COMMENTARY

Family Doctors and the Criminalization of Abortion Care

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Over the past several years, antiabortion legislation in many states has threatened the 1973 *Roe v Wade* decision that established a constitutional right to abortion. As of this year, 30 states have restricted access to this essential part of medical care.[1] While laws aimed at weakening abortion rights and abortion access are nothing new, many recent bills contain explicit language criminalizing both patients seeking abortion and providers who deliver this constitutionally-protected, patient-centered health care. Six states have passed laws that criminalize doctors for providing abortion care, in some cases with felony sentences of up to 99 years.[2] Such laws are harmful because they significantly undermine the doctor-patient relationship, restrict access to an already overburdened and limited system of abortion provision, and run counter to the ever-growing body of evidence supporting the fact that abortion care is safe.[3] Family medicine physician educators have a responsibility not only to raise our voices against these dangerous proposals, but also to incorporate social engagement lessons into our teaching.

Abortion in Family Medicine

First-trimester abortion is one of the most common interventions for women of reproductive age in the United States. Early abortion care involves safe treatment either with a procedure (uterine aspiration) or with medications, both of which are easily provided in a primary care setting.[3] In fact, about 50% of early abortions in the United States are performed with medications alone. Providing comprehensive reproductive health care in family medicine settings enhances continuity of care for patients and provides more options for women who may prefer to have an abortion in their own physician's office.[4,5] The foundation of family medicine practice is built upon trust in the doctor-patient relationship. Laws that restrict care and vilify both patients and providers disrupt the patient-centered care that is at the heart of family medicine.

The Criminalization of Abortion

While antiabortion legislation has steadily increased over the last decade, more recent laws that directly penalize abortion providers as criminals have a chilling effect not only on abortion access but also the doctor-patient relationship. Common strategies used by states to reduce abortion access include targeted regulation of abortion providers (TRAP laws), such as nonevidence-based mandatory waiting periods, hospital privilege requirements, or strict rules on the physical space in which abortion care can take place, even for medication abortion.[6]

However, 2019 thus far has seen the creation and passage of laws that directly criminalize abortion providers. For example, Alabama's HB 314 finds any clinician providing routine abortion care guilty of a felony offense, and Texas' HB 896 would legally define abortion as murder, so that anyone involved in abortion care (eg, providers, nurses, patients) could face the death penalty. Such laws discourage both capable providers and future

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clinicians from pursuing the practice of abortion care. And, by dissuading providers, these laws further limit patients' access to comprehensive reproductive health care in a system that is already severely strained.

Threats to the Doctor-Patient Relationship and Ethical Practice

Central to the practice of family medicine is the strength and trust of the doctor-patient relationship that is built over time; but laws restricting care and criminalizing both patients and providers completely disregard the basic ethical tenets of the patient-physician relationship. Informed consent mandates with medical inaccuracies directly infringe upon the doctor-patient relationship by requiring physicians to comply with disingenuous counseling practices. No equivalent for mandated dishonesty exists within the rest of medical practice in the United States, and yet for many states it is considered an acceptable standard for abortion care. Laws forcing patients to undergo unnecessary and often invasive testing (eg, transvaginal ultrasound) are in direct breach of a clinician's obligation to do no harm. Mandatory waiting periods may make patients believe that their doctor does not trust their ability to think through the decision to have an abortion, and parental consent laws can discourage minors from speaking confidentially with their physician. Policies that require health care providers to report any patient whom they suspect of having had an abortion is a clear violation of patient confidentiality, which is both unethical and illegal.[9] These legal tactics significantly encroach upon a physician's ethical duty to respect patient autonomy and to act in their patient's best interest.

Although antiabortion laws have historically targeted providers, it is rare to criminally prosecute a physician for providing an abortion.[9] More commonly, criminal code is used to prosecute patients who seek pregnancy termination. Notably, the criminalization of reproductive health in the United States has disproportionately affected people of color and those with few resources, making these abortion restrictions an issue of reproductive justice.[9] Family physicians must not only raise their voices against these dangerous campaigns, but must also incorporate social engagement lessons into their teaching.

It is well established that antiabortion legislation does not protect the health and well-being of women.[7,8] In fact, the states that pass laws imposing significant barriers to abortion access, and thereby force more women to carry undesired pregnancies to term, are the same states that also have high maternal and infant mortality rates. Indeed, a 2018 report by the National Academies of Science, Engineering, and Medicine found that legislative regulation of abortion interferes with all attributes of quality health care (safety, effectiveness, timeliness, patient-centeredness, efficiency, and equity).[3]

The opinions of family physicians and family medicine educators vary widely on the issue of abortion. Nevertheless, the issue of criminal penalties for women and their health care providers should cross a line for all of us, regardless of our personal beliefs about abortion. Not all family physicians will be able to provide comprehensive reproductive health care including abortion care, and many may not choose to support their patients' decisions to end their pregnancies. However, the laws now passed in several states are extreme by any measure, and even those sponsoring these bills seem to acknowledge that their sole purpose is to provoke Supreme Court review of the entire matter. The threat of targeting and potentially criminalizing abortion providers for providing safe and constitutionally-protected care is a threat to the doctor-patient relationship, and thus a threat to family medicine at its core, regardless of one's personal, political, or religious beliefs. We should all recognize these laws as the cynical and manipulative acts of desperation that they are. If we truly hold the sanctity of the doctor-patient relationship to be central to our discipline, we should stand united at this pivotal point in history.

What Family Medicine Educators Can Do

Criminalization and other abortion restrictions disrupt the doctor-patient relationship and restrict access to a common and essential part of medical care. Family physicians must not only speak out against these restrictions and advocate for improved access to care, but we must also use our positions as educators to ensure that future generations of family physicians can provide these essential services to their patients. We must discuss these restrictions with our learners and consider the impact of these legal barriers on the doctor-patient relationship and our scope of practice. We must examine with our learners the principles of professionalism, confidentiality, and ethics when we are asked to take part in the unethical and illegal practice of turning our patients

in to law enforcement. We must challenge the notion that we, as family physicians, should be barred from providing a safe, patient-centered, and constitutionally-protected medical service. We must role model for our learners the importance of speaking out when the well-being of our patients is threatened because they are from communities of color or communities with limited resources. We must demonstrate the significance of the doctor-patient relationship to our work and how important it is to protect this relationship. We must advocate on behalf of ourselves, our patients, and our communities.

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