Conscientious Objection to Emergency Contraception in the Context of COVID-19

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INTRODUCTION

Emergency contraception is formally recognized as the only effective way to prevent pregnancy after sexual intercourse by the World Health Organization.[1] The word emergency is used due to the brief time during which it is efficacious. It is useful only when administered within 72 hours of a sexual encounter.[2] When pharmacists withhold emergency contraception, they permanently eliminate the only window of opportunity in which the emergency contraception can take effect. If patients do not find another source of contraception, they may become pregnant. Yet, both abortion and pregnancy present more risks to patient health than emergency contraception.[3] Conscientious objection deserves heightened scrutiny. In light of both *Dobbs v. Jackson Women's Health Organization*[4]*(allowing states to limit access to abortion)* and the COVID-19 pandemic, emergency contraception is an important tool that people must be able to access to prevent pregnancy.

ANALYSIS

So why are providers allowed to bar access to such invaluable care? *Conscientious objection* is the refusal to perform a task because of a personal value or belief. Conscientious objection to the dispensing of emergency contraception is legal in several states including Idaho, Arkansas, Georgia, Missouri, Arizona, and South Dakota.[5] There are no exceptions made for sexual assault. In Texas, which also permits pharmacists to refuse to distribute emergency contraception, there were 13,509 forcible rape cases in 2020, the highest number in all fifty states.[6] With many states imposing strict limits on accessing abortion care, emergency contraception is more important than ever. Emergency contraception is also an important tool for people who oppose abortion for themselves, but whose health would be endangered by a pregnancy. Conscientious objection to emergency contraception considering *Dobbs* could be even more punitive to women who need or wish to avoid pregnancy. Once pregnant, women in some states may have

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few options. Emergency contraception also avoids the moral conundrum that abortion creates for many pregnant women. Avoiding pregnancy is generally far safer, simpler, and less morally charged than abortion care.

Advocates supporting conscientious objection frequently mistake emergency contraception for an abortifacient. However, emergency contraception does not terminate a pregnancy. Instead, it prevents fertilization or implantation from occurring. Some argue that distinction should negate religious rationales.[7] However, religion is a common rationale for conscientious objection to providing emergency contraception.

In the initial months of the government-mandated COVID-19 lockdown, rates of sexual assault and rape escalated.[8] Rape crisis centers surveyed across the country reported a 40 percent increase in demand for their services.[9] Societal repercussions of COVID-19 include economic insecurity, social isolation, quarantine, and job loss, all of which have been associated with an increased risk for sexual assault.[10] In the context of strained hospital resources and limited in-person medical and mental health resources, access to emergency contraception became increasingly important for sexual assault victims during the pandemic.

Several arguments have been set forth to justify placing limitations on conscientious objection.[11] First, pharmacists choose to enter a profession bound by fiduciary duties. These duties demand that pharmacists respect the autonomy and dignity of individual patients.[12] A pharmacist that withholds emergency contraception is infringing on a patient's autonomy. Secondly, pharmacists are expected to prioritize the needs of their patients over their own. The principle of beneficence obligates clinicians to act in the interests of their patients.[9] In the act of requesting emergency contraception, patients express their intentions and interests. A pharmacist's denial of emergency contraception violates the principle of beneficence and directly counters patient interests. States allowing pharmacists to withhold emergency care risk contributing to increasing rates of unwanted pregnancies. They fail to recognize the wrongdoing to patients by prioritizing the rights of the withholding pharmacists over the rights of people seeking emergency contraception.

Denying patient access to emergency contraception neglects the principle of nonmaleficence, as this objection significantly compromises patient health. Patients denied contraception after sexual assault face increased mental and physical health risks. COVID-19 exacerbated the risk of psychological harms as social isolation impacted rates of anxiety and depression.[13]

COVID-19 further exposed social and political unrest, racial and other forms of discrimination, and widening health disparities.[14] Sexual and reproductive health services were scaled back and essential support services including hotlines, crisis centers, protection, and counseling services were disrupted.[15] The limitations disproportionately burdened patients who lack access to alternative healthcare channels.[16] For example, patients in rural settings may not have access to the alternative healthcare channels available in metropolitan or suburban settings.

Counterarguments include that pharmacists deserve autonomy. Forcing them to provide emergency contraception infringes the pharmacist's ability to make an autonomous decision. However, emergency contraception is significantly different from other types of birth control pills due to the rushed timeframe. A pharmacists' refusal to dispense emergency contraception imposes the pharmacist's moral and social values on patients who are in immediate need of care. If pharmacists choose to prioritize their own social and moral values above their professional duties, they fail to fulfil their job obligations. One solution, or middle ground, would be allowing the objector to recommend a nearby pharmacy as long as there is one

that is open and convenient. Many support that stance despite its inconveniencing the patient. Other alternatives may entail pharmacists switching shifts to times when emergency contraception is least in demand or working in groups to avoid personally dispensing emergency contraception. Yet, absent these simple alternatives, conscientious objection that causes a person to become pregnant who otherwise would not have is ethically impermissible.

CONCLUSION

In conclusion, conscientious objection to emergency contraception should be eliminated, especially considering the other hardships posed by the pandemic. Conscientious objection of emergency contraception under the circumstances of COVID-19 is an unethical stance that violates the bioethical principles of autonomy, beneficence, nonmaleficence, and justice.

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