

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 personal objections to the care. 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 personal beliefs, not based on what is best for the patient's health and circumstances.

Although these kinds of harmful refusals of care took place long before the Supreme Court declared away the constitutional right to abortion in *Dobbs v. Jackson Women's Health Organization*¹, such refusals now pose an even greater threat to people's health and lives. Refusals by health care institutions or providers can mean individuals are not able to get the reproductive health care they need, even in states where abortion is legal. And refusals to provide information or referrals for contraception and sterilization are especially harmful now in states with abortion bans. In the current reality, a single instance of refusal of care can snowball into a person never getting the care they need or receiving it only after enduring significant harm, including in life-threatening situations.²

Refusals to Provide Care

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

- **Hospitals refuse to provide emergency abortion care.** Mindy Swank was 20-weeks pregnant and had learned her fetus had a severe abnormality when her water broke. Although the doctor at the Catholic hospital told her that continuing the pregnancy could endanger her future fertility and perhaps even her life, the hospital refused to treat her. She was sent to her local hospital which also denied treatment because it followed Catholic directives. After being denied treatment multiple times, the hospital finally induced labor because Mindy was experiencing severe hemorrhaging at 27 weeks pregnant. Mindy's baby died soon after delivery.³
- **Hospitals refuse to provide sterilization procedures.** Jennafer Norris requested a sterilization procedure at the time she delivered her baby because becoming pregnant again presented a danger to her health. A Catholic hospital in Arkansas refused to provide the sterilization procedure

to Jennafer.⁴ Undergoing sterilization at the time of cesarean delivery presents less risks and is more cost-effective, but some hospitals refuse because of religious-based prohibitions on sterilization procedures.

- **Health care systems refuse to provide surgeries that transgender patients need.** In 2020, Jesse Hammons scheduled his hysterectomy surgery at the publicly funded St. Joseph's Medical Center in Baltimore, Maryland. A week prior to surgery, it was canceled 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."⁵ Similarly, Evan Minton had an appointment to undergo gender-affirming care at a Dignity Health hospital in California.⁶ He mentioned to the nurse prior to the surgery that he was transgender, and the next day the hospital canceled his procedure, because it was related to gender transition. The hospital argued that religious doctrine allowed them to do this.⁷
- **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.⁸
- **Health care providers refuse to treat patients seeking gender affirming care.** 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, decided to start hormone replacement therapy (HRT) as treatment for gender dysphoria. But her doctor consistently refused to provide any transition-related care. The clinic told Naya they do not "have to treat people like you" because of religious beliefs.⁹
- **Health care providers refuse to treat patients living with HIV.** When a patient seeking care from a "preferred doctor" in his insurance plan network disclosed his HIV status, he was told the doctor did not "treat HIV." Later, when he sought treatment for chest pain, the doctor dismissed him and recommended that he see a psychiatrist. He continued experiencing troubling

symptoms and, ultimately, police brought the patient to an emergency room. His doctor refused to authorize emergency room treatment, but he was admitted with gastrointestinal hemorrhaging and was diagnosed with pneumonia, a staph infection, and AIDS.¹⁰

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. Religiously-affiliated hospitals may also restrict their employees' ability to provide information to patients about their care options, even when it goes against the provider's best judgment.

- Lori Witt started trying to obtain a tubal ligation at age 27 – but physicians refused to even discuss the medical procedure with her because of their personal views.¹¹
- In Colorado a cardiologist brought a complaint against the Catholic hospital he worked for, alleging that they were illegally telling doctors and other hospital employees that they could not discuss abortion with any patient, even if their life was at risk.¹²
- Layla Houshmand was denied information about abortion after suffering drastic changes in her vision, migraines, and severe vomiting in her eighth week of her pregnancy. Her ophthalmologist suspected that her pregnancy had caused a stroke in her optic nerve, could not provide her treatment because she was pregnant. Houshmand tried to contact her OB-GYN's office to find out more information about a potential abortion, but she was not given the information because of an affiliation the OB-GYN had with a religious hospital. Houshmand eventually was able to find a clinic that could provide her with an abortion, and then discovered she had a life-threatening infection in her optic nerve.¹³

Without complete information or referrals, patients may not have an accurate understanding of their condition or know all the treatments available to them. These refusals can leave patients without the information they need to make health care decisions for themselves, thereby violating a patients' right to informed consent under federal and state law.¹⁴

Refusals to Provide Medication at the Pharmacy

Patients seeking medication at the pharmacy have also faced refusals because of personal beliefs and have been

forced to leave without the medication they need. These refusals by pharmacists can be harmful and stressful to customers, and delay – or even prevent – them from getting critical medications.

