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Reproductive health services are an integral component of women's health care. States have adopted a host of wide ranging policies that affect women's access to reproductive health services.

#### Emergency Contraception

Approximately half the pregnancies that occur in the U.S. each year are unintended. Health experts estimate that as many as 1.7 million of the more than 3 million unintended pregnancies that occur annually could be prevented by the use of emergency contraception (EC).

- All state Medicaid programs must cover family planning services yet each state defines "family planning" for its own program, leading to a variation among the states in the services, devices, and drugs covered. 27 states and DC cover EC as a family planning service under their Medicaid program.
- 4 states (AK, CA, NM, WA) allow pharmacists to dispense EC without physician contact.
- 6 states require emergency room staff to administer EC to sexual assault survivors upon request and 1 state (IL) requires hospitals to provide information about EC and how to obtain it, but does not require the provision of EC.

#### Abortion

States have adopted a wide range of policies to restrict access to abortion services. Some states have enacted policies that require minor females to receive parental consent or to notify a parent or legal guardian before receiving an abortion. Others require waiting periods or mandate counseling.

- Forty-three states have parental consent or notification laws; 12 of these states do not enforce the law. Most states with these laws apply them to girls under age 18, although several of these laws apply to girls under age 16 or 17.
- 22 of the 23 states with parental consent laws have a judicial bypass procedure. This allows a minor to obtain an abortion without informing a parent if the court finds the individual is mature enough to make the decision or that informing the parents would endanger the girl. New Mexico does not have a judicial bypass.
- 15 of the 21 states with parental notification laws have a judicial bypass. Maryland, one of the states without a judicial bypass, allows notification to be waived by the treating physician.
- 22 states require that a woman seeking an abortion receive counseling and then wait a specified period of time before having the procedure; 4 of these laws are currently enjoined or not enforced. 18 of them have a 24-hour waiting period.

#### Religious or Moral Refusal Clauses

A number of states allow entities or individual providers religious and moral exemptions from providing reproductive health care services such as abortion, family planning services or even infertility treatment. Some health care organizations such as hospitals and HMOs, many of which are sponsored by religious institutions, argue that abortion or the provision of contraception and contraceptive sterilization conflicts with the tenets of their religion.

- 21 states permit health facilities and 20 states permit hospitals to refuse to provide abortion services.
- 22 states allow individual health care providers exemptions from providing family planning services. 8 of these states allow providers to withhold information and/or counseling about contraceptives.
- 27 states allow exemptions for various health care entities (e.g. hospitals and health care clinics) from providing family planning services.

#### HIV Testing of Pregnant Women

Women represent an estimated 30% of new HIV infections in the United States. In just over a decade, the percentage of all new AIDS cases among adult and adolescent women has more than tripled, from 7% of all AIDS cases in 1986 to 26% in 2001. Anti-AIDS drugs can dramatically reduce the likelihood of perinatal HIV transmission, increasing the drive to identify HIV-positive pregnant women. As of 2001, 44% of pregnant women did not receive an HIV test.

- 7 states automatically test pregnant women, but allow women to refuse testing.
- 11 states require providers to offer HIV tests to pregnant women. 32 states and DC have voluntary testing per the 1995 U.S. Public Health Services guidelines, recommending universal counseling and voluntary HIV testing of all pregnant women.

Additional copies of this publication (#3360) are available on the Kaiser Family Foundation website at [www.kff.org](http://www.kff.org).

## Selected State Policies: Reproductive Health and Women's Access to Care

State	Dispensation of Emergency Contraception	Parental Consent/Notification Laws for Abortion	Religious/Moral Refusal Clauses for Family Planning Services	HIV Testing for Pregnant Women
Alabama		●		
Alaska	○	○		
Arizona		○		
Arkansas		●	●	○
California	●	○		●
Colorado		○	●	
Connecticut				○
Delaware		○		●
District of Columbia				
Florida		○	●	●
Georgia		●	●	
Hawaii				
Idaho		●	●	
Illinois	○	○	●	
Indiana		●		●
Iowa		●		●
Kansas		●	●	
Kentucky		●	●	●
Louisiana		●		●
Maine		●	●	
Maryland		●	●	●
Massachusetts		●	●	
Michigan		●		○
Minnesota		●	●	
Mississippi		●		
Missouri		●		
Montana		○	●	
Nebraska		●		
Nevada		○		
New Hampshire				
New Jersey		○	●	●
New Mexico	●	○	●	○
New York	○		●	○
North Carolina		●	●	
North Dakota		●		
Ohio	○	●		
Oklahoma		○		
Oregon			●	
Pennsylvania		●	●	
Rhode Island		●	●	●
South Carolina	○	●		
South Dakota		●		
Tennessee		●	●	○
Texas		●		○
Utah		●		
Vermont				
Virginia		●		●
Washington	●			●
West Virginia		●	●	
Wisconsin		●	●	
Wyoming		●	●	

- Notes:**
- Direct pharmacy access w/o physician contact
  - Emergency room mandates for sexual assault survivors
  - Direct pharmacy access and emergency room mandate
  - Parental consent and/or notification law
  - Law is enjoined or not enforced
  - State allows providers to invoke moral/religious exemption
  - Automatic testing with option to refuse test
  - Providers required to offer HIV test

**Sources:** **Dispensation of Emergency Contraception**, Alan Guttmacher Institute, State Policies in Brief (New York: Alan Guttmacher Institute, February 2003); Information for New Mexico (pharmacy provision), New Mexico Board of Pharmacy and the National Association of Boards of Pharmacy Foundation, Inc., The New Mexico Board of Pharmacy, December 2002, [online] <http://www.nabp.net/ftpfiles/newsletters/nm/nm122002.pdf>. **Data current as of May 2003**

**Parental Consent/Notification Laws for Abortion**, National Conference of State Legislatures Health Policy Tracking Service unpublished data collected for this report (May 2002). **Data current as of December 2001**

**Religious/Moral Refusal Clauses for Family Planning for Exempted Entities/Providers**, National Conference of State Legislatures Health Policy Tracking Service, "Conscience Clause: Family Planning/Contraceptive Coverage, 2002," unpublished data collected for this report (December 21, 2001). **Data current as of December 2001**

**HIV Testing for Pregnant Women**, The Henry J. Kaiser Family Foundation, "HIV Testing for Mothers and Newborns, 2000," State Health Facts Online, [online] <http://www.statehealthfacts.kff.org>, citing National Conference of State Legislatures, Health Policy Tracking Service, updated per correspondence with Lillian MacEachern, National Conference of State Legislatures, May 2002. **Data current as of April 2003**