

Refusals of abortion care for conditions that threaten maternal health

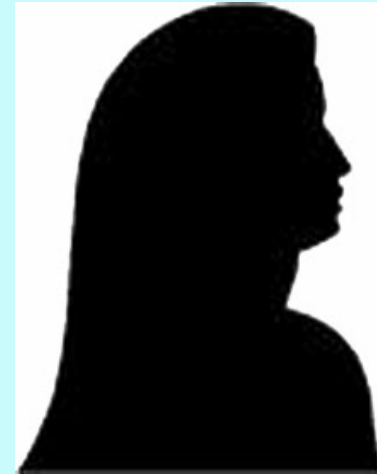
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Carla was uninsured. Her hospital bill for the abortion and the hysterectomy was over \$40,000.

But Carla is now being sued for failure to pay her bill by the Ob/Gyn who refused to perform her abortion.



**Are there limits to health care refusals?
At what point should the discussion be about the
health of the patient rather than the “right” to conscience?**

THE STANDARDS OF CARE PROJECT: RESTRICTIONS ON WOMEN'S HEALTH

Goal: To investigate and document whether and to what extent denials of health care and information conflict with professionally-developed, accepted **medical standards of care**, and to analyze the potential medical and health consequences on patients.

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OVERALL PROJECT DESIGN

- ◉ Technical report on medical standards of care for health conditions necessitating access to reproductive health care
- ◉ Analysis of how the issue of health care refusals is covered in the mass media
- ◉ Dissemination of findings to the health care professional community

CURRENT FRAMEWORK

- ◎ Current frame for “conscience clauses”
 - Conflict between health care providers rights of conscience and patient’s right to exercise autonomy
 - Contest of moral perspectives
 - Fails to recognize that health care is unique
- ◎ Decontextualization promotes issue as a philosophical debate without tangible results

HEALTH CARE IS UNIQUE

- ⊙ Practicing medicine, providing nursing care, or distributing drugs without a license are forbidden by law
- ⊙ Patients can only obtain certain care from professionals who are extended that privilege by the state
- ⊙ Information and services, therefore, do not take place in an open marketplace
- ⊙ Information and services occur in relationships created by law as inherently unequal

TRENDS IN HEALTH CARE

- ◉ Evidence-based practice
- ◉ Patient-centeredness
- ◉ Prevention

- ◉ Transforming the provider-patient relationship to optimize health, broadly defined as a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity

STANDARDS OF CARE

- ◉ The practices that are medically necessary and services that any practitioner under any circumstances should be expected to render
- ◉ Requires that all health care professionals provide information and care consistent with the highest standards of scientific evidence, based on individual patient need, and with the goal of maximizing wellness

NEW FRAMEWORK

- ◉ The patient need includes a general claim to the information and/or services necessary to achieve health and well-being.
- ◉ Denial of health care information and services can be examined using the lenses being employed to assess health care quality generally: evidence-based practice, patient-centeredness, and prevention.
- ◉ Health care denials are understood as violations of the standard of care rather than as moral contests.

SOURCES OF RESTRICTION

- ◉ **Refusal statutes or so-called “conscience clauses”** where institutions and individuals are shielded from liability for failing to provide health services, counseling and/or referrals
- ◉ **Institutional restrictions** that prohibit the provision of certain services in their facilities, refuse to cover those services in their insurance products, or otherwise restrict services
- ◉ **Political restrictions** that interfere with access to services and information through legislative or judicial means

A SNAPSHOT OF REFUSAL CLAUSES

- ◉ 46 states allow individuals to refuse to provide abortion care
- ◉ 43 states allow health care institutions to refuse to provide services
 - Only 1 state (California) limits that refusal to religious health care entities
- ◉ New laws are increasingly applying to a wider range of individuals in the health care system
 - Mississippi (admitting clerk)
- ◉ Federal level—The Weldon Amendment to the FY 2005 Appropriations bill limits the ability of federal, state, and local laws to mandate abortion care

CATHOLIC HEALTH FACILITIES

- ◉ Broadest religiously-based health care restrictions
- ◉ Control > 16% of the US hospital beds
- ◉ In 2004, 5 largest Catholic hospitals had \$30 billion in net patient revenues
- ◉ Governed by the Ethical and Religious Directives for Catholic Health Care Services (ERDs)
 - Promulgated by the U.S. Conference of Catholic Bishops
 - Prohibit abortion, sterilization, contraceptives and most forms of assisted reproductive technology
 - Contain no exceptions

WHAT STANDARDS OF CARE ARE VIOLATED?

- Reproductive and Sexual Health
 - Pregnancy Prevention
 - Pregnancy Termination
 - Pregnancy Attainment
 - Healthy Sexuality

PREGNANCY TERMINATION

- In 2000, 1.3 million ♀ needed a pregnancy termination
- Many reasons to terminate a pregnancy
 - Personal, social, economic
 - Medical (maternal or fetal)
- Standards of care
 - Within the care guidelines for conditions
 - Often obscured by language use or implied but not listed
 - For example use phrase “early delivery”

CONDITIONS THAT THREATEN MATERNAL HEALTH

- Ectopic Pregnancy
- Premature Rupture of Membranes
- Preeclampsia / Eclampsia / HELLP Syndrome
- Chronic Conditions
 - Lupus
 - Heart disease
- There are also many conditions which negatively affect fetal health for which abortion information, referral and performance (if requested) is considered standard of care

