

LAW: TIC-TOC, TURN BACK THE CLOCK: PHARMACY IN THE POST-ROE V. WADE CLIMATE

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LEARNING OBJECTIVES

- ✓ REVIEW the original *Roe v. Wade* ruling and how it impacted healthcare in the United States
- ✓ DISCUSS *Dobbs v. Jackson Women's Health Organization* and its impact on *Roe v. Wade*
- ✓ IDENTIFY the implications of these Supreme Court rulings on pharmacy practice

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DISCLOSURE

I have no financial disclosures related to this topic, and any perceived bias is unintentional.

More importantly *I am not a lawyer*, and this presentation is NOT meant to be taken as legal advice.

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LET'S TALK @BORT!ON

"A medical procedure to end a pregnancy"
"Deliberate termination of a human pregnancy, most often performed during the first 28 weeks of pregnancy"
"The expulsion of a fetus from the uterus before it has reached the stage of viability"
"The termination of a pregnancy after, accompanied by, resulting in, or closely followed by the death of the embryo or fetus"

MEDICAL

- Administration of medications to induce an abortion
- Typically, ≤ 9 completed weeks' gestation
- Represented about 42% of all U.S. abortions by 2019

SURGICAL

- Include uterine aspiration (e.g., dilation and curettage [D&C]) and dilation and evacuation procedures
- Typically, > 12 weeks' gestation
- Procedure type is dependent on gestational age among other circumstances

Kortnik K, et al. MMWR Surveill Summ. 2021;70(9):1-29.

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A BLAST TO THE PAST

Looking back at *Roe v. Wade*

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BACK IN THE DAY

- **Mid-1800s:** abortion common and accepted in the US – newspapers included ads for abortion services
- **By 1910:** every state has outright abortion bans at every stage of pregnancy
 - American women with financial means could still obtain abortions
 - Others resorted to illegal, dangerous, "back-alley" or self-induced abortions
- **1950s and 60s:** experts estimated 200,000 to 1.2 million abortions occurred annually



Roe v. Wade. History.com. Updated June 24, 2022. Accessed November 2022. <https://www.history.com/topics/women/roev-wade>. Abortion Access in America. A Timeline. June 22, 2022. Accessed November 2022. <https://www.history.com/topics/women/roev-wade>.

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TIMELINE

LATE 19TH CENTURY

1965

1969

1970

1973

Abortion was legal until "quickening," the point at which a woman feels fetal movements (about 4 months gestation)

Griswold v. Connecticut: Supreme Court struck down a law banning contraceptive purchase and use

Norma McCorvey ("Jane Roe") sought to terminate an unwanted pregnancy in Texas, where abortion was only legal to save a woman's life

McCorvey's attorneys filed a lawsuit against Henry Wade, the district attorney of Dallas County; district court ruled that the state's ban was illegal

Supreme Court appeal struck down the Texas law banning abortion, effectively legalizing the procedure nationwide

Roe v. Wade. History.com. Updated June 24, 2022. Accessed November 2022. <https://www.history.com/topics/womens-rights/roe-v-wade>

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KNOWLEDGE CHECK

What did the original *Roe v. Wade* ruling do?

- A. Made abortion legal in the U.S. at any gestational age for any reason
- B. Left it up to individual states in the U.S. to regulate abortion at any gestational age
- C. Made abortion legal in the U.S. through the first trimester of pregnancy

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THE *ROE V. WADE* DECISION

U.S. Supreme Court struck down the broad Texas abortion ban, as it violated the constitutional right to privacy protected by the Due Process Clause of the 14th amendment.

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FIRST TRIMESTER

The choice to end a pregnancy was solely up to the pregnant woman

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SECOND TRIMESTER

Government could regulate abortion, although not ban it, to protect the pregnant woman's health

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THIRD TRIMESTER

States could prohibit abortion to protect a viable fetus, except when the pregnant woman's health was in danger

Roe v. Wade. History.com. Updated June 24, 2022. Accessed November 2022. <https://www.history.com/topics/womens-rights/roe-v-wade>

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AFFIRMING THE *ROE* RULING

- In 1992, *Planned Parenthood of Southeastern Pennsylvania v. Casey* reached the Supreme Court
- Litigation against Pennsylvania's Abortion Control Act, the most restrictive abortion provisions at the time
- The ruling cited "stare decisis" (adhering to precedent) in upholding the *Roe* verdict
 - But, upheld all Pennsylvania abortion requirements except spousal notification
- Changed the trimester framework, allowing states to regulate pre-viability abortions provided a "substantial obstacle" or "undue burden" is not added
- While *Casey* reaffirmed the right to an abortion, it also provided states more leeway in passing restrictive laws

Planned Parenthood v. Casey. History.com. Updated June 24, 2022. Accessed November 2022. <https://www.history.com/topics/womens-rights/planned-parenthood-v-casey>

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PRESS REWIND

The impact of *Dobbs v. Jackson Women's Health Organization*

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TIMELINE (CONT.)