- Susanne Koestner went to her local pharmacy in New Mexico to get her regular birth control.¹⁵ But the Walgreens pharmacist on duty refused to fill her birth control prescription, citing his religious beliefs.¹⁶
- In 2018, after Nicole Arteaga learned that she was going to miscarry, she visited her local Walgreens in Arizona to fill a prescription to terminate the pregnancy and complete the miscarriage.¹⁷ The pharmacist refused to dispense her medication and caused Arteaga to feel shame and humiliation.¹⁸
- Hilde Hall, a transgender woman, was refused her hormone prescription by a CVS pharmacist.¹⁹ Rather than getting the medication she needed to start hormone therapy, Hilde instead left the pharmacy embarrassed and distressed.²⁰

objections can exclude this critical care from their insurance plans, and opening the door to other religion-based challenges to preventive service coverage requirements.²³

Patients should never have to fear that a health care provider will turn them away due to personal 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.

Refusals to Provide Insurance Coverage

Access to reproductive health care has also been limited through refusals to provide insurance coverage. Some employers have refused to offer employees insurance coverage that includes certain reproductive health care services and some universities have also refused coverage in their students' plans.

- In Fall 2022, a student at Georgetown University Law Center was forced to pay for an abortion out-of-pocket because her health insurance through Georgetown University refuses to cover the procedure due to religious reasons.²¹
- A range of for-profit companies, non-profit organizations, colleges, and universities have objections to providing birth control coverage. The Trump Administration and some judges have sought to protect these entities' ability to block this essential coverage.²²
- Employers brought a lawsuit to be able to get out of providing insurance coverage of PrEP, a drug that prevents HIV, because they believe that including PrEP in their insurance plans would encourage gay sex. An extremist federal judge in Texas agreed with them, ruling in March 2023 that employers with religious

