



Emergency Contraception (EC): An Important and Underutilized Contraceptive Option

Emergency contraception (EC), also known as the “morning-after” pill, contains the same active ingredients as ordinary birth-control pills and can substantially reduce a woman’s chance of becoming pregnant when taken soon after sex.¹ EC does not cause abortion; rather it *prevents* pregnancy.² EC is safe, effective, and simple to use and is not associated with any serious or harmful side effects. EC is not dangerous to women with particular medical conditions, and women can diagnose their own need for the treatment.³

In 1999, the U.S. Food and Drug Administration (FDA) approved the emergency contraceptive Plan B® for prescription use.⁴ In August 2006, after stalling for more than three years, the FDA approved Plan B® for over-the-counter sales for individuals ages 18 and older.⁵ In addition to Plan B®, approximately two dozen brands of daily birth-control pills are available in the United States that can be used as emergency contraception in appropriate doses.⁶

EC may be used when other contraceptive methods fail or are not used, such as when women are sexually assaulted. Although EC is not a substitute for ongoing contraceptive use and does not protect against the transmission of sexually transmitted diseases, it can reduce unintended pregnancy and the need for abortion – *if* women know about EC’s availability and use, and are able to access the medication in a timely manner.

Although EC has tremendous potential to help reduce unintended pregnancy, too few Americans are aware that contraceptive methods are available that can prevent pregnancy after sex. In fact, in 2003 only six percent of women ages 18 to 49 reported having used EC.⁷ In order for EC’s full benefits to be realized, women must be educated about the medication’s availability and its effectiveness, they must have broader access to it, and they must use it correctly and consistently.

Greater Use of Emergency Contraception has the Potential to Prevent Unintended Pregnancies and Improve Women’s Reproductive Health

EC and Unintended Pregnancy

- Approximately 3 million unintended pregnancies occur annually in the United States.⁸ Increased use of EC could reduce unintended-pregnancy rates, thereby reducing the need for abortion. Lack of access to and education about EC may contribute to higher rates of unplanned pregnancy in the United States compared with countries where emergency contraception is widely available.⁹

- Some studies show that many women do not use EC because, apparently, they underestimate their chances of becoming pregnant. That's why education is another critical piece of the effort to reduce unintended pregnancy and the need for abortion.

EC Can Improve Women’s and Children’s Health

Unintended pregnancies have serious health consequences for both women and children.¹⁰

- Women facing unplanned pregnancies are less likely to identify health risks associated with pregnancy prior to conception and often do not take full advantage of the health options available to manage such conditions safely during pregnancy.¹¹
- Statistically speaking, children of unplanned pregnancies are at greater risk of low birth weight, dying before reaching their first birthday, being abused, and receiving insufficient resources in order to ensure healthy development.¹²

Barriers to the Use of Emergency Contraception

Despite the potential for EC to reduce unintended pregnancy, and thus prevent the *need* for abortion, anti-choice activists have mounted major campaigns to limit women’s access to EC. Much of the opposition to EC arises from the misguided belief, and corresponding anti-choice rhetoric, that EC terminates pregnancy. In truth, EC *prevents* pregnancy, which the medical establishment, (including the American College of Obstetricians and Gynecologists (ACOG) and the U.S. Department of Health and Human Services, among others) defines as the implantation of the fertilized egg in the uterine lining.¹⁴ Because EC *prevents* pregnancy before implantation occurs, it does not cause abortion.¹⁵

<p>WOMEN REPORT POSITIVE EC EXPERIENCES</p> <p>A study of women who had used EC found that 91 percent of the women were satisfied with their experience, and 97 percent would recommend EC to another.¹³</p>
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Women’s ability to obtain information about EC breaks down in many settings:

Hospitals Fail to Provide EC to Sexual-Assault Survivors

Hospitals can help alleviate some of the trauma associated with sexual assault by providing rape survivors with information about and access to EC. Unfortunately, many emergency rooms fail to offer this important medication that can empower women by giving them a sense of control and the chance to avoid the additional trauma of unintended pregnancy.

