

‘Conscience’ Bills Let Medical Providers Opt Out of Providing a Wide Range of Care

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A new Montana law will provide sweeping legal protections to health care practitioners who refuse to prescribe marijuana or participate in procedures and treatments such as abortion, medically assisted death, gender-affirming care, or others that run afoul of their ethical, moral, or religious beliefs or principles.

The law, which goes into effect in October, will [gut patients’ ability](#) to take legal action if they believe they didn’t receive proper care due to a conscientious objection by a provider or an institution, such as a hospital.

So-called medical conscience objection laws have existed at the state and federal levels for years, with most protecting providers who refuse to perform an abortion or sterilization procedure. But the new Montana law, and others like it that have passed or been introduced in statehouses across the U.S., goes further, to the point of undermining patient care and threatening the right of people to receive lifesaving and essential care, according to critics.

“I tend to call them ‘medical refusal bills,’” said Liz Reiner Platt, the director of Columbia Law School’s [Law, Rights, and Religion Project](#). “Patients are being denied the standard of care, being denied adequate medical care, because objections to certain routine medical practices are being prioritized over patient health.”

This year, 21 bills instituting or expanding conscience clauses have [been introduced](#) in statehouses, and two have become law, according to the nonprofit Guttmacher Institute. Florida lawmakers passed legislation that allows providers and insurers to refuse any health service that violates ethical beliefs. Montana’s law goes further, prohibiting the assignment of health workers to provide, facilitate, or refer patients for abortions unless the providers have consented in writing. South Carolina, Ohio, and Arkansas previously passed bills.

Supporters of the Montana law, called the Implement Medical Ethics and Diversity Act, say it fills

gaps in federal law, empowering more medical professionals to practice medicine based on their conscience in circumstances beyond abortion and sterilization.

The bill applies to a wide range of practitioners, institutions, and insurers, encompassing just about any type of health care and anyone who could be providing it. The exception is emergency rooms, where the federal [Emergency Medical Treatment and Labor Act](#) takes precedence.

“We have technology that is pushing the limits of what is maybe ethical, and that is different in everybody’s minds,” said Republican state Rep. Amy Regier, who sponsored the Montana bill. “Having extra protections for people to practice according to their conscience as we continue down that path of innovation is important.”

Claims the bill discriminates against patients frustrate Regier, who said it’s about protecting health care providers. “Because someone has a conscientious objection to a specific service, they should be able to practice that way,” she said.

In 1973, federal regulations known as the Church Amendments were implemented after the Supreme Court’s Roe v. Wade decision made abortion legal nationwide. Under the Church Amendments, any institution that receives funding from the federal Department of Health and Human Services may not require health care providers to perform abortion or sterilization procedures if doing so would violate their religious or moral principles. Additionally, providers who refuse to perform these services may not be discriminated against for their decision.

Since then, at least 45 states have [enacted their own](#) abortion conscience clauses, according to the Guttmacher Institute. Of those, [only 17 mandate](#) that patients be notified of the refusal or limit the clause’s use in the case of miscarriage or emergency.

A [March 2020 article](#) in the American Medical Association’s Journal of Ethics said, “Clinicians who object to providing care on the basis of ‘conscience’ have never been more robustly protected than today.” Legal remedies for patients who receive inadequate care as a result have shrunk significantly, the article said.

But the wave of medical conscience bills introduced in statehouses since that article was published go beyond abortion to include contraception, sterilization, gender-affirming care, and other services. Opponents such as the American Civil Liberties Union, Planned Parenthood, and the Human Rights Campaign have been vocal opponents of this trend, criticizing it as a backdoor way to restrict the rights of women, LGBTQ+ community members, and other individuals.

Still, lawmakers across the country insist the right of doctors, nurses, pharmacists, and other medical providers to practice medicine in alignment with their beliefs is being infringed.

Some health care practitioners would “just be done” practicing medicine if forced to perform certain procedures such as abortion, Regier said. “That, to me, is what limits patient care.”

Many of the most sweeping bills are backed by organizations that have made it their business to promote this “conscience” agenda nationwide, such as the Christian Medical Association, Catholic Medical Association, and National Association of Pro-Life Nurses. Other groups launched a joint effort in 2020 with the [explicit purpose](#) of advancing state legislation that makes it easier for health care providers to refuse to perform a wide range of procedures, including abortion and types of gender-affirming care.

The organizations that started the initiative are the Religious Freedom Institute in Washington D.C., an Arizona-based nonprofit called the [Alliance Defending Freedom](#), and the Christ Medicus Foundation in Michigan. According to its website, the coalition bolsters efforts to pass more sweeping medical conscience legislation, using methods including print and digital media campaign strategy, grassroots organizing, and advocacy. After successes in Arkansas, Ohio, and South Carolina in 2021 and 2022, it turned to Montana and Florida. Regier said there are a “number of different organizations” pushing this type of legislation, including the Alliance Defending Freedom.

Most of these conscience laws are part of an “arsenal” to further social conservatism, and they are often religiously motivated, said Lori Freedman, a researcher and associate professor at the Bixby Center for Global Reproductive Health at the University of California-San Francisco.

Although federal law is meant to ensure people receive lifesaving care in an emergency, Freedman said, there are cases in which patients don’t receive the care they should simply because they don’t clear the bar of what a facility considers emergent.

While experts warn of the potential patient health consequences of these medical conscience bills, academics say placing a provider’s choice over their patient’s rights is itself a threat.

“These bills do not protect religious liberty because they make it impossible for people to follow their own religious and moral values in making major decisions,” Reiner Platt said.

About 1 in 6 patients in the U.S. are treated in Catholic health care facilities, according to Freedman. Many of those venues strictly regulate or prohibit certain procedures, such as abortion, but do not necessarily disclose that to patients. As of 2016, [more than 25%](#) of hospital beds in Montana were in such facilities, according to the ACLU. Freedman determined through her research that about one-third of people whose primary hospital was Catholic didn’t know of its religious affiliation and therefore were unaware of those limitations on their care.

The problem can extend to secular medical institutions, too. According to the AMA Journal of Ethics article, there are no rules requiring a patient be informed a provider is practicing conscientious objection, which means the patient might “unknowingly receive substandard care” and “even be harmed by” the provider’s refusals.

“As much as we like to think about these providers and their opinions, so much is determined at a larger, structural level,” Freedman said. “Abortion has been stigmatized, marginalized, and constrained,” and plenty of hospitals and physician groups have made great efforts to “make a

very safe service somehow illegal to provide within their context.”

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