1976

1992

2003

2021

2022

Hyde Amendment prohibited government funds to be spent on abortions except in cases of rape, incest, or threat to the woman's life

Planned Parenthood of Southeastern Pennsylvania v. Casey

Partial-Birth Abortion Ban Act prohibited doctors from performing late-term abortions

Texas' Heartbeat Act (first successful 6-week abortion ban since *Roe*) gave the public the right to sue anyone who performs or helps facilitate illegal abortion

Dobbs v. Jackson Women's Health Organization and Supreme Court overturn of *Roe v. Wade*

Historic Ruling | A look at how *Roe* became law and was then overturned. June 24, 2022. Accessed November 2022. <https://www.khan.com/topics/womens-rights/roe-v-wade-started-and-came-to-an-end/500-42708d7-750-7-484a-949a-a118355686>

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KNOWLEDGE CHECK

What did the *Dobbs v. Jackson Women's Health Organization* ruling do?

- Made abortion illegal in the U.S. at any gestational age for any reason
- Left it up to individual states in the U.S. to regulate abortion at any gestational age
- Made abortion illegal in the U.S. after the first trimester of pregnancy

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A DEEP DIVE INTO *DOBBS*

- March 19, 2018, Mississippi enacted the "Gestational Age Act"
 - Banned abortion after 15-weeks gestation except in a medical emergency or in the case of severe fetal abnormality
- Jackson Women's Health Organization (the only licensed abortion facility in the state) challenged the Act.
- The case made it before the Supreme Court, who ruled to uphold the Mississippi law
 - Also extended the ruling to overturn *Roe* and *Casey*, returning the issue to the states at any gestational age

Dobbs v. Jackson Women's Health Organization (2022). Accessed November 2022. <https://constitutioncenter.org/the-constitution/supreme-court-case-library/dobbs-v-jackson-womens-health-organization>

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WHERE DO THINGS STAND?

Expanded access: protected by state statutes or constitutions, and other laws and policies have created additional access

Protected: protected by state law but with access limitations

Unprotected: may remain accessible, but unprotected by state and territory law

Hostile: have expressed a desire to prohibit entirely; vulnerable to revival of old bans or enactment of new ones, and no existing legal protections

Illegal: ban abortion entirely and enforce those bans through criminal penalties

After Roe Fall: Abortion Laws by State. Center for Reproductive Rights. Accessed November 2022. <https://reproductiverights.org/maps/abortion-laws-by-state/>

(As of November 3, 2022)

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WHAT ABOUT EMTALA?

- Emergency Medical Treatment and Labor Act**
 - Enacted by HHS to ensure public access to emergency services regardless of ability to pay
 - Does not discuss abortion but imposes obligations to stabilize both a mother and her unborn child
- July 2022, HHS issued updated guidance:** If physicians believe that abortion is the stabilizing treatment necessary to resolve an emergency medical condition (e.g., ectopic pregnancy, severe preeclampsia), they must provide that treatment
 - EMTALA supersedes state law in these instances
- August 2022, *State of Texas v. Becerra*:** Lawsuit in Texas district court stating that HHS guidance may not overrule Texas law

Reinforcement of EMTALA Obligations specific to Patients who are Pregnant or are Experiencing Pregnancy Loss. CMS. Revised August 25, 2022. Accessed November 2022. <https://www.cms.gov/files/document/ops-22-02-000001a.pdf>

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LOOKING FORWARD

Impacts on healthcare and pharmacy practice

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IMPACTS ARE WIDE-RANGING

-  Sxedf#khwk#p sdfkdrqv
-  lqvdyf#p sdfkdrqv
-  hp sr |hdp sr |hshjkw#frqvgjhdbrqv
-  03s kb| #frqvgjhdbrqv
-  U dp |hfkdrqv#e #wchshhd# #khwkfdh

