

## REPRODUCTIVE RIGHTS & HEALTH

# Refusals To Provide Health Care Threaten The Health And Lives Of Patients Nationwide

Across the nation, health care facilities and 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 refusal 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 quality of care a patient receives.

## Refusals To Provide Care

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

- **Hospitals refuse to provide life-saving miscarriage management.** Mindy Swank was 20-weeks pregnant when her water broke and her fetus was deemed unable to survive outside the womb. She was denied miscarriage management at a Catholic hospital because the fetus still had a "heartbeat," so Mindy suffered for two weeks before traveling to an Illinois hospital that had purchased a hospital from a Catholic entity. That hospital also adhered to Catholic Directives and she was denied care repeatedly for 5 weeks. Finally, at 27 weeks pregnant, after severe hemorrhaging, the hospital induced labor and Mindy's baby died soon after delivery.<sup>i</sup> Nearly 1 in 4 U.S. women will experience a miscarriage in their lifetime,<sup>ii</sup> and they should not have to fear that their providers will turn them away.

- **Hospitals refuse to provide 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>iii</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 emergency care to LGBTQ individuals.** Tyra Hunter, a black transgender woman, was involved in a car accident in Washington, DC. EMTs began treatment for her at the scene but stopped providing care when they discovered she was a transgender woman and instead berated her with racist and transphobic taunts. Ms. Hunter was then given inadequate care at the hospital and died from her injuries soon after.<sup>iv</sup>

- **Health care providers refuse to treat patients living with gender dysphoria.** For more than a decade, Illinois resident Naya Taylor received care at the Carle Physician Group. After consulting with a licensed social worker, Taylor, a transgender woman, began hormone replacement therapy (HRT) as treatment for her gender dysphoria. She asked her doctors at Carle to monitor her hormone levels and requested a prescription for transition-related hormones. Taylor's physicians refused and told her that the clinic did not "have to treat people like you."<sup>v</sup>

- **The University of Maryland Medical System canceled a transgender man's scheduled hysterectomy.** In 2020, Jesse Hammons scheduled his hysterectomy surgery at the publicly funded St. Joseph's Medical Center in

Baltimore. His surgery was cancelled only a week prior to surgery because he is transgender. As Hammons explained, “The hospital will perform hysterectomies for everyone else, but they did not think that my life, as a man who is transgender, is equally worthy of protection. While no one should be turned away from health care because of who they are, the fact that this institution is part of the University of Maryland Medical System makes it particularly painful.”<sup>vi</sup>

- **Health care providers refuse to treat patients living with HIV.** One patient was told that HIV-positive patients weren’t welcome after he disclosed his HIV status. 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.<sup>vii</sup>

## 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. For example, an 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 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>viii</sup> Without complete information or referrals, patients may not have an accurate understanding of their condition or know the treatments available to them.

All Catholic health care facilities follow the Ethical and Religious Directives for Catholic Health Care Services (ERDs), which limit the services patients can receive from entities associated with Catholic hospitals, even if they are not Catholic organizations.<sup>ix</sup> 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>x</sup>

These refusals violate patients’ right to informed consent under federal and state law<sup>xi</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.

- **People seeking birth control or emergency contraception have been turned away at pharmacies.**

In at least 26 states across the country, women have been refused birth control at the pharmacy.<sup>xii</sup> 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. For rural women, a refusal at one pharmacy can mean a complete denial of necessary medication. Andrea Anderson, a mother of five in rural Minnesota, was prescribed Ella—a prescription-only emergency contraceptive—by her doctor. When Anderson tried to fill her prescription, the local pharmacist refused because of his personal beliefs and told her that she would likely be refused at the town’s other pharmacy. She drove twenty miles away to another pharmacy where the medication was out of stock.<sup>xiii</sup>

- **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>xiv</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>xv</sup>

- **Some insurance plans refuse to cover reproductive health care.** Fidelis Care in New York refused to provide birth control coverage to state Medicaid enrollees until January 1, 2019, when Fidelis changed their contraception policy to reflect state law.<sup>xvi</sup>
- **Insurance companies refuse to cover basic medical services for trans and gender non-conforming people.** Insurers often perceive sex characteristic surgeries through a cisgender lens. Some insurance companies view procedures that treat, cure, or offer relief from gender dysphoria—such as facial gender reassignment—as purely cosmetic and refuse coverage.<sup>xvii</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 objections to providing birth control coverage.<sup>xviii</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, every 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.