- A 2005 nationwide telephone survey found that 42 percent of non-Catholic hospitals and 55 percent of Catholic hospitals do not provide EC under any circumstance, including when a woman has been sexually assaulted. Among staff working in these hospitals, only about half gave callers a referral, and most referrals proved ineffective.¹⁶ (The most

vocal opponents of EC are likely to be Catholic hospitals. A directive for Catholic health-care services states that a sexual-assault victim “may be treated with medications that would prevent sperm capacitation or fertilization,” however it does not permit treatments that would interfere with the implantation of a fertilized ovum.¹⁷⁾

- The same survey revealed that even in states with “EC in the ER” laws—which require EC to be provided in hospital emergency rooms—a large portion of staff reported over the phone that EC was not available on-site. This legal violation may be occurring because mandates are not carefully enforced or because staff are not informed of policy changes regarding the provision of EC.¹⁸
- NARAL Pro-Choice America affiliate surveys published from 1999 to 2002 in seven states (MA, MN, MO, NY, PA, TX, and WI) all indicated that too few hospitals offered emergency contraception to sexual-assault victims.¹⁹
- A 2005 study revealed that more than 25 percent of Illinois hospitals “never” or “sometimes” offer counseling on EC to sexual-assault victims even though Illinois law requires hospitals to do so. Specifically, Illinois law mandates that hospitals develop protocols that ensure sexual-assault victims receive medically accurate written and oral information about EC; the indications, counter-indications, and risks associated with EC; and a description of how and when victims can obtain EC upon written order of a licensed physician.²⁰

Pharmacist Refusals Create Unnecessary Barriers to EC

Unfortunately, anti-choice refusal clauses that permit a broad range of individuals and institutions to refuse to provide, pay, counsel, or even refer for medical treatment deny women access to this important reproductive-health option.

- As many as 21 states have laws that could be construed to permit pharmacists to refuse to fill women’s prescriptions for contraception, including EC.²²
- In 2008, 10 states considered 13 anti-choice measures to permit pharmacists and/or pharmacies to refuse to fill women’s prescriptions for contraception, including EC: AL, HI, IN, MI, MO, NY, PA, RI, SC, and VT.²³
- A NARAL Pro-Choice North Carolina study found that nearly 40 percent of North Carolina pharmacies do not stock EC.²⁴

MISLEADING MESSAGES ABOUT EC HINDER ACCESS

Twenty percent of Title X family-planning program grantees in Michigan mistakenly believe that EC is “primarily an abortion-inducing agent.” In explaining why their programs did not provide EC, several respondents cited politics and the debate over abortion.²¹

- Pharmacists refusing to dispense EC have received increased media attention. For example, in March 2007 Carrie Baker tried to obtain EC from her Kroger pharmacy in Rome, Georgia, but the pharmacist refused to sell it to her. The 42-year-old married mother of two thought that taking Plan B® “was a responsible decision and the best way to care for [her] family.”²⁵
- In response to pharmacist refusals to fill women’s prescriptions for Plan B®, Illinois Gov. Rod Blagojevich instituted an executive rule to protect women’s access to prescription contraceptives. In part, it requires: “Upon receipt of a valid, lawful prescription for a contraceptive, a pharmacy must dispense the contraceptive, or a suitable alternative permitted by the prescriber, to the patient or the patient’s agent without delay.” Gov. Blagojevich commented, “Our regulation says that if a woman goes to a pharmacy with a prescription for birth control the pharmacy or the pharmacist is not allowed to discriminate or to choose who he sells it to or who he doesn’t sell it to. . . . No delays. No hassles. No lectures.”²⁶

Strategies for Improving Access to Emergency Contraception

Although the FDA approved EC for over-the-counter sales for individuals ages 18 and older, women still face barriers when trying to obtain the medication. Research demonstrates that EC is more effective the earlier it is taken.²⁷ Thus, finding ways to facilitate access to EC without delay is crucial. There are at least five ways to improve women’s access to EC: (1) label ordinary birth-control pills with instructions for use as EC; (2) provide women with EC in advance at routine check-ups; (3) allow pharmacists to provide women under the age of 18 with EC without a doctor’s prescription through collaborative drug-therapy agreements; (4) ensure sexual-assault victims receive information about and access to EC in hospital emergency rooms; and (5) ensure Medicaid coverage of EC.

Label Ordinary Birth-Control Pills for Use as EC

- More than 10 million American women are currently using birth-control pills and countless others have been on the pill at one time or another.²⁸ The FDA has approved several types of oral contraceptives for use as emergency contraceptives.²⁹ If these ordinary birth-control pills were labeled with instructions for use as an emergency contraceptive, millions more women and their physicians would be aware that something can be done to prevent unintended pregnancy if unprotected sex occurs.

