What I told Congress about reproductive health

JUL 21, 2022

Jack Resneck Jr., MD
President

The decision by the U.S. Supreme Court in *Dobbs v. Jackson Women’s Health Organization* places physicians in an impossible situation: trying to fulfill their ethical duty to place patient health and well-being above all other considerations, while attempting to comply with vague, restrictive and conflicting state laws that intrude upon the patient-physician relationship and jeopardize patient health.

AMA policy supports patients’ access to the full spectrum of reproductive healthcare options, including abortion and contraception, as a right. Our ethical obligation is to help patients choose the optimal course of treatment, through shared decision-making that is fully informed by evidence-based medical science and shaped by patient autonomy. Anything less puts patients at risk and undermines both the practice of medicine and our nation’s health.

That’s the message I delivered Tuesday (PDF) to the U.S. House of Representatives Energy and Commerce’s Subcommittee on Oversight and Investigations that is exploring the consequences of the *Dobbs* decision. Those repercussions continue to manifest themselves across our nation amid an ever-growing political rift between states over the accessibility of reproductive health services. Less than a month after the Supreme Court ruling was handed down, abortion has become illegal or very severely restricted in at least a dozen states, with more states expected to follow suit.

As I told Congress, state laws that ban abortion will not end abortion—they will end safe abortion. Such laws endanger the physical and mental health of those who will then be forced to travel to another state for the procedure (sometimes far later in pregnancy), attempt self-managed abortions without medical supervision, or who are forced to carry unwanted pregnancies. Evidence shows that those who carry unwanted pregnancies to term experience worsening physical and mental health, greater exposure to intimate partner violence, and higher levels of economic distress.
Persistent uncertainty

In the wake of the *Dobbs* ruling, physicians are expressing deep concerns over their patients’ health, as well as the potential for criminal prosecution of both their patients and themselves. Even when treating ectopic pregnancies or patients with sepsis or hemorrhage during pregnancy, doctors in states with restrictive and confusing laws are delaying time-sensitive decisions to consult with hospital attorneys.

In some cases, physicians are being told that they must wait until patients are facing a higher chance of death before intervening. Patients with new, life-threatening cancers are being forced to travel to other states and wait to terminate pregnancies and begin their chemotherapy. This is what happens when government inserts itself into complex healthcare decisions that should be made between a physician and a patient.

We applauded recent clarification provided by the U.S. Department of Health and Human Services and the Centers for Medicare & Medicaid Services that federal law mandating emergency care to save or stabilize patients would preempt restrictive state laws in certain situations. But conflicting laws persist and further litigation is pending, leaving physicians to work under substantial uncertainty, knowing their clinical judgement may be second-guessed by prosecutors.

We are also concerned about ensuring continued access to mifepristone, part of a safe and highly effective regimen to terminate pregnancies and manage miscarriages. Patients are even having difficulty accessing drugs such as methotrexate to treat autoimmune diseases and cancers. Some pharmacists are refusing to stock or dispense methotrexate just because it happens to be an effective alternative to surgery for the treatment of ectopic pregnancies.

Amid all these impediments to providing comprehensive reproductive health care, the AMA will seek additional legal protections for patients and physicians against government prosecution that criminalizes medical care.

This includes protections for patients who cross state lines to receive reproductive health services, as well as for physicians who support or provide their health services or referrals. We will always have physicians’ and patients’ backs in defending the practice of medicine, and will vigorously oppose any law or regulation that criminalizes patient access to safe, evidence-based medical care, including abortion and contraception.

Pressing the fight
We have only begun to assess the full impact of the *Dobbs* decision on physicians and their patients. Medical students, residents and fellows in restrictive states will see their training opportunities constrained, affecting future patient care. Patient privacy will be threatened, especially as medical data in health care apps not covered by federal privacy laws may be used against patients and their physicians.

And it is clear to us that existing gaps in health outcomes will only widen in the wake of *Dobbs*. In states that severely restrict or ban abortion, comprehensive reproductive care will only be available to those with sufficient resources—placing the heaviest burden on patients from Black, Latino, Indigenous, low-income, rural and other historically disadvantaged communities who already face systemic barriers to care.

The *Dobbs* decision overturned nearly half a century of precedent and ended patients’ rights to comprehensive reproductive health care. It allows government intrusion into the exam room and the criminalization of medical care. The termination of a pregnancy is a medical matter between patients and their physicians, subject only to the physician’s clinical judgment and the patient’s informed consent. The AMA opposes laws and regulations that undermine public health, and this fight is far from over.