

POLICY BRIEF

Emergency Contraception

What an Emergency Contraception Law Would Require:

Requires all physicians, healthcare facilities and clinics to carry and dispense emergency contraception.

Problems with the law:

It would violate the constitutional rights of health care workers and institutions. A U.S. District Court ruled in May of 2002 that a county health clinic violated the constitutional rights of a nurse who was fired from her job after she refused to dispense emergency contraception. In *Diaz v. Riverside Health Clinic* the court ruled that her first amendment rights of free speech were violated, her rights of freedom of religion were violated, and her right to be reasonably accommodated for her religion was violated. Also, in October of 2002, the Louisiana Department of Health and Hospitals reversed an earlier decision and agreed to stop discriminating against a public health nurse from New Orleans who was threatened with termination for refusing to dispense emergency contraception, a job requirement that violated her religious beliefs.

It contradicts Arkansas Law: Arkansas code 20-16-304 (4) and (5) protects the rights of physicians, pharmacists, or any other authorized paramedical personnel to refuse to furnish any contraceptive procedures, supplies, or information. It also states that “no private institution or physician, nor any agent or employee of such institution or physician, nor any employee of a public institution acting under directions of a physician, shall be prohibited from refusing to provide contraceptive procedures, supplies, and information when the refusal is based upon religious or conscientious objection. No such institution, employee, agent, or physician shall be held liable for the refusal.”

The most recent proposal claims that “Emergency contraception cannot and does not cause abortion.” According to its own product information, one of the ways that emergency contraception works is by blocking implantation of a fertilized egg into the uterine wall. Many people consider this to be an abortion and would refuse to provide or dispense this to patients. Hospitals and clinics couldn’t force them to do it, or they would be in violation of Arkansas law and the employees’ constitutional rights.

The most recent proposal defines “healthcare facility” as a hospital, emergency care facility, health clinic, or other healthcare center. Does this include private physicians’ offices? Many of those are considered “clinics.” There are numerous health clinics and facilities around the state that address this problem by referring the patient to identified clinics that offer these services. This bill would create an undue burden on them to train, staff, and stock their clinics to address a problem that 1). They already have a procedure for, or 2.) doesn’t exist, i.e., they rarely, if ever, treat sexual assault victims.

Please oppose any requirement to dispense or give referrals for emergency contraception (morning-after pill)

