The Impact of *Dobbs* on Health Care Beyond Wanted Abortion Care

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Abstract: While empirical evidence has exposed the harms and health disparities flowing from being denied a wanted abortion, we know less about how anti-abortion laws and policies impact health care more broadly. This article surveys the public health impacts of *Dobbs* on health care beyond wanted abortion care. The article argues that focusing the public's attention on the harmful consequences of abortion bans for healthcare beyond wanted abortion care could help to fend off further restrictions on abortion

I. Introduction

The Supreme Court's momentous decision in *Dobbs v. Jackson Women's Health Organization* represents a sea change not only in constitutional law but in the public health landscape.[1] The decision almost immediately wreaked havoc in the delivery of medical care not only for patients seeking abortion care, but also for patients not actively seeking to terminate a pregnancy.

A growing body of public health research has revealed the damaging consequences of being denied a wanted abortion. For example, the Turnaway Study, a nation-wide study conducted by researchers at UCSF, demonstrated that denial of abortion care threatens women's physical health, economic security, and aspirations for themselves and their families.[2] Public health research also shows that people who are low-income and pregnant people of color disproportionately feel the negative impacts of abortion restrictions.[3]

While empirical evidence has exposed the harms and health disparities flowing from being denied a wanted abortion, we know less about how anti-abortion laws and policies impact health care more broadly. In the post-*Dobbs* world, the links between abortion care and a wide range of health care issues have become more apparent. Mainstream news media have been reporting on the impact of overturning *Roe v. Wade* on medical care beyond people actively seeking abortion care, including access to contraception, fertility treatment, and treatment for pregnancy-related complications.[4]

This essay surveys the public health impacts of *Dobbs* on health care more broadly. It aims to catalog the ways in which abortion bans obstruct access to medical care beyond wanted abortion care. This

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catalog summarizes the current state of evidence, including preliminary research studies and anecdotal evidence, on how post-*Dobbs* abortion bans are hindering access to a wide range of medical care. This essay also seeks to provide a roadmap for future empirical research on *Dobbs*' health care ripple effects by identifying the areas where further public health research is most needed in order to ensure that the public understands the full breadth of health care consequences of the post-*Roe* policy landscape.

Furthermore, this essay argues that focusing the public's attention on the deleterious consequences of abortion bans for health care beyond wanted abortion care could help to fend off further restrictions on abortion. Abortion policy is now largely in the hands of voters, as state legislation and ballot initiatives dictate the fate of abortion rights at the state level. Reframing abortion as a core health care concern for a wide swath of the public — as opposed to a debate about a constitutional right to privacy — offers a potentially powerful strategy for resisting anti-abortion legislation.

This essay surveys the public health impacts of *Dobbs* on health care more broadly. It aims to catalog the ways in which abortion bans obstruct access to medical care beyond wanted abortion care. This catalog summarizes the current state of evidence, including preliminary research studies and anecdotal evidence, on how post-*Dobbs* abortion bans are hindering access to medical care beyond a wanted abortion. This essay also seeks to provide a roadmap for future empirical research on *Dobbs*' health care ripple effects by identifying the areas where further public health research is most needed in order to ensure that the public understands the full breadth of health care consequences of the post-Roe policy landscape.

II. Post-*Dobbs* Ripple Effects of Abortion Bans from Pre-Conception to Post-Birth

A growing body of evidence shows that the *Dobbs* decision has inhibited access to health care for women and pregnant people even when they are not actively seeking abortion care.[5] This Part provides an overview of the consequences of *Dobbs* for access to a wide range of health care, from pre-conception care such as sterilization and fertility treatment, to prenatal care and childbirth, as well as medical care unrelated to pregnancy.

1. Contraception, Sterilization, and Infertility Treatment

Attempts to restrict access to contraception have already come to pass, even without a direct challenge to the constitutional right protecting access to contraception. More restrictions on contraception may ensue along the lines of religious objections to insurance coverage for contraceptives, as Liz Sepper writes for this symposium, and also from false assertions about contraception operating as an abortion.[6] Conservative activists have claimed incorrectly that some forms of contraception act as abortifacients.[7] In its *Dobbs* briefing, Mississippi argued that contraception reduces the need for access to abortion care.[8] Greater public awareness about how *Dobbs* could be used to block access to contraception may help to increase the public's disfavor of abortion bans.