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PATIENT SAFETY & INSURANCE

Public Health

- Patients attempt to seek restricted or unavailable medications through unsafe channels
- Example:** women have started going to unregulated pharmacies in Mexico for misoprostol and mifepristone

Insurance

- State-regulated insurers where abortion is banned will have to drop abortion coverage to comply with criminal law
- Medication abortions are about \$750 without insurance; surgical are more than \$2,000

Medicaid border town sees an increase in sales of abortion drugs to women from the U.S. NPR, May 9, 2022. Accessed November 2022. <https://www.npr.org/2022/05/09/1097219054/mexican-border-town-sees-an-increase-in-sales-of-abortion-drugs-to-women-from-us>. Here's how the Supreme Court's Roe v. Wade decision could affect health insurance coverage. CNBC, June 27, 2022. Accessed November 2022. <https://www.cnbc.com/2022/06/27/supreme-court-roe-v-wade-decision-could-affect-health-insurance-coverage.html>

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EMPLOYMENT LAW

Various laws protect against discrimination in the workplace:

- Title VII of the Civil Rights Act of 1964
- Pregnancy Discrimination Act
- Americans with Disabilities Act
- Family and Medical Leave Act

Employers cannot discriminate against someone based on

- Past or present pregnancy status
- Intent/ability to become pregnant
- Medical conditions related to pregnancy
- (Considering) having an abortion

Reasonable accommodations

- Redesigning job duties (e.g., for pregnancy, religious beliefs)
- Furnishing health or safety aids
- Extending a reasonable amount of maternity leave
- "...**unless an accommodation would pose an undue hardship**"


Legal Rights of Pregnant Workers under Federal Law. EEOC, June 14, 2016. Accessed November 2022. <https://www.eeoc.gov/women/guidance/legal-rights/pregnant-workers-under-federal-law>

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RHEUMATOLOGY

- Many rheumatic diseases preferentially affect women of childbearing age
- Pregnancy is risky for patients with these conditions
 - Must balance the risk of uncontrolled disease and use of teratogenic medications (e.g., methotrexate, mycophenolate mofetil, cyclophosphamide)
- Use of highly effective contraception is at the forefront of guidelines for management of reproductive health in patients with rheumatic diseases
- Rheumatologists and patients must choose between
 - the most effective, guideline-directed therapies plus long-acting contraceptives
 - suboptimal disease control with pregnancy-safe options (e.g., azathioprine for lupus nephritis)



"...it is medically necessary for many patients to delay pregnancy until an optimal time, and in some cases, it is advisable to terminate pregnancy to avoid life-threatening worsening of severe chronic inflammatory diseases"

- American College of Rheumatology

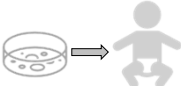
The demise of Roe v. Wade: ramifications for rheumatology. ACR, July 4, 2022. Accessed November 2022. <https://www.theacrosociety.com/journal/articles/PH182865-6913220189-8/fulltext>. ACR Statement on Access to Reproductive Healthcare. Accessed November 2022. <https://www.rheumatology.org/Portals/0/Pdfs/Access-to-Reproductive-Healthcare-Statement.pdf>

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ASSISTED REPRODUCTION

- Procedures like *in vitro* fertilization (IVF) involve handling and storage of fertilized embryos outside the body
- More than 2% of babies born in the U.S. in recent years have been a result of IVF
 - About 200,000 American women annually
- Many state laws include definitions stating that "personhood" begins at fertilization
 - Louisiana is the only state with IVF-specific laws aside from limiting/prohibiting research with ex vivo human embryos
- Could, intentionally or not, implicate and even ban
 - IVF
 - Preimplantation genetic testing
 - Discarding remaining embryos
- Use of IVF may also increase, given the inability to terminate an existing pregnancy for chromosomal disease



"...while the overturn of Roe v. Wade does not necessarily restrict access to assisted reproductive technology (ART) procedures, including in vitro fertilization (IVF), the details of state law are critical to understand"

- American Society for Reproductive Medicine


The demise of Roe v. Wade: ramifications for rheumatology. ACR, July 4, 2022. Accessed November 2022. <https://www.theacrosociety.com/journal/articles/PH182865-6913220189-8/fulltext>. ACR Statement on Access to Reproductive Healthcare. Accessed November 2022. <https://www.rheumatology.org/Portals/0/Pdfs/Access-to-Reproductive-Healthcare-Statement.pdf>