Provide Women with Information About EC at Routine Check-Ups

- Health-care providers should include EC education in routine office visits.³¹ The American College of Obstetricians and Gynecologists recommends this approach.³² In addition, at least one study has found that advance provision increases the likelihood that women will use EC; women who received an advance supply of EC were nearly three times more likely to use the treatment than women who received only information about EC.³³

Direct Distribution by Pharmacists

- In addition to EC being available over the counter for adults, nine states (AK, CA, HI, ME, MA, NH, NM, VT, and WA) have adopted measures that allow pharmacists to provide EC to all women regardless of age without a prescription, typically through arrangements with health-care providers known as collaborative-therapy agreements.³⁴ These agreements allow pharmacists to provide drugs, when medically appropriate, directly to patients requesting them without an advance prescription.³⁵ Allowing pharmacists to provide EC directly to women regardless of age is a critical means of improving access for women under the age of 18 who are not able to purchase EC over the counter.
- In 1999, the state of Washington completed a two-year pilot project that enabled women to receive EC directly from pharmacists without a doctor’s prescription. In 16 months, the program provided EC to nearly 12,000 women, possibly preventing an estimated 700 unplanned pregnancies and 350 abortions.³⁶
- In 2008, three states considered five measures to allow pharmacists to dispense EC directly to women of all ages without a prescription: IL, NJ, and NY.³⁷

Provide Information About and Access to EC in Hospital Emergency Rooms

- Each year, approximately 25,000 women in the United States become pregnant as a result of rape.³⁸ This is an added tragedy since when used correctly and consistently, EC can significantly reduce a woman’s chances of becoming pregnant – yet too few women know about the medication. Hospitals could help alleviate some of the trauma associated with sexual assault by offering EC to sexual-assault survivors.
- Currently, 10 states (CA, CT, MA, MN, NJ, NM, NY, OR, WA and WI) have enacted explicit “EC in the ER” laws that ensure that sexual-assault victims receive access to EC in hospitals.³⁹ Four additional states (AR, CO, IL and SC) have related laws affecting sexual-assault survivors’ right to receive emergency contraceptive services.⁴⁰

EC IS A COST-EFFECTIVE WAY TO PREVENT UNINTENDED PREGNANCY

Estimates show that in a managed-care setting, a single treatment of EC saves \$142, and advance provision of EC to women using spermicides, barrier contraceptives, withdrawal, or periodic abstinence saves \$263 to \$498 annually. When women obtain EC directly from a pharmacist, private payers save \$158 and public payers save \$48 per woman having unprotected sex.³⁰

- In 2008, 13 states and the District of Columbia considered 29 measures to ensure that sexual-assault victims receive access to or information about EC in hospitals: AZ, DC, FL, HI, MI, MN, MO, NC, OH, OK, PA, TN, WV, and WI.⁴¹
- Nearly 80 percent of American women believe that hospitals should provide EC to rape survivors – regardless of whether the hospital is affiliated with the Catholic church.⁴²

Ensure Medicaid Coverage of Emergency Contraception

- While the approval of Plan B® for over-the-counter-sales to individuals ages 18 and over marked a significant step forward in advancing women’s access to contraception, the medication’s retail cost is too expensive for many women to afford. In many states, women eligible for Medicaid need to obtain a prescription in order to have the cost of the medication covered. Because Plan B® is effective only if used within a very brief time period, going to a physician to obtain a prescription for the medication hinders timely access to the medication. Accordingly, state efforts to provide Medicaid coverage of EC without a prescription are critical to ensuring access to the medication.
- As of 2007, eight states provided Medicaid coverage of EC without a prescription: HI, IL, MD, NJ, NY, OK, OR, WA.⁴³

Public and Professional Education will Improve Access to and Increase Use of Emergency Contraception

Much more will need to be done to help educate women and their doctors about EC, where to obtain it, how it works, and how to take it so that is has the greatest chance of preventing pregnancy. Very few women know of the medication’s availability – and very few doctors include EC information as part of a routine check-up. Until this information is commonly known, EC’s full potential to prevent unintended pregnancy, and therefore the need for abortion, cannot be fully realized.

- Only 31 percent of ob/gyns have prescribed EC on a regular basis (more than five times per year). Moreover, only 25 percent of ob/gyns discuss EC with their patients most or all of the time as part of routine contraceptive counseling.⁴⁴
- One survey found that almost 25 percent of North Carolina pharmacists thought that EC was the same as the abortion pill. Some even told callers that EC caused an abortion and that if “the egg is fertilized, you have a live person.” Only one pharmacist out of 583 knew that EC was effective up to 120 hours after unprotected sex.⁴⁵

EC Public-Education Campaigns Can Increase Awareness of EC

- On February 14, 1996, the Reproductive Health Technologies Project inaugurated a national toll-free hotline (1-888-NOT-2-LATE) that provides information on EC and referrals to health-care professionals who are able to prescribe it.
- The Hawaii health department conducted a public service advertising campaign about EC in 1999. The ads directed listeners to contact the national toll-free hotline or the state's family-planning information line. The average number of calls to the family-planning information line increased from eight to 10 calls per day to 40 to 50 calls per day during the month the radio spots aired.⁴⁶
- Colorado's Boulder County health department educated the University of Colorado campus and surrounding community about EC using wallet cards and posters in the spring of 2000. The number of EC prescriptions filled increased substantially during the education program, with twice as many prescriptions filled in April 2000 as in April 1999.⁴⁷