Prior to *Dobbs*, Missouri legislators attempted to ban Medicaid funding for emergency contraception and IUDs, two forms of birth control that anti-abortion groups falsely claim are abortifacients.[9] After *Dobbs*, St. Luke's Health System declared that it would stop providing emergency contraception due to Missouri's abortion ban, until the state's Attorney General declared that the ban would not apply to contraception. Still, St. Luke's expressed concern about liability for providing emergency contraception given the law's ambiguity.[10] When Idaho's trigger ban on abortion took effect in August 2022, the University of Idaho's general counsel issued guidance that included not only limits on information about abortion, but also stated the school should no longer offer contraception to students. The University later clarified that condoms would still be provided through the school, but only "for the purpose of not transmitting disease"

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and not for the purpose of preventing conception.[11] In December 2022, a federal district court judge granted summary judgment in favor of a plaintiff challenging the federal Title X program's support of low-income adolescents' access to contraceptive services without parental consent, a first blow against contraception in the federal courts.[12]

Due to the confusion around what *Dobbs* means for access to contraception, along with more states enacting bans on abortion, reproductive health advocates fear that more people will be implicitly or explicitly coerced into sterilization — particularly those from historically marginalized populations. For example, one media story reported on a physician who stated her patients asked about whether contraception would still be legal after *Dobbs*, and others were seeking sterilization due to fears that they would not be able to control their fertility:

> We've had record numbers of people asking for their tubes to be tied — people with multiple kids and people with no kids. Some are saying, "My husband has a vasectomy, but I still need to make sure I'm protected." We are going to be doing a lot more surgeries to sterilize women.[13]

Given the long history of eugenic sterilization in the United States, discussed by Paul Lombardo in this symposium, increases in rates of sterilization post-*Dobbs* could indicate a disturbing trend towards a new form of coercive sterilization through the use of abortion bans compounded by restricted access to contraception.[14] During the anti-sterilization abuse movements of the 1960s and 1970s, activists, primarily women of color, argued that abortion restrictions like the Hyde Amendment (which prohibits federal Medicaid funding for abortions) combined with cuts in social welfare programs operated in practice as a new form of eugenic sterilization, since sterilization was the only means of fertility control accessible to low-income families.[15] Similarly, after *Dobbs*, sterilization may be the only reliable and affordable form of fertility control available in some states since Medicaid covers sterilization but almost never abortion.

Some advocates are concerned about explicit coerced sterilization of marginalized groups such as people with disabilities, an issue examined by Leslie Francis in this symposium. The U.S. has a long history of forced sterilization of disabled people, one that lingers today since courts still make determinations about whether to authorize such sterilizations.[16] Public health researchers will need to gather data on trends in access to contraception and uptake of sterilization across states with differing abortion policies, particularly among marginalized populations who have historically been targeted for eugenic sterilization.

Scholars have noted that *Dobbs* threatens access to fertility treatment such as in vitro fertilization (IVF), including Judy Daar in this symposium. Evidence on whether *Dobbs* instigated changes to fertility clinic practices is still anecdotal, but the American Society for Reproductive Medicine (ASRM) has expressed concerns. In a July 2022 policy report, the ASRM Center for Policy and Leadership reviewed the implications of state abortion bans for reproductive medicine and emphasized that post-*Dobbs* abortion bans "have the potential to severely limit the ability to provide high-quality, patient-centered maternal health care."[17] The ASRM report also noted that "IVF may put patients at increased risk for ectopic and heterotopic pregnancy, and trigger laws may have consequences on the management of these and other pregnancy complications…"[18] Explaining to the public how abortion bans threaten health care access for couples suffering from infertility could help to create political will to resist abortion bans — a strategy that was successful in the pre-*Dobbs* era to resist "personhood" laws.[19]

2. Pregnancy-Related Complications

In the aftermath of *Dobbs,* health care providers and patients have been publicly sharing stories of the increasing difficulties women and pregnant people are facing when trying to access pregnancy-related medical care in jurisdictions hostile to abortion. Public health researchers are also beginning studies to gather empirical data on pregnant patients who have received substandard medical care due to a state's abortion restrictions. Prior to the Supreme Court overruling *Roe,* abortion restrictions impeded access to a range of health care concerns other than abortion care in ways that were largely invisible to the public. The ripple of effects of anti-abortion laws and policies pre-*Dobbs* included impeded access to miscarriage management and treatment for ectopic pregnancy (particularly in sectarian hospitals), limits on information during prenatal care, and changes to treatment in end-of-life care.[20] The pending litigation on continued access to mifepristone — one of two drugs used in the FDA's approved regimen for medication abortion — also impacts the use of the drug in treatment for miscarriages.[21] Although laws targeting abortion interfered with a broad array of health care before *Dobbs,* the decision rapidly magnified the problem and impeded access to care in a wider range of clinical settings across the country.

