

FEDERAL POLICY SNAPSHOT

The Weldon Amendment: Interfering with Abortion Coverage and Care



Abortion is essential health care, and everyone should be able to get abortion care, coverage, information and referrals without interference. The Weldon Amendment and related federal “refusal of care” policies embolden health insurance plans, health care institutions and medical providers to deny abortion services and coverage, without regard to the impact on patients’ rights, health or well-being and often under the rubric of protecting “conscience” or “religious freedom.”

The Weldon Amendment has been used by antiabortion policymakers and institutions to undermine patient protections, threaten state governments that support abortion rights with the loss of critical federal health care funding and provide cover for institutions that refuse to abide by basic standards of medical care. Federal policymakers must repeal the Weldon Amendment and ensure that refusal of care policies do not override patients’ rights to abortion coverage and care.

How the Weldon Amendment works

- The Weldon Amendment bars funding by the U.S. Department of Health and Human Services (HHS) from going to federal agencies and programs or state and local governments that “discriminate” against health insurance plans, health care institutions or health care professionals that refuse to “provide, pay for, provide coverage of, or refer for abortions.” It has been included in annual spending bills for HHS, alongside the Hyde Amendment, since fiscal year 2005.

Refusal of care policies can:

- **Undermine legal protections and access to health care and coverage**
- **Interfere with patients’ right to provide informed consent to their care**
- **Violate medical and ethical standards of care for providers**
- **Endanger patients’ health**
- **Facilitate discrimination against patients**
- **Expand institutions’ power to impose a regressive agenda on society**

- Several other federal refusal of care policies predated the Weldon Amendment—as far back as the 1973 Church Amendment—along with similar refusal policies in almost every state. They are often referred to as conscience clauses or religious exemptions.
- The Weldon Amendment is especially broad in the range of agencies and programs it applies to, the scope of federal money it is tied to and the range of abortion-related services affected, from insurance coverage to referrals for care.
- The Weldon Amendment and other federal refusal of care policies are enforced by the HHS Office for Civil Rights (HHS OCR).
- The Trump-Pence administration adopted regulations in 2019 that broadly defined key terms in the Weldon Amendment and other refusal of care laws in ways that would have greatly expanded their scope and granted the HHS OCR sweeping enforcement powers to support providers that deny patients abortion coverage and care. Those regulations have been vacated by federal courts.

Impact of the Weldon Amendment

- The Weldon Amendment has been used for years by antiabortion policymakers, activists and institutions in multiple ways to threaten and undermine protections for abortion and other sexual and reproductive health care.
- State policymakers seeking to guarantee that residents have private insurance coverage of abortion have been threatened with the loss of millions or billions in federal funding for their state. Most notably, the Trump-Pence administration used its overly broad interpretation of the Weldon Amendment to justify withholding \$200 million quarterly in Medicaid funds from California, in the midst of the COVID-19 pandemic and despite the state’s documentation and earlier HHS OCR findings that its abortion coverage requirement complied with federal law.
- For decades, the federal Title X family planning program required providers to offer patients nondirective counseling on all of their pregnancy options, including abortion, and referral for those options on request. The Trump-

Pence administration relied on the Weldon Amendment and other refusal provisions in its 2019 “domestic gag rule,” essentially arguing that since some providers objected to abortion counseling or referral, then the requirement to offer it should be eliminated entirely for all providers, regardless of the outcome for patients’ rights to information and care. (The Biden-Harris administration is working to reverse the domestic gag rule and restore the Title X nondirective counseling requirement.)

- The Weldon Amendment may also be misused to interfere with legal and ethical requirements for health care facilities and clinicians to provide care related to abortion and pregnancy loss. The Trump-Pence administration tried to interpret the amendment in ways that would have violated federal requirements to provide emergency care for pregnant patients.
- The Weldon Amendment has also been used to justify exemptions to requirements for health plans to cover contraception or pharmacists to dispense it, because some institutions incorrectly claim that some methods of contraception are actually methods of abortion.
- More broadly, refusal of care policies like the Weldon Amendment threaten to interfere with patients’ right to learn about all of their medical options and provide informed consent to their care. They violate medical and ethical standards of care for providers; endanger patients’ health; facilitate discrimination against women, LGBTQ individuals, people of color, immigrants, people living with HIV and many others; and give expanded power to already powerful institutions to impose their values and agenda on society.

What policymakers can do

To limit the power of health care institutions and providers to deny patients needed care, coverage, information and referrals, the Biden-Harris administration and Congress should take the following steps:

- **Remove the Weldon Amendment** from the annual HHS spending bill.
- **Rescind Trump-Pence administration regulations** that broadly interpreted federal refusal of care laws and clarify that narrower regulations issued by the Obama-Biden administration are in effect.
- **Reverse any improper decisions** issued by the Trump-Pence administration under its overly broad regulations and the guise of enforcing federal refusal of care policies.

Sources

Links to source materials, related resources and other Federal Policy Snapshots are available at <https://www.guttmacher.org/fact-sheet/weldon-amendment>.



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[guttmacher.org](https://www.guttmacher.org)

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