1. See *Dobbs v. Jackson Women's Health Organization: The Court Takes Away a Guaranteed Nationwide Right to Abortion*, National Women's Law Center (July 12, 2022), <https://nwl.org/resource/dobbs-v-jackson-womens-health-organization-the-court-takes-away-a-guaranteed-nationwide-right-to-abortion/>.
2. Refusals to provide abortion care are increasing in the post-*Dobbs*. And although they are not always due to personal or religious beliefs, recent instances demonstrate the serious harm that can result from a refusal of care. For example, Mylissa Farmer was a Missouri resident who was denied emergency abortion care by multiple hospitals in Kansas, Missouri, and Illinois after her water broke at 18 weeks of pregnancy. Despite the severe threats to Ms. Farmer's health and life and the fact that the pregnancy was not viable, the hospitals refused to provide the emergency care she needed. Ms. Farmer was forced to seek care elsewhere, and although she did receive the care she needed from an abortion clinic, Ms. Farmer suffered immense physical, mental, emotional, and financial harm. See Administrative Complaint, *Mylissa Farmer v. Freedman Health* (Nov. 8, 2022), available at: <https://nwl.org/wp-content/uploads/2022/11/2022.11.08-Mylissa-Farmer-EMTALA-complaint.pdf>.
3. ACLU and Mergerwatch, *Health Care Denied 19-20* (May 2016), available at <https://aclu.org/issues/reproductive-freedom/religion-and-reproductive-rights/health-care-denied>.
4. *Id.*
5. *Hammons UMMS*, available at <https://www.aclu.org/cases/hammons-v-umms>. In January 2023, the District Court of Maryland ruled for Hammons, finding that St. Joseph's Medical Center had violated the Affordable Care Act when it denied Hammons gender-affirming care. *Id.*
6. Evan Minton, *A Hospital Refused to Provide Medically Necessary Surgery Because I am Transgender*, ACLU (Feb. 27, 2020), <https://a.aclu.org/news/lgbtq-rights/a-hospital-refused-to-provide-medically-necessary-surgery-because-i-am-transgender>.
7. *Minton Dignity Health*, ACLU Southern California, <https://www.aclusocal.org/en/cases/minton-v-dignity-health>.
8. *Margie Hunter District of Columbia*, No. 96-1338 (D.C. Super. Ct. 1998).
9. *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_com.pdf; Ms. Taylor's case was voluntarily dismissed by Lambda Legal after her death.
10. *Woolfolk Duncan*, 872 F. Supp. 1381 (E.D. Pa. 1995).
11. Julie Deardorff, *Doctors Reluctant to Give Young Women Permanent Birth Control*, CHICAGO TRIBUNE (May 13, 2014, 12:00 AM), <https://www.chicagotribune.com/lifestyles/ct-xpm-2014-05-13-ct-met-sterilization-denied-20140513-story.html>.
12. Nina Martin, *Should Doctors at Catholic Hospitals be Barred From Discussing Abortion with Patients*, PACIFIC STANDARD (June 14, 2017), <https://psmag.com/social-justice/doctors-catholic-hospitals-barred-discussing-abortion-patients-71228#:~:text=In%20a%20complaint%2C%20ACLU%20of%20Colorado%20accused%20Mercy,even%20if%20a%20pregnancy%20threatens%20a%20woman%27s%20life>.
13. Maggie Koerth & Amelia Thomson-DeVeaux, *Even Exceptions to Abortion Bans Pit a Mother's Life Against Doctors' Fears*, FiveThirtyEight (June 30, 2022, 6:00 AM), <https://fivethirtyeight.com/features/even-exceptions-to-abortion-bans-pit-a-mothers-life-against-doctors-fears/>.
14. Most states have laws 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 F.R. § 482.13(b)(2) (2012).
15. Elizabeth Chuck, *Can a Pharmacist Legally Deny a Patient a Prescription? It Depends.*, NBC NEWS (July 28, 2018, 10:25 AM), <https://nbcnews.com/news/us-news/can-pharmacist-legally-deny-patient-prescription-it-depends-n894871>.
16. *Id.*
17. Elizabeth Chuck, *Walgreens Pharmacist Refuses to Give Arizona Woman Drug to End Pregnancy*, NBC NEWS (June 25, 2018, 4:01 PM), <https://www.nbcnews.com/news/us-news/walgreens-pharmacist-refuses-give-arizona-woman-drug-end-pregnancy-n886396>.
18. *Id.*
19. Phil McCausland, *CVS Apologizes for Pharmacist who Refused to File Transgender Woman's Prescription*, NBC NEWS (July 22, 2018, 7:32 PM), <https://www.com/news/us-news/cvs-apologizes-pharmacist-who-refused-fill-transgender-woman-s-prescription-n893426>.
20. *Id.*
21. Maryanne Magnie, LINKEDIN (MARCH 29, 2023), https://linkedin.com/posts/maryanne-magnie-9b3705120_no-donation-pledge-georgetown-university-activity-7046508057366851585-C3C0?utm_source=share&utm_medium=member_ios.
22. Employers and schools that want to deny birth control coverage and invalidate the Affordable Care Act requirement that insurance plans provide no-cost birth control coverage have brought hundreds of lawsuits, and courts have been hearing cases related to this issue for many years. Most recently, after the Trump administration issued a rule allowing virtually any employer to refuse to provide contraceptive coverage for any moral or religious reason, the Supreme Court agreed that the administration had authority to issue the rule, and sent the case back to lower courts. See *Little Sisters of the Poor Saints Peter and Paul Home v. Pennsylvania et al.*, 140 S.Ct. 2367 (2020). The Biden administration has proposed to rescind many of the Trump administration rule's most harmful provisions.
23. Mark Joseph Stern, *A Judge Let Employers Exclude HIV Prevention from Workers' Insurance. That's Not Even the Worst Part.*, SLATE (Sept. 8, 2022, 5:59 PM), <https://slate.com/news-and-politics/2022/09/prep-hiv-religious-employer-preventive-care.html>.