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ONCOLOGY

- Cancer affects about 1 in 1000 pregnant individuals
- Evidence suggests pregnancy hormones might accelerate growth of certain cancers (e.g., thyroid cancer)
- Chemotherapy, immunotherapy, radiation therapy, or targeted therapy could endanger the fetus' health
 - 9% to 28% choose to terminate pregnancy to undergo treatment
 - Each month of treatment delay associated with up to a 13% increase in mortality risk
- Fertility preservation before treatment, effective contraception during treatment, and conception after treatment are also affected



"For patients of child-bearing age, a cancer diagnosis raises medical considerations around pregnancy and fertility preservation. Every patient should have the ability to pursue, in partnership with their oncologist, all treatment options that offer the best chance of a successful outcome for their cancer...the Dobbs decision could limit these options."

- American Society of Clinical Oncology

ASCO Statement on Supreme Court Decision in Dobbs v. Jackson Women's Health. June 27, 2022. Accessed November 2022. <https://lib-prod.asco.org/doi/full/10.1200/JCO.2022.40.1676>. Buran M. JAMA. 2022;326(17):1674-1676. Gould E. Lancet Oncol. 2022;23(8):987

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KNOWLEDGE CHECK

Which of the following is TRUE about dispensing intramuscular methotrexate following the overturn of Roe v. Wade?

- Pharmacists should use clinical judgment to practice corresponding responsibility and follow state laws
- It is illegal to dispense to a woman of childbearing age unless they have documented psoriatic arthritis
- Refusing to fill for any reason is illegal and pharmacists will face fines and imprisonment for discrimination

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RETAIL PHARMACY GUIDANCE

From the HHS Office for Civil Rights

Affordable Care Act:
Recipients of federal financial assistance are prohibited from excluding an individual from participation in, denying them the benefits of, or otherwise subjecting them to discrimination based on **sex and disability**, among other bases, in their health programs and activities

Rehabilitation Act of 1973:
Recipients of federal financial assistance are prohibited from discriminating in all programs and activities, based on **disability**

Pharmacies may not discriminate against customers on these bases, including with regard to supplying medications, making determinations regarding the suitability of a prescribed medication for a patient, or advising patients about medications and how to take them.

Guidance to Retail Pharmacies, HHS, Accessed November 2022. <https://www.hhs.gov/sites/default/files/pharmacies-guidance.pdf>

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WHAT-IF...

A recently hired technician informs you on his first day that he refuses to fill prescriptions for or sell contraceptives, emergency contraception, or abortifacient medications based on his religious beliefs.

Consider the following:

- Can you provide reasonable accommodations? Can you always schedule another technician/RPh with him, or would this pose undue hardship on the pharmacy?
- This may violate HHS guidance about discrimination based on sex. How will you ensure this employee does not make patients feel discriminated against?
- Is your patient population likely to be affected? Are you located, for example, near a large university with many women of childbearing potential? Does your pharmacy serve only senior citizens in assisted living facilities?

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TO KEEP OUR RECORDS UP TO DATE AND ENSURE SAFE MEDICATION USE, COULD YOU PLEASE CONFIRM IF YOU ARE PREGNANT OR NURSING?

As a rule-of-thumb, ask all women of childbearing age when they pick up potentially teratogenic medications.

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WATCH YOUR LANGUAGE

Teratogenic:
capable of interfering with the development of a fetus, causing birth defects

Abortifacient:
used to terminate a pregnancy

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ABORTIFACIENT MEDICATIONS

Drug	Indication(s)	Role in Abortion
Mifepristone	• Medical termination of intrauterine pregnancy (with misoprostol)	Blocks the body from making enough progesterone to support the pregnancy
Misoprostol	• Reducing risk of NSAID-induced gastric ulcers in patients at high risk	Causes cramping and heavy bleeding to empty the uterus
Methotrexate (intramuscular)	• Polyarticular juvenile idiopathic arthritis • Rheumatoid arthritis • Severe psoriasis • Various cancers (as part of a combination chemotherapy regimen) • <i>Off label:</i> alopecia, atopic dermatitis, psoriatic arthritis, sarcoidosis, scleroderma, systemic lupus	Stops the cells of an ectopic pregnancy from dividing by interfering with folic acid

Ectopic pregnancy. ACOG. Accessed November 2022. <https://www.acog.org/womens-health/experts/epg/epg-pregnancy>. The Abortion Pill. Planned Parenthood. Accessed November 2022. <https://www.plannedparenthood.org/learn/abortion/the-abortion-pill>. Methotrexate (prescribing information). Helsia, Inc., 2021. Mifepriate (prescribing information). Duro, Laboratories, LLC, 2016.