## Notes

- i. ACLU and MERGERWATCH, *HEALTH CARE DENIED* 19-20 (May 2016), available at [https://www.aclu.org/sites/default/files/field\\_document/healthcaredenied.pdf](https://www.aclu.org/sites/default/files/field_document/healthcaredenied.pdf).
- ii. 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>.
- iii. See ACLU and Mergerwatch.
- iv. *Margie Hunter v. District of Columbia*, No. 96-1338 (D.C. Super. Ct. 1998).
- v. Complaint, *Taylor v. Lystila*, 2:14-cv-02072- CSB-DGB (C.D. Ill., April 15, 2014), available at [lambdalegal.org/sites/default/files/taylor\\_il\\_20140416\\_complaint.pdf](http://lambdalegal.org/sites/default/files/taylor_il_20140416_complaint.pdf); Ms. Taylor's case was voluntarily dismissed by Lambda Legal after her death.
- vi. *Hammons v. UMMS*, available at <https://www.aclu.org/cases/hammons-v-umms>.
- vii. *Woolfolk v. Duncan*, 872 F. Supp. 1381 (E.D. Pa. 1995).
- viii. Jennifer Gunter, *The Only Religion That My Patients See Me Practice is Medicine*, KEVINMD.COM (Nov. 1, 2012), <https://www.kevinmd.com/blog/2012/11/religion-patients-practice-medicine.html>.
- ix. U.S. CONF. CATH. BISHOPS, *Ethical and Religious Directives for Catholic Health Care Services* (6th ed. 2018), available at <http://www.usccb.org/about/doctrine/ethical-and-religious-directives/upload/ethical-religious-directives-catholic-health-service-sixth-edition-2016-06.pdf>.
- x. 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).
- xi. 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).
- xii. NAT'L WOMEN'S LAW CENTER, *Pharmacy Refusals 101* (Dec. 2017), available at <https://nwlc.org/resources/pharmacy-refusals-101/>.
- xiii. Katie Sheperd, *The Washington Post*, *She needed to fill her prescription for the morning-after pill. The pharmacist refused, she alleges, because of his 'beliefs.'* (Dec. 13, 2019), available at <https://www.washingtonpost.com/nation/2019/12/13/minnesota-woman-rejected-morning-after-pill-pharmacist-beliefs-birth-control/>.
- xiv. 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>.
- xv. KAISER HEALTH NEWS, *'Sham' Sharing Ministries Test Faith Of Patients And Insurance Regulators* (May 17, 2019), available at <https://khn.org/news/sham-sharing-ministries-test-faith-of-patients-and-insurance-regulators>.
- xvi. 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/>; FIDELIS CARE, *2019 Family Planning and Reproductive Health Benefits* (Nov. 7, 2018), available at <https://www.fideliscare.org/provider?id=98>.
- xvii. TRANSGENDER LEGAL DEFENSE & EDUCATION FUND, *Literature Review Re: Medical necessity of facial gender reassignment surgery for transgender women* (Jun. 11, 2020), available at [https://transhealthproject.org/documents/34/Facial\\_surgery\\_medical\\_necessity\\_literature\\_review.pdf](https://transhealthproject.org/documents/34/Facial_surgery_medical_necessity_literature_review.pdf).
- xviii. Brief for Nat'l Women's Law Ctr, et al. as Amici Curiae Supporting Respondents and Affirmance, *Zubik v. Burwell*, 2016 WL 675863 (U.S.).