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The first indications of how overturning *Roe* would impact the delivery of medical care came from the Texas civil liability "bounty hunter" abortion bill known as SB8, which the Supreme Court did not block in 2021.[22] SB8 effectively banned abortion at six weeks of pregnancy, before many people realize they are pregnant. Anecdotal evidence exposed how SB8 hindered access to medical care beyond people actively seeking abortion care. One woman, Anna, shared her harrowing story after a Texas hospital refused to perform a lifesaving abortion for her miscarriage and she had to fly out of state for her abortion care.[23] Texans also described stories of being forced into interstate travel after SB8 to obtain abortion care for ectopic pregnancies, which are non-viable and life threatening.[24]

One research study on the aftermath of SB8 found a wide range of medical impacts of the six-week abortion ban, as abortion is the standard of care for many pregnancy-related complications.[25] The Texas physicians in the study reported delayed or denied care for everything from fetal anomalies incompatible with life to rupture of membranes before viability and ectopic pregnancies. A maternal-fetal medicine specialist summarized the hospital climate after SB8: "People have to be on death's door to qualify for maternal exemptions to SB8."[26]

In cases that fell within the medical exemption, doctors described using more difficult or riskier procedures such as induction (forcing the patient through labor and birth of a non-viable fetus) or a hysterotomy (slicing into the uterus) rather than the standard method of dilation and evacuation (D&E) for fear that the D&E procedure would appear to be an illegal abortion.[27] In sum, the study found that "[p]atients with pregnancy complications or preexisting medical conditions that may be exacerbated by pregnancy are being forced to delay an abortion until their conditions become life-threatening and qualify as medical emergencies, or until fetal cardiac activity is no longer detectable."[28]

After *Dobbs*, researchers published a study examining the public health impact of Texas' post-*Dobbs* felony criminal abortion bans on treatments for pregnancy-related complications. The study found higher rates of maternal morbidity due to the state's abortion laws. Among other concerns, the study found that delayed care "resulted in 57% of patients having a serious maternal morbidity compared with 33% who elected immediate pregnancy interruption under similar clinical circumstances reported in states without such legislation."[29] Given this preliminary data, researchers at UCSF launched a nationwide study and have issued a preliminary report about how abortion restrictions enacted after *Dobbs* are impacting the delivery of medical care for pregnancy-related complications.[30]

A handful of lawsuits have now been filed seeking to alleviate some of the healthcare impacts of abortion bans. In Texas, thirteen women and two physicians filed a lawsuit pursuing claims under the Texas state constitution.[31] The complaint alleges the women were unable to obtain obstetric care due to Texas' anti-abortion laws, including care for miscarriages, pregnancy-induced health complications, and severe fetal abnormalities, and collects similar stories of denials of care in states with abortion bans from across the country.[32]

In addition to evidence that abortion bans lead to substandard care for pregnancy-related complications, physicians are also concerned about *Dobbs'* impact on pregnant patients with cancer. Typically, drugs used to treat cancer are harmful or potentially fatal to a fetus. For aggressive cancers such as leukemia, treatment cannot be delayed until the completion of a pregnancy. In such circumstances, doctors almost always advise termination of the pregnancy, but in states with abortion bans pregnancy termination may no longer be an option.[33] Even though some anti-abortion laws have exceptions for the health of the woman, doctors may be uncertain whether a patient's cancer will fit within those exceptions.[34] An article by two physicians published in *JAMA Oncology* noted that as the maternal childbearing age increases, pregnancy associated cancer is projected to rise and that the estimated twenty-six states that are expected to restrict abortion care account for forty-one percent of U.S. births.[35] Physicians fear that *Dobbs* will hinder oncologists' ability to deliver optimal care to pregnant patients.[36]

Abortion bans are creating life threatening medical emergencies where there need not be any. As Greer Donley and Jill Wieber Lens emphasize: "[T]his is how some pregnant people will die in a post-*Roe* America. Hospitals will delay care too long and not be able to save the person's life; or her life will be saved, but her uterus will be sacrificed, along with her future fertility."[37] Deaths due to delayed care flowing from legal restrictions on abortion have already occurred in Poland and Ireland. In the case of Ireland, the death of Savita Halappanavar helped to instigate changes to Ireland's strict abortion laws.[38] Public health researchers will need to continue to study the effects of *Dobbs* on health care delivery for miscarriage, ectopic pregnancy, cancer treatment, and other pregnancy complications.

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3. Prenatal Care and Maternal Mortality

Dobbs could have wide-ranging long-term consequences for prenatal care. Some impacts include potential changes to standard practices in prenatal care regarding disclosure of fetal abnormalities and genetic information, decreased access to prenatal care due to increased shortages of maternity care providers, and changes to medical education in obstetrics that impact prenatal care.