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MIFEPRISTONE REMS

- **Healthcare providers who prescribe mifepristone must:**
 - Review prescribing information and complete a Prescriber Agreement Form.
 - Review the Patient Agreement Form with the patient and fully explain the risks of the mifepristone treatment regimen. Answer any questions the patient may have prior to receiving mifepristone.
 - Sign the Patient Agreement Form and obtain the Patient's signature on the form.
 - Provide the patient with a copy of the Patient Agreement Form and Medication Guide.
 - Place the signed Patient Agreement Form in the patient's medical record.
 - Record the serial number from each package of mifepristone in each patient's record.
 - Report any deaths to the Mifepristone Sponsor that provided the mifepristone, identifying the patient by a non-identifiable reference and the serial number from each package of mifepristone.
- **Patients who are prescribed mifepristone must sign a Patient Agreement Form stating that the patient has:**
 - Received, read and been provided a copy of the Patient Agreement Form.
 - Received counseling from the prescriber regarding the risk of serious complications associated with mifepristone.

Mifepristone (Shared System) REMS. FDA. Updated May 14, 2021. Accessed November 2022. <https://www.accessdata.fda.gov/crt/crt/crt/index.cfm?event=remDetails.page&REMS=100>

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AN EVOLVING LEGAL LANDSCAPE

- The Court's decision in *Dobbs* complicates the legal landscape surrounding medication abortion
- Some state provisions that limit these drugs' availability aim to restrict access beyond what federal law would otherwise permit
 - In 33 states, only a licensed physician may prescribe medication abortion drugs
 - 19 states require the physician to be in the physical presence of the patient or place restrictions on the use of telehealth
- Questions may arise about federal preemption

Medication Abortion: A Changing Legal Landscape. CRS, October 5, 2022. Accessed November 2022. <https://www.congress.gov/products/pdf/L58LSB10708>

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FEDERAL PREEMPTION

- When a validly enacted federal law supersedes an inconsistent state law
- Occurs when it is "impossible for a private party to comply with both state and federal requirements" or if the state law "stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress"
- A recent example: *Zogenix, Inc. v. Patrick* (2014)
 - A Massachusetts order generally barred prescribing and dispensing an opioid medication based on concerns of diversion, overdose, and abuse
 - The state argued that the order was a permissible exercise of its traditional state police powers
 - The court concluded that the ban on the drug was an "obstruction" that undermined the FDA's authority to make "drugs available to promote and protect the public health"
 - The state instead established requirements for prescribers to take certain actions when prescribing the opioid and for pharmacies to take specified steps to prevent diversion

Medication Abortion: A Changing Legal Landscape. CRS, October 5, 2022. Accessed November 2022. <https://www.congress.gov/products/pdf/L58LSB10708>

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FEDERAL PREEMPTION AND *DOBBS*

- Dobbs* returned the authority to regulate abortion "to the people and their elected representatives"
- Additional state abortion restrictions are likely, and Congress may consider federal legislation

Proposed Federal Legislation	What It Means
Teleabortion Prevention Act of 2021	Would require an abortion provider to be "physically present at the location" of a medication abortion; a provider who violates would be fined ≤ \$1,000 or imprisoned for ≤ 2 years, or both
Women's Health Protection Act of 2021	Would guarantee health care providers a statutory right to provide abortion services and preempt any state law that would limit or restrict that right
Reproductive Choice Act	Would codify the "essential holdings" of <i>Roe</i> and <i>Casey</i> and provide that a state may not impose an undue burden on a woman's ability to have an abortion before fetal viability; would allow abortion restrictions under the standard established in <i>Casey</i>

Medication Abortion: A Changing Legal Landscape. CRS, October 5, 2022. Accessed November 2022. <https://www.congress.gov/products/pdf/L58LSB10708>

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CORRESPONDING RESPONSIBILITY