Conclusion

Emergency contraception is an important but underutilized contraceptive option that has the potential to improve women's reproductive health significantly. Ensuring that women have timely access to EC at doctor's offices, pharmacies, and hospitals, and encouraging women to use the medication correctly and consistently, may help reduce unintended pregnancy and the need for abortion. Instead of blocking access to EC, policymakers should focus on better public education, professional education, and innovative programs to make EC more accessible to all women.

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Notes:

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² ROBERT A. HATCHER ET AL., *EMERGENCY CONTRACEPTION: THE NATION'S BEST KEPT SECRET* 29-30 (1995); American College of Obstetricians & Gynecologists (ACOG), *Statement on Contraceptive Methods* (July 1998). In fact, EC does not work if a woman is already pregnant.

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- ³ Charlotte Ellertson et al., *Should Emergency Contraceptive Pills Be Available Without Prescription?*, 53 JAMWA 226, 227-28 (1998); David A. Grimes, *Switching Emergency Contraception to Over-the-Counter Status*, 347 NEW ENGLAND JOURNAL OF MEDICINE 846, 846-47 (2002).
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- ¹⁰ COMMITTEE ON UNINTENDED PREGNANCY, INSTITUTE OF MEDICINE, *THE BEST INTENTIONS: UNINTENDED PREGNANCY AND THE WELL-BEING OF CHILDREN AND FAMILIES 80-82* (Sarah S. Brown & Leon Eisenberg eds., 1995).
- ¹¹ COMMITTEE ON UNINTENDED PREGNANCY, INSTITUTE OF MEDICINE, *THE BEST INTENTIONS: UNINTENDED PREGNANCY AND THE WELL-BEING OF CHILDREN AND FAMILIES 80-82* (Sarah S. Brown & Leon Eisenberg eds., 1995).
- ¹² COMMITTEE ON UNINTENDED PREGNANCY, INSTITUTE OF MEDICINE, *THE BEST INTENTIONS: UNINTENDED PREGNANCY AND THE WELL-BEING OF CHILDREN AND FAMILIES 80-82* (Sarah S. Brown & Leon Eisenberg eds., 1995).
- ¹³ S. Marie Harvey et al., *Women's Experience and Satisfaction with Emergency Contraception*, 31 FAM. PLAN. PERSP. 237 (1999).
- ¹⁴ ACOG, *Statement on Contraceptive Methods* (July 1998); 45 C.F.R. § 46.202(f).
- ¹⁵ ROBERT A. HATCHER ET AL., *EMERGENCY CONTRACEPTION: THE NATION'S BEST KEPT SECRET 29-30* (1995); ACOG, *Statement on Contraceptive Methods* (July 1998).
- ¹⁶ Teresa Harrison, *Availability of Emergency Contraception: A Survey of Hospital Emergency Department Staff*, 46 ANNALS OF EMERGENCY MED. 105, 107-108 (2005).
- ¹⁷ Directive 36 of the U.S. Bishops' ETHICAL AND RELIGIOUS DIRECTIVES FOR CATHOLIC HEALTH CARE SERVICES provides, in part: "A female who has been raped should be able to defend herself against a potential conception from the sexual assault. If, after appropriate testing, there is no evidence that conception has occurred already, she may be treated with medications that would prevent ovulation, sperm capacitation, or fertilization." IBIS REPRODUCTIVE HEALTH & CATHOLICS FOR A FREE CHOICE, *SECOND CHANCE DENIED: EMERGENCY CONTRACEPTION IN CATHOLIC HOSPITAL EMERGENCY ROOMS 9* (2002), citing U.S. CONFERENCE OF CATHOLIC BISHOPS, *ETHICAL AND RELIGIOUS DIRECTIVES FOR CATHOLIC HEALTH CARE SERVICES Directive 36*.

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- ²⁵ Greg Bluestein, *Kroger: No Refusing Morning-After Pill*, ASSOC. PRESS ONLINE, Mar. 9, 2007.
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- ⁴⁰ ARK. CODE ANN. § 20-13-1401 to -1403 (Enacted 2007); COLO. REV. STAT. § 25-3-110 (Enacted 2007); 410 ILL. COMP. STAT. ANN. § 70/2.2; S.C. CODE ANN. § 16-3-1350.
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