- **Hospitals refuse to provide women with sterilization procedures.** A Catholic hospital in Arkansas refused to provide a sterilization procedure to Jennafer Morris, who requested one at the time she delivered her baby because becoming pregnant again presented a danger to her health.<sup>3</sup> Undergoing sterilization at the time of cesarean delivery presents fewer risks and is more cost effective, but hospitals refuse because of religious-based prohibitions on sterilization procedures.

- **Health care providers refuse to provide care to LGBTQ individuals.** An infertility practice group accepted Guadalupe Benitez as a patient, and subjected her to a year of invasive tests and treatments.<sup>4</sup> When it became clear that she needed in vitro fertilization to become pregnant, every doctor in the practice refused, claiming that their religious beliefs prevented them from performing the procedure for a lesbian.
- **Health care providers refuse to treat patients living with HIV.** One patient was told that HIV-positive patients were not welcome after he disclosed his HIV status.<sup>5</sup> Later, when he sought treatment for chest pain, the doctor dismissed him as overreacting to muscle cramps and recommended that he see a psychiatrist. Over the next week, he experienced seizures but his doctor refused to authorize emergency room treatment. Ultimately, police brought the patient to an emergency room, where he was admitted to the hospital with gastrointestinal hemorrhaging and was diagnosed with pneumonia, a staph infection, and AIDS.

### REFUSALS TO PROVIDE INFORMATION AND REFERRALS

Some health care providers refuse to provide patients with information about their health condition or referrals for appropriate care. Without complete information or referrals, patients may not have an accurate understanding of their condition or know the treatments available to them.

For example, one ob/gyn reported that the local Catholic bishop forbids their hospital from providing information to patients about nearby health centers that would provide birth control. Patients who come to the hospital for family planning services do not receive any referrals.<sup>6</sup> Another ob/gyn at a Midwestern University medical school reported working with multiple medical students who stated that they would be unwilling to provide contraceptive counseling to patients in the future because of their religious beliefs. These students planned to become ob/gyn and family medicine physicians – doctors that patients trust for complete family planning information.<sup>7</sup>



These refusals violate patients' right to informed consent under federal and state law<sup>8</sup> and leave them without the information they need to make health care decisions for themselves.

### REFUSALS TO PROVIDE MEDICATION AT THE PHARMACY

Patients seeking medication at the pharmacy have also faced refusals because of religious beliefs, and have been forced to leave without the medication they need.

- **Women seeking birth control have been turned away at pharmacies.** In at least 25 states across the country, women have been refused birth control at the pharmacy. This includes rape survivors who are seeking time-sensitive emergency contraception to prevent pregnancy. The same pharmacies that refuse to dispense birth control often also refuse to transfer a woman's prescription or refer her to another pharmacy. Some pharmacists have even berated or humiliated patients seeking birth control.
- **Pharmacies refuse to fill prescriptions for miscarriage management.** Two Georgia women reported that their doctors prescribed medication to complete their miscarriages, but local pharmacies refused to fill their prescriptions because they consider the medication to be abortion. One of the women stated that she ultimately decided to undergo a surgical procedure rather than face another pharmacy refusal.<sup>9</sup>

### REFUSALS TO PROVIDE INSURANCE COVERAGE

Some religiously-affiliated health insurance plans exclude coverage for reproductive health services, and some employers, refuse to provide coverage for certain services to their employees.<sup>10</sup>

- **Some insurance plans refuse to cover reproductive health care.** Fidelis Care in New York refuses to provide birth control coverage to state Medicaid enrollees. Since the coverage is required by state law, Fidelis has created a "work-around" for enrollees that forces them to embark on an "obstacle course" in order to get the birth control they need.<sup>11</sup>
- **Insurance companies refuse to cover basic medical services for trans and gender non-conforming people.** One insurance company refused to cover a transgender man's annual pelvic exam and pap smear, while another refused to pay for fertility treatment because of the man's gender identity.<sup>12</sup>
- **Employers are refusing to cover birth control in their employee insurance plan.** A range of for-profit companies, non-profit organizations, colleges, and universities have refused to comply with the federal law guaranteeing birth control coverage.<sup>13</sup> These employers want to use their religious beliefs to block coverage for essential health care that women need and want.

