

When health care providers refuse: The impact on patients of providers' religious and moral objections to give medical care, information or referrals

Across the nation, patients are being denied health care services by providers who believe that their religious, ethical or moral beliefs should come before patients' needs. While many health care provider organizations—including the American College of Obstetricians and Gynecologists, the American Hospital Association, and the American Public Health Association—have expressed concerns about the impact of refusals on patient care, some providers still assert a right to deny patients medically appropriate health care services, information and referrals. These providers place their religious and moral beliefs above medically accepted standards of care and patients' needs.

Moreover, those who support the right to refuse also claim that refusals do not actually cause harm to patients. Advocates who oppose the right of providers to impede or delay patients' access to needed medical care are often faced with the following question: can't patients just go somewhere else? This question fails to recognize the variety of harms that come from refusals based on providers' religious beliefs. Many do not realize that a health care worker's refusal to provide services, information or referrals can have very serious emotional, physical and financial consequences for patients.

The HHS Provider Refusal Rule

In its waning days, the Bush Administration launched an eleventh-hour attack on women's health by enacting a rule that significantly altered patients' access to vital health services and information. This Rule on Provider Conscience, issued by the Bush Administration's Department of Health and Human Services (HHS), interpreted existing law to expand the universe of health care professionals and institutions who can refuse to provide services, information or referrals for health care to which they have a religious or moral objection.

Serious Consequences for Patients

- ⊙ A refusal to provide health care services can have long-term consequences, resulting in injury, disability, and even death;
- ⊙ A refusal can cause further trauma to a patient who is already traumatized;
- ⊙ A refusal can leave patients unaware of the treatments available to them or that they have received medically inaccurate information, violating their right to informed consent;
- ⊙ A refusal can result in denial of patients' statutory and constitutional rights;
- ⊙ A refusal can force a patient to pay for services that should be covered by insurance or harm the patient's ability to obtain insurance at all in the future;
- ⊙ A refusal can result in greater health care costs for those least able to afford it;
- ⊙ Refusals can be harmful to public health efforts;
- ⊙ Refusals reduce efficiency in the delivery of health care and increase health care costs.

The Obama Administration has taken steps to rescind the Bush Administration's HHS Rule on Provider Conscience. However, even if this harmful rule is rescinded, refusals likely will continue to impede patients' access to health care. Indeed, before the HHS rule was ever proposed, both individuals and institutions denied patients access to health care services, information and referrals. In some cases, providers placed their beliefs above their professional obligation to put the needs of their patients first. In some instances, patients were denied necessary emergency medical care, despite laws requiring that it be provided.

Refusals damage the trust between patient and provider

Even when a provider is not legally required to perform a service, medical professionals still have a duty to provide patients with referrals, medical information and their options for treatment. Major provider organizations including the American Medical Association, American College of Surgeons, American Academy of Pediatrics and American College of Emergency Physicians all opposed the aforementioned HHS rule, agreeing that the right of conscience "must be balanced against the fundamental obligations of medical professional and physicians' paramount responsibility and commitment to serving the needs of their patients." Patients must be able to trust their health care providers to give them comprehensive information and treatment based on the providers' professional training.

Other religiously-affiliated institutions also restrict access to reproductive health care

This problem extends beyond hospitals and other institutions that provide health care. Like hospitals, managed care plans may also be religiously-affiliated, and exclude coverage for reproductive health services. Religiously-affiliated employers, such as colleges and charitable organizations, also refuse to provide coverage for certain services to their employees. Catholic Charities, which provides a variety of social services, objected to laws in New York and California which required all employers to include contraceptives in their health insurance plans if the plans covered other drugs and devices. Both state laws included an exemption for employers who primarily served and employed people who shared their religion, and whose purpose was to inculcate religious values. The highest courts of both states upheld the law as advancing the states' interest in preventing sex discrimination and furthering public health.

Here are some examples of the harms caused to patients resulting from individuals' and institutions' refusal to provide health care services, information, referrals and coverage:

- ⊙ **A refusal to provide health care services can have long-term consequences, resulting in injury, disability, and even death.**
 - Certain medications, including contraception and emergency contraception, are only effective within a narrow time-frame. A refusal to dispense these medications may result in delays that put women at greater risk of unintended pregnancy.

