Ambiguous anti-abortion laws are putting patients at risk

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What’s the news: Physicians and pharmacists are joining forces to raise concerns about vague state laws that may interfere with patients’ access to medically necessary medications and impede doctors and pharmacists from using their professional judgment.

Patients could “lose access to care and suffer irreparable harm” because “physicians, pharmacists and other health care professionals face a confusing legal landscape due to state laws’ lack of clarity, confusing language and unknown implementation by regulatory and enforcement bodies,” after the U.S. Supreme Court decision in Dobbs v. Jackson Women’s Health Organization this summer, says a joint statement issued by the AMA, American Pharmacists Association, American Society of Health-System Pharmacists and National Community Pharmacists Association.

Learn why the Dobbs ruling is an assault on reproductive health and safe medical practice.

Why it’s important: Some of these organizations’ members and their patients are already reporting that the uncertainty and lack of clarity surrounding state policy is disrupting care as patients experience delays or denials to medically necessary medications.

For example, there are reports that:

- Legal counsel at some health systems and hospitals, who are tasked with minimizing legal exposures, have advised against providing certain medications as they prioritize caution over access to medications.
- Leaders at some organizations have removed emergency contraceptives—which are not abortifacients—from kits that are used in the care of sexual assault survivors because they believe the legal risk is too unclear.
- Some pharmacies have created policies that require pharmacists to reject some prescriptions unless they meet new, burdensome administrative processes. For example, the pharmacist must confirm a female patient’s diagnosis with the prescriber for every potential abortifacient even if the medication has multiple uses.
Physicians and pharmacists are raising their concerns as more than half of the nation’s states have already, or are expected to soon, severely restrict patients from accessing abortion services. Many of the laws include language that prohibit prescribing and dispensing an “abortion-inducing drug,” or other similar terms.

The laws’ vague language often makes it unclear whether health professionals are prohibited from prescribing or dispensing the medications only when the purpose is to induce abortion, or whether the medication is entirely prohibited regardless of the purpose for which it is being prescribed or dispensed.

For example, methotrexate can be used off-label to terminate an intrauterine pregnancy. But it is frequently used as a first-line treatment for inflammatory diseases such as arthritis. Likewise, mifepristone can be used to end a pregnancy, but there are many other reasons a physician may prescribe the medication in a medical emergency, such as to treat an ectopic pregnancy, preeclampsia and situations that emerge during labor and delivery. It can also be used to medically manage a miscarriage.

The AMA and pharmacy organizations’ joint statement calls for “clear guidance from state boards of medicine and pharmacy, agencies and policymakers” that supports prescribing and dispensing medically necessary medications that could be called into question under the legal and regulatory paradigm that Dobbs created.

“Without access to medications proven to be safe and effective, our patients’ health is at risk. As physicians and pharmacists, we view patient wellbeing as paramount and are deeply troubled that continuity of care is being disrupted,” the joint statement says.

“We call on state policymakers to ensure through guidance, law or regulation that patient care is not disrupted and that physicians and pharmacists shall be free to continue to practice medicine and pharmacy without fear of professional sanction or liability. We strongly urge state medical and pharmacy boards, agencies and policymakers to act to help ensure that our patients retain continuity of care and that our members clearly understand their legal and licensing obligations.”

Learn more: With abortion under attack, doctors are pushing back on criminalizing care. That includes in the courts, such as fighting an attempt in Arizona to reinstate a 1901 abortion law criminalizing medicine.

Also, read how physicians are backing continued access to medication abortion nationwide, and read about AMA reproductive health testimony before Congress from AMA President Jack Resneck, MD.

Dr. Resneck was among the physicians quoted in this New York Times article examining the impact of the Dobbs decision on health care. Reporter Kate Zernike wrote about physicians who “say the criminalization of abortion is changing how they treat women who arrive in emergency rooms and on
labor and delivery floors with wanted but complicated pregnancies.”