

Refusal to Provide Medical Services

Q: Are health-care providers really allowed to refuse to provide medically necessary services?

A: **YES.** A number of state and federal laws include provisions known as “refusal clauses,” which permit a broad range of individuals and institutions—including hospitals, hospital employees, health-care providers, pharmacists, employers, and insurance companies—to refuse to provide, pay for, counsel for, or even refer patients for medical treatment that they oppose. Although carefully crafted refusal clauses may be acceptable in some circumstances to protect individuals who oppose certain treatments, broad refusal clauses deny women medically necessary information, referrals, and services. In addition, even if individual medical providers are protected, health-care corporations should not be allowed broadly to deny women access to necessary medical services and information.



CURRENT STATE LAWS

47 states and the District of Columbia allow certain individuals or entities to refuse to provide women specific reproductive-health services, information, or referrals: AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY.



CURRENT FEDERAL LAWS

Several federal laws allow health-care employees and companies to refuse to provide, pay for, counsel for, or even refer for abortion services—and in some cases contraceptives. The key laws include the Church amendment (1973, 1974), the Coats amendment to the Public Health Service Act (1996), and the Federal Refusal Clause (also known as the Weldon amendment, 2004). The furthest-reaching refusal law was implemented in 2009 through a Department of Health and Human Services regulation enacted in the last days of the Bush administration. The regulation, known as the Federal Refusal Rule, expands the ability of health-care companies and providers to refuse to provide, cover, or refer for medical services. The Obama administration took the first step toward rescinding the regulation in March 2009, but as of this publication's printing it remains in effect.



2010 ENACTED STATE LEGISLATION

2 states enacted **2** measures modifying existing laws that allow certain individuals or entities to refuse to provide women specific reproductive-health services, information, or referrals: ID, OK. Idaho's new law expands the state's abortion refusal law and now allows individuals to refuse to provide birth control. Oklahoma's new law expands the state's abortion refusal law to allow additional entities to refuse to provide abortion care.



2010 FEDERAL ACTION

The health-reform law enacted in March 2010 granted refusal rights to health plans participating in the newly formed insurance exchanges by prohibiting them from discriminating against individual providers and health-care facilities because of their unwillingness to “provide, pay for, provide coverage for, or refer for abortions.” Additionally, the executive order that President Obama signed in connection with the law barring federal funding of abortion reaffirms all existing federal refusal laws.



2010 NOTABLE CASES

In April 2010, in *Planned Parenthood Arizona, Inc. v. Goddard*, a state superior court reaffirmed its September 2009 injunction that blocks the portion of Arizona's abortion refusal law enacted in 2009. The 2009 law expanded the state's abortion refusal law to hospitals and specified that providers may not be required to facilitate the provision of abortion services. The previously enacted refusal provisions passed in 1973 remain in place.

This information is current as of October 31, 2010. For updated information, including detailed summaries of all referenced laws and legislation, please visit www.WhoDecides.org.