- Some HIV medications are also highly time-sensitive. A delay resulting from a pharmacist's religious objection to caring for someone the pharmacist presumes is gay or promiscuous could make the medicine less or perhaps completely ineffective, placing the patient's health and life at risk.
- Some hospitals and medical professionals refuse to treat or stabilize women with ectopic pregnancies or miscarriages until there is no longer a detectable fetal heartbeat. These providers believe that to do so would amount to providing an abortion, despite the fact that these pregnancies are not viable and that a delay in care can result in infertility, infection, and even death for the woman.
- Because women's fertility declines with age, a delay in care resulting from refusal to provide infertility treatment may decrease the chance that a woman will ever become pregnant. A delay may also force a woman to use an egg donor, since the passage of time lessens the quality of her own eggs.
- For women with health concerns, failure to adequately prepare for pregnancy places both maternal and infant health at risk. Women with chronic medical conditions are more likely to have healthy pregnancies if their conditions are under control. If a provider is opposed to family planning and refuses to counsel a woman with a condition such as diabetes or heart disease about the benefits of delaying pregnancy, she may be denied the essential information she needs to decide what is best for her.

⊙ **A refusal can cause further trauma to a patient who is already traumatized.**

- A woman experiencing an ectopic pregnancy or miscarriage likely is already saddened by the loss of her pregnancy. A refusal to treat her until there is no longer a detectable fetal heartbeat only increases the trauma of the experience. Rather than being treated immediately and released from the hospital to begin healing both physically and emotionally, she is forced to undergo a delay in receiving care critical to her health.
- A rape survivor who goes to an emergency room for treatment might be denied emergency contraception (EC) based on the religious objections of a doctor, nurse or religiously affiliated hospital. If the survivor does not know about her option to use EC to help prevent pregnancy following the rape, she is unlikely to find out about it in time to take it and could become pregnant. After about 72 hours, the effectiveness of EC declines sharply, so the hospital or doctor's failure to tell the rape survivor about EC means that she will miss her opportunity to reduce her risk of pregnancy.
- Even if the rape survivor knows about EC, she may not be able to obtain this critical drug at the hospital because of refusals by the institution or its medical providers. Instead, she would be forced to leave the hospital to search for the drug at a pharmacy. She could have to travel a long distance to find EC, especially if she is raped late at night and needs to find a 24-hour pharmacy that keeps the drug in stock.

- When the survivor gets to a pharmacy, she might face yet another refusal from a pharmacist who refuse to dispense the drug, once again hindering her efforts to prevent a pregnancy resulting from an act of violence. She must also deal with the anxiety of not knowing whether the delay in getting the medication will result in a pregnancy, since EC becomes less effective as more time passes.
- ⊙ **A refusal can leave patients unaware of the treatments available to them or that they have received medically inaccurate information, violating their right to informed consent.**
- A provider who thinks that a patient will terminate her pregnancy if given certain information regarding fetal anomalies may claim that his or her religious beliefs entitle him or her to withhold information from the patient. For instance, a provider may be opposed to abortion and therefore may withhold information about the risks of carrying the pregnancy to term. This violates patients' right to informed consent under both common law and state statutory law.
 - In one instance, a pharmacist convinced a patient that her prescription for Plan B, the emergency contraceptive, was actually a prescription for the abortion pill. While Plan B is FDA-approved as a contraceptive, and will not work if a woman is pregnant, the pharmacist asserted a conscience-based right to provide medically incorrect information. The patient believed this misinformation and did not want to have an abortion, so she decided not to fill her prescription for Plan B. She got pregnant, and ultimately chose to have a surgical abortion since she decided that her family was already financially strained and could not support another child.
 - A doctor who is opposed to assisted reproduction may not inform someone who needs a medical treatment that reduces fertility (such as radiation to treat testicular or ovarian cancer) that sperm banking or egg-retrieval can increase the patient's chances of having biologically-related children. If the patient is not given this information before radiation treatments, that opportunity is lost forever.
- ⊙ **A refusal can result in denial of patients' statutory and constitutional rights.**
- The HHS rule provides no exemption for emergency situations. This means that health care workers or hospitals may believe that they can invoke religious beliefs in order to refuse to provide even emergency care. This results in patients being denied their right to a prompt evaluation and stabilization of their urgent medical conditions under the Emergency Medical Treatment and Active Labor Act.
 - A hospital or provider that insists on continuing treatment for a terminally ill patient in order to keep the patient alive violates the patient's constitutionally protected right to refuse treatment.