ECTOPIC PREGNANCY

- ◉ Pregnancy develops outside the uterus
- ◉ Standard of care
 - Treatment determined by individual clinical presentation and patient preference for intervention and future fertility (ACOG / RCOG)
- ◉ Consequences of continued pregnancy
 - Non-viable fetus
 - Rupture, internal bleeding
 - Maternal death
 - Infertility

EX. OF ECTOPIC CARE DENIALS

- ◉ Individual

- Physician refusal to treat ectopic due to presence of heart beat

- ◉ Politically-driven

- Bans on abortions in public hospitals

- ◉ Institutional

- ERDs

- ◉ Analyze ectopic pregnancy treatment within context of prohibition on abortion
- ◉ Can not perform “direct” abortion
- ◉ Can perform some interventions under principle of “double effect”
 - i.e salpingectomy (removal of tube)
- Policies differ by institution and are often difficult to interpret

The Sisters of St. Francis Health Services, Inc., have corporate policy to permit the use of methotrexate in the treatment of ectopic pregnancy only in certain circumstances. The drug can be used if, in addition to the other clinical criteria, an ultrasound indicates an extrauterine gestation without an embryo. The policy also states that in the case of a viable extrauterine pregnancy, the criteria for double effect are met by salpingectomy and not salpingostomy with the evacuation of the living embryo or fetus in the tube. In reality, however, there is no such thing as viable ectopic pregnancy.

In 2004, the *Pioneer Press* reported on the case of a woman with an ectopic pregnancy who was refused appropriate care at a facility operated by Resurrection Health Care. The interviewed physician stated that intervention to treat the woman's ectopic pregnancy was prohibited by the institution because of the presence of embryonic heartbeat. The woman was offered the option to sign out as if she was going home and then go to a different hospital where they might treat her.

UNSURE HOW
TO RESOLVE
THE SITUATION
DOCTORS AVOID
PROVIDING CARE

MID-TRIMESTER PREMATURE RUPTURE OF MEMBRANES (PROM)

◎ Standards of care

- Pt preference for expectant management or induction of labor (i.e. abortion) (ACOG)

◎ Complications of lack of care

- Infection, rare maternal sepsis
- Severe bleeding, aka hemorrhage
- Infertility
- Death
- Reduced fetal neurologic functioning

EX. PROM DENIALS OF CARE

- Individual
 - Physician refusal to perform abortion
 - Nurse refusal to participate in care for patient
- Politically-driven
 - Lack of public funding for procedure
 - State bans on performance of abortions in publicly-funded facilities
- Institutional
 - ERD prohibition on abortion if no double effect option (i.e. presence of infection)
 - Lack of skilled providers to perform D&E
 - Refusal to make direct transfer of care to another facility

A Question of Faith

A 35-YEAR-OLD WOMAN PRESENTS IN AN EMERGENCY DEPARTMENT just as the day shift is coming on. She is in rupturing her membranes and initiating labor. Women who want elective abortions go to Planned Parenthood; the ones

“And at this point their personal decision-making runs afoul of their hospital’s policies. Inducing labor before membranes have ruptured, or before there is a maternal indication such as infection, is technically an abortion. This hospital, like most hospitals in the metropolitan area in which they live, has a strict non-elective-abortion policy...”

“You might wonder, reading this vignette, how I happen to know so many details about this case, or even whether this is a fictional teaching care that so bedevils medical student. The unfortunate truth is that this is real life: I am the husband in this story.”

There is no maternal indication such as infection, is technically an elective abortion. This hospital, like most hospitals in the metropolitan area in which they live, has a strict non-elective-abortion policy, which forbids her obstetricians from

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PREECLAMPSIA / ECLAMPSIA / HELLP SYNDROME

- ⦿ Hypertensive conditions
- ⦿ Eclampsia is a major cause of maternal death
- ⦿ Can cause grand mal seizures
- ⦿ Only treatment for eclampsia and HELLP is to deliver the fetus

HELLP = hemolysis elevated liver enzymes and low platelet counts

ERD PROHIBIT TREATMENT

- ◎ According to Fr. Thomas O'Donnell (a leading Catholic theologian on health care issues)
 - Termination of the pregnancy in eclampsia when there is no hope that the fetus can survive outside the uterus " must be viewed as a direct abortion and in violation of the uniquely divine prerogative of absolute dominion over human life. "
 - Draws conclusion even as acknowledging that the disease is very serious and can cause damage to many organs of the body and can cause maternal death
 - Cannot be justified under the principle of double effect because the removal of the fetus from the uterus (the evil effect) is the intended act

O'Donnell T, S.J., *Medicine and Christian Morality*, 3rd rev. ed., New York, Alba House, 1996, 189

CHRONIC CONDITIONS

◎ Heart Disease

- American College of Cardiologists (ACC) and the American Heart Association (AHA) guidelines recommend that pregnancy should be avoided altogether or terminated if a woman has cyanotic congenital heart disease, Eisenmenger syndrome or pulmonary hypertension.

◎ Lupus

- Autoimmune disorder which can affect different parts of the body such as the skin, joints, blood, and kidneys and pregnancy can result in flares which can only be treated by terminating the pregnancy

RECOMMENDATIONS

Patient-Needs-First Systems and Policy Structures

- ◎ Limit refusal allowances
 - To individuals
 - For care, not information or referral
 - Meet specific criteria for objection
- ◎ Ensure composition and distribution of care providers to ensure access to care
- ◎ Treat denials as violations of standards of care with equivalent consequences

THANK YOU!