- Not new – pharmacists have always been the gatekeepers
 - If pharmacists fill orders they suspect are not legitimate, criminal and regulatory charges possible
- Large retail chains have circulated memos regarding abortifacient medications specifically
 - Reviews diagnosis codes that are deemed acceptable for dispensation
 - "When dispensing a prescription for misoprostol or methotrexate to women of child-bearing potential in states that prohibit dispensing medications for the purpose of inducing abortion, pharmacists should validate that the intended indication is not to terminate a pregnancy."
 - Includes not filling the prescription without a diagnosis code, until they confirm it with the prescribing doctor; if they find abortion is the intended use, they "must refuse to fill the prescription"
- Pharmacists are also incorporating it into their DUR process or automatically rejecting the prescription until a pharmacist reviews it

Title 21 Code of Federal Regulations

Part 1306—Prescriptions

General Information

1306.04 Purpose of issue of prescription.
A prescription for a controlled substance to be effective must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. An order purporting to be a prescription issued not in the usual course of professional treatment or in legitimate and authorized research is not a prescription within the meaning and intent of section 802 of the Act (21 United States Code 822) and the person knowingly filling such a purported prescription, as well as the person issuing it, shall be subject to the penalties provided for violations of the provisions of law relating to controlled substances.

Shirley J. De Avanzo of Corresponding Responsibility. May 26, 2019. Accessed November 2022. <https://www.pharmacistnews.com/in-the-area-of-corresponding-responsibility/>; Weiss L. After *Roe* v. *Wade*, CVS Told Pharmacists to Withhold Certain Prescriptions. July 20, 2022. Accessed November 2022. <https://www.republic.com/articles/1678796-cvs-meds-leave-abortion-bills>; Weiss L. Pharmacists and Patients Are Frowning Out Over New Medication Prescriptions Post-*Roe*. July 27, 2022. Accessed November 2022. <https://www.republic.com/articles/1675302/roes-aftermath>

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WHAT ABOUT HIPAA?

The short answer: Nothing changes. PHI—including information relating to abortion and other sexual and reproductive health care—will be kept private under HIPAA Privacy Rule.

The long answer: HIPAA Privacy Rule allows for PHI disclosure without an individual's authorization for purposes not related to healthcare in limited circumstances.

- Disclosures Required by Law** - when such disclosure is required by another law and the disclosure complies with the requirements of the other law
- Disclosures for Law Enforcement Purposes** - for law enforcement purposes "pursuant to process and as otherwise required by law," under certain conditions
- Disclosures to Avert a Serious Threat to Health or Safety** - if the covered entity, in good faith, believes the use or disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public, and the disclosure is to a person or persons who are reasonably able to prevent or lessen the threat

HIPAA, Health Insurance Portability and Accountability Act, PHI, protected health information
HIPAA Privacy Rule and Disclosure of Information Relating to Reproductive Health Care. Updated June 29, 2022. Accessed November 2022. <https://www.hhs.gov/hipaa/for-professionals/privacy/guidance/phi-reproductive-health/index.html>

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WHAT-IF...

An individual goes to a hospital emergency department while experiencing complications related to a miscarriage during the tenth week of pregnancy. You work in a state where a 6-week abortion ban is in effect, and a provider suspects the individual of having taken medication to end their pregnancy.

- State law prohibits abortion after 6 weeks gestation but does not require the hospital to report individuals to law enforcement
- Where state law does not expressly require such reporting, the Privacy Rule would not permit a disclosure to law enforcement under the Required by Law permission
- Disclosure would be impermissible and constitute a breach of unsecured PHI

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WHAT-IF...

A law enforcement official comes to your pharmacy and requests records of all patients who have received both mifepristone and misoprostol.

- If the request is not accompanied by a court order or other mandate enforceable in a court of law, the Privacy Rule would **not** permit the pharmacy to disclose PHI in response to the request.
- Disclosure would be impermissible and constitute a breach of unsecured PHI

What if they have a court order requiring the pharmacy to produce PHI about a specific individual?

- Because a court order is enforceable in a court of law, the Privacy Rule would permit **but not require** the pharmacy to disclose the requested PHI
- Disclosure must only include the PHI **expressly authorized** by the court order

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SUMMARY

- The reality: a great deal of **gray area** surrounds this topic and the situation is fluid
- Remain aware of your state's laws and regulations and your company's policies, and when in doubt, ask the prescriber for more information
- Consider how Supreme Court rulings may impact care in your patient population
- If you believe you may be in a situation you morally, ethically, or religiously object to, be up front with your employer about reasonable accommodations

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THANK YOU

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