⊙ **A refusal can force a patient to pay for services that should be covered by insurance or harm the patient's ability to obtain insurance at all in the future.**

- If a woman's insurance covers only one visit to her gynecologist per year (as most do), her doctor's refusal to counsel her about family planning, write a prescription for oral contraceptives, or provide such services as IUD insertion or diaphragm fitting means that she will have to pay out of her own pocket to see another gynecologist in order to get the services for which she should be insured.
- In one case, a woman named Guadalupe Benitez discovered that no doctor in the infertility clinic would perform in vitro fertilization for her because they objected to lesbians having children. The doctors took her on as a patient, and subjected her to invasive tests for almost a year, but when it became clear that she needed more aggressive treatment, they declined. This clinic was the only one covered by her health insurance plan, so she was misled into thinking that her insurance would pay for all the infertility treatment she needed. Furthermore, being refused treatment cost Ms Benitez precious time and reduced her chances of successfully conceiving.
- In an effort to circumvent a hospital or other institution's religiously based opposition to contraception, some doctors may falsely indicate that a patient needs contraception for a medical reason, such as endometriosis or an irregular menstrual cycle. However, this practice ultimately can harm the patient in the long run, because if the patient ever needs to purchase private insurance, she may be denied coverage because her records include this preexisting medical condition.

⊙ **A refusal can result in greater health care costs for those least able to afford it.**

- A health care refusal in a rural area can require a patient to drive long distances in order to get needed care. The additional time and expense falls most heavily on those with low-incomes or who do not have the job flexibility to take time off to seek health care. A patient may be forced to disclose his or her health condition to someone in order to get time off or transportation to a provider when he or she would rather it remain a private matter.
- Access can also be a problem in urban areas. A refusal can require a patient to pay to take public transportation to a willing provider, or to hire a taxi to reach a willing hospital or pharmacy.

⊙ **Refusals can be harmful to public health efforts.**

- If a hospital or health care provider opposes use of birth control and refuses to counsel sexually active patients on the use of condoms to prevent the risk of transmitting HIV or other STDs, these refusals could contribute to higher rates of these diseases.
- A health care provider refusal may make a patient feel guilty, ashamed, alienated from the health care system, and fearful of being judged by other providers. A patient may

avoid contact with the health care system entirely, including use of preventive care, until his or her condition becomes more serious, reducing the chances of the patient recovering and contributing to greater health care costs. A patient may delay seeking medical attention until an illness becomes unbearable enough to force him or her to go to one of our nation's already overburdened emergency rooms.

⊙ **Refusals reduce efficiency in the delivery of health care and increase health care costs.**

- A woman who has a cesarean section and wishes to have a post-partum tubal ligation immediately following delivery cannot do so at a Catholic hospital, even though having the procedure at that time is medically recommended, presents fewer risks to the patient, and is more cost-effective than delaying the procedure to a later time. If the patient cannot have the procedure immediately following delivery, she must first recover from the cesarean surgery and then schedule the tubal ligation at least six weeks later when she is busy caring for her newborn. She will be required to go to another hospital and possibly a different doctor, and will have to transfer her medical records.
- Some states automatically enroll Medicaid beneficiaries into religiously affiliated managed care plans that do not provide family planning services. A beneficiary may not even be aware of the prohibition until she sees her doctor and tries to get birth control. The beneficiary may be barred from seeing another doctor for a certain period of time, or may face administrative difficulties in switching managed care plans so that she can get the care she needs and deserves.

Conclusion

Real people can suffer real harms when they are denied access to health care services, information and referrals. Patients rely on their providers to use their medical expertise and professional training to guide treatment decisions. Refusals based on providers' moral and religious beliefs undermine the trust that patients place in their providers.