

■ Refusing to Provide Health Services

BACKGROUND: Sparked by the U.S. Supreme Court's 1973 decisions in *Roe v. Wade* and *Doe v. Bolton* that legalized abortion nationwide, federal and state governments have enacted laws that allow health care professionals and institutions to refuse to provide services related to reproductive health without facing legal, financial or professional consequences.

A patchwork of federal laws explicitly allows many health care professionals and institutions to refuse to provide care related to abortion and sterilization services. Collectively, these laws prevent government agencies from forcing the provision of services or “discriminating” against individuals and institutions that refuse to provide them; they also prevent institutions receiving certain federal funds from taking action against health care personnel because of their participation or nonparticipation in beliefs about abortion or sterilization. Separate federal laws and regulations, notably Title VII of the Civil Rights Act, prohibit employers from discriminating against personnel based on religion, including religiously based objections to performing specific job functions; an employer must reasonably accommodate an employee's religious practices unless doing so would impose an undue hardship on the employer.

Almost every state has adopted similar policies related to abortion, and, in many instances, policies regarding sterilization or other contraceptive services; while some of the institutional policies are limited to private or religious health care institutions, others apply to all institutions providing health care. In addition to the rights granted by these specific policies, an individual health care professional's actions may be legally protected by state statutes, similar to the federal Title VII law, prohibiting discrimination against employees based on their religious objections.

In large part because of the introduction in the United States of emergency contraception in the late 1990s, the issue of religious and moral objections to providing care has expanded beyond doctors, nurses and hospitals to include pharmacists and pharmacies. Since that time, a few states have enacted laws that specifically allow pharmacists or pharmacies to refuse to provide health care because of religious or moral objections. Several other states have broadly worded refusal clause statutes that also might apply in these circumstances. In addition, many states that have policies requiring insurance plans to cover contraception if they cover other prescription drugs have included exemptions to those requirements for certain religious employers or insurers. (See [Emergency Contraception](#) and [Insurance Coverage of Contraceptives](#) for more details.)



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HIGHLIGHTS:

In addition to the federal laws related to refusal (see above),

- 45 states allow some health care providers to refuse to provide abortion services.
 - All of these states permit individual health care providers to refuse to provide abortion services.
 - 43 states allow health care institutions to refuse to provide abortion services; 13 limit the exemption to private health care institutions and 1 state allows only religious health care entities to refuse to provide such care.
- 12 states allow some health care providers to refuse to provide services related to contraception.
 - 9 states allow individual health care providers to refuse to provide services related to contraception.
 - 6 states explicitly permit pharmacists to refuse to dispense contraceptives. (6 additional states have broad refusal clauses that do not specifically include pharmacists, but may apply to them.)
 - 8 states allow health care institutions to refuse to provide services related to contraception; 5 states limit the exemption to private entities.
- 18 states allow some health care providers to refuse to provide sterilization services.
 - 17 states allow individual health care providers to refuse to provide sterilization services.
 - 16 states allow health care institutions to refuse to provide sterilization services; 4 limit the exemption to private entities.

POLICIES ALLOWING PROVIDERS TO REFUSE

STATE	REFUSAL						
	Abortion		Contraception			Sterilization	
	Individual Provider	Institution	Individual Provider	Pharmacist	Institution	Individual Provider	Institution
Federal Policy	X	X				X	X
Alaska	X	Private					
Arizona	X	X	X	X	X		
Arkansas	X	X	X	X	Private	X	X
California	X	Religious					
Colorado			X	*	Private		
Connecticut	X						
Delaware	X	X					
Florida	X	X	X	*			
Georgia	X	X		X		X	X
Hawaii	X	X					
Idaho	X	X	X	X		X	X
Illinois	X	X	X	*	X	X	X
Indiana	X	Private					
Iowa	X	Private					
Kansas	X	X	*†	*†		X	X
Kentucky	X	X				X	
Louisiana	X	X					
Maine	X	X	X	*	Private	X	X
Maryland	X	X				X	X
Massachusetts	X	Private			Private	X	Private
Michigan	X	X					
Minnesota	X	Private					
Mississippi	X	X	X	X	X	X	X
Missouri	X	X					
Montana	X	Private				X	Private
Nebraska	X	X					
Nevada	X	Private					
New Jersey	X	Private				X	Private
New Mexico	X	X					X
New York	X	X					
North Carolina	X	X					
North Dakota	X	X					
Ohio	X	X					
Oklahoma	X	X					
Oregon	X	Private					
Pennsylvania	X	Private				X	Private
Rhode Island	X					X	
South Carolina	X	Private					
South Dakota	X	X		X			
Tennessee	X	X	X	*	Private		
Texas	X	Private					
Utah	X	X					
Virginia	X	X					
Washington	X	X				X	X
West Virginia						X	X
Wisconsin	X	X				X	X
Wyoming	X	Private					
STATE TOTAL	45	43	9	6	8	17	16

Note: Unless indicated, the right to refuse applies to all institutions—private, religious and public.

* A broadly worded refusal clause may apply. In Illinois a state court held that a regulation requiring pharmacies to provide emergency contraception cannot be enforced against pharmacies that refuse to dispense the medication.

† The law permits refusal if the provider “reasonably believes” the drug or device “may result” in an abortion.

CONTINUED

FOR MORE INFORMATION:

For information on state legislative and policy activity, click on Guttmacher's [Monthly State Update](#), for state-level policy information, see Guttmacher's [State Policies in Brief](#) series, and for information and data on reproductive health issues, go to Guttmacher's [State Center](#). To see state-specific reproductive health information, go to Guttmacher's [Data Center](#), and for abortion-specific information, click on [State Facts About Abortion](#). To keep up with new state relevant data and analysis, sign up for the [State News Quarterly Listserv](#).

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