Patients should never have to fear that a health care provider will turn them away due to religious or moral beliefs. Instead, a patient should receive equal access to health care services, as well as complete and accurate information about their health situation, no matter their reproductive decisions, gender, sexual orientation, or gender identity. Laws should put patients first and ensure that they will receive comprehensive information and health care.

- 1 Lori R. Freedman et al., *When There's a Heartbeat: Miscarriage Management in Catholic-Owned Hospitals*, 98 AM. J. PUB. HEALTH 1774, 1777 (2008).
- 2 Linda Prine & Honor Macnaughton, *Office Management of Early Pregnancy Loss*, AM. ACAD. FAM. PHYSICIANS (2011), available at <http://www.aafp.org/afp/2011/0701/p75.pdf>.
- 3 ACLU AND MERGERWATCH, HEALTH CARE DENIED 19-20 (May 2016), available at [https://www.aclu.org/sites/default/files/field\\_document/healthcare-denied.pdf](https://www.aclu.org/sites/default/files/field_document/healthcare-denied.pdf).
- 4 N. Coast Women's Care Med. Grp., Inc. v. San Diego Cnty. Super. Ct., 189 P.3d 959 (Cal. 2008).
- 5 *Woolfolk v. Duncan*, 872 F. Supp. 1381 (E.D. Pa. 1995)
- 6 Debra B. Stulberg, Rebecca A. Jackson, & Lori R. Freedman, *Referrals for Services Prohibited in Catholic Health Care Facilities*, 48 PERSP.SEXUAL REPROD. HEALTH. 111 (Sept. 2016).
- 7 Jennifer Gunter, *The Only Religion That My Patients See Me Practice is Medicine*, KEVINMD.COM (Nov. 1, 2012), <http://www.kevinmd.com/blog/2012/11/religion-patients-practice-medicine.html>.
- 8 Most states have statutes that allow a patient to sue for malpractice when the patient is harmed as a result of not being told of all available treatment options and the risks and benefits of those options. Federal regulations explicitly require all hospitals receiving Medicare funds to obtain informed consent from all patients. 42 C.F.R. § 482.13(b)(2) (2012).
- 9 Molly Redden, *The Scary Law That Allowed Pharmacists to Deny This Woman the Drugs She Needed After Her Miscarriage*, MOTHERJONES.COM (Apr. 16, 2015, 11:33 AM), <http://www.motherjones.com/politics/2015/04/pharmacists-refused-woman-drugs-miscarriage-walmart>.
- 10 For example, Catholic Charities, which employs people of all faiths and provides a variety of social services to people of all faiths, objected to "contraceptive equity" laws in New York and California, which require all insurance plans to include contraceptives if the plans cover other prescription drugs and devices. Both state laws include a narrow exemption for religious employers, for which Catholic Charities does not qualify, so Catholic Charities challenged the laws. The highest courts of both states upheld the laws as advancing the states' interests in increasing women's access to health care and eliminating gender discrimination. *Catholic Charities of Diocese of Albany v. Serio*, 859 N.E.2d 459 (N.Y. 2006); *Catholic Charities of Sacramento, Inc. v. Super. Ct.*, 85 P.3d 67 (Cal. 2004).
- 11 Amy Littlefield, *How a Catholic Insurer Built a Birth Control Obstacle Course in New York*, REWIRE.NEWS (Jan. 26, 2017), <https://rewire.news/article/2017/01/26/catholic-insurer-built-birth-control-obstacle-course-new-york/>.
- 12 Molly Redden, *Health Insurance Companies Are Even More Horrible If You're Trans*, MOTHERJONES.COM (Sep. 8, 2015), <http://www.motherjones.com/politics/2015/09/transgender-healthcare-discrimination-obama-administration/>.
- 13 Brief for Nat'l Women's Law Ctr, et al. as Amici Curiae Supporting Respondents and Affirmance, *Zubik v. Burwell*,