States with strict abortion bans may decide to alter what information is available about a pregnancy, including information about fetal anomalies and prenatal genetic testing, as discussed by others in this symposium.[39] More research will be needed into whether and how prenatal genetic counseling practices and information sharing might be changing in states with abortion bans.[40] Furthermore, prenatal care may become less available as obstetricians flee jurisdictions that are criminalizing obstetric care.[41]

Medical education could also be changed in ways that impact prenatal care not only due to fewer ob-gyn trainees in anti-abortion states, but also a lack of comprehensive reproductive health care training for clinicians in those states. One study examining the potential impact of overturning *Roe v. Wade* on medical education estimated that of the approximately 6,000 ob-gyn trainees in accredited U.S. obstetrics and gynecology programs, 43.9% train at programs in states that are certain or likely to ban abortion once *Roe v Wade* is overturned.[42] The study stresses that:

> Abortion training has also been shown to improve general skills and confidence in uterine evacuation and miscarriage management. Furthermore, though some residents choose not to participate fully in abortion training on religious or moral grounds, partial participators in programs that offer routine abortion training benefit from improved procedural, ultrasonography, and pregnancy-counseling skills. Thus, the ramifications of this chasm in training will extend beyond induced abortion care.[43]

In addition, the study notes that abortion restrictions disproportionately harm communities of color and further studies will be needed to understand whether abortion restrictions "would disproportionately affect training for obstetrics and gynecology residents identifying with racial and ethnic groups underrepresented in medicine, because they are more likely to provide care to underserved populations."[44]

Dobbs will likely have ripple effects on maternal morbidity and mortality rates not only due to maternity care provider shortages, but also because carrying a pregnancy to term is much more dangerous than abortion. Experts predict more pregnant people will die due to the inability to access a wanted abortion in a post-*Roe* world.[45] Due to the effects of systemic racism, increases in maternal deaths will disproportionately impact women of color. U.S women are currently more likely to die during or after pregnancy than anywhere else in the developed world. As has been increasingly reported in recent years, the United States is facing a maternal mortality crisis and data shows that this crisis is borne disproportionately by Black women.[46] This crisis may very well worsen as abortion access is further cut back since studies show that legal restrictions on abortion and rates of maternal mortality are correlated.[47] Especially in states that already experience maternity care deserts and also criminalize abortion, many women will be forced to give birth in unsafe conditions.[48] A University of Colorado study predicts that the US maternal death rate could increase by 24 percent if there were a nationwide ban on abortion.[49] Forced childbirth may also lead to higher rates of maternal morbidity, particularly among marginalized populations. Low-income women have higher rates of miscarriage and stillbirth than women of higher socioeconomic status.[50] Women of color, especially Black women, also face higher rates of miscarriage and stillbirth.[51] Studies show that stillbirth has a higher rate of life-threatening maternal complications than a live birth.[52]

Given the extensive health disparities embedded in interconnected reproductive health issues, researchers should continue to focus on these links between abortion policy and rates of maternal morbidity and mortality. Growing public concern about the high maternal mortality rates in the U.S. is a potential pressure point that could be leveraged to fight abortion restrictions.

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Given the extensive health disparities embedded in interconnected reproductive health issues, researchers should continue to focus on these links between abortion policy and rates of maternal morbidity and mortality. Growing public concern about the high maternal mortality rates in the U.S. is a potential pressure point that could be leveraged to fight abortion restrictions.[53] In the post-*Roe* era, public health researchers will also need to track data on shifts in the availability of maternity care as well as shifts in medical education in obstetrics, and conduct research on the downstream consequences of *Dobbs* on prenatal care with regard to transmitting information about genetic conditions and fetal anomalies.

4. Non-Pregnancy Related Medical Care

In addition to the many public health implications of *Dobbs* on pregnancy-related health care, abortion bans are impeding access to medical care even when the condition has nothing to do with pregnancy. Concerns about teratogens (drugs that can harm a fetus subject to *in utero* exposure) have resulted in female patients being denied access to needed medications for non-pregnancy related medical issues. In states with abortion bans, patients are facing obstacles to accessing standard medical care, "including access to medications such as methotrexate (widely used to treat rheumatoid arthritis), isotretinoin (used to treat nodular acne), and valproate (used to treat seizures)."[54]

Post-*Dobbs,* reports quickly surfaced of patients with autoimmune diseases and rheumatological conditions facing hurdles to accessing their medications. For example, Becky Schwarz, who lives with lupus, was notified by her rheumatologist that they would stop all refills of methotrexate because it is considered an abortifacient. Although methotrexate can be used to induce an abortion, in much lower doses methotrexate is used to treat many autoimmune diseases. As a result of losing access to methotrexate, Becky had to suddenly change her medication, a shift which can cause flare-ups and impede normal functioning. Arthritis patients have also had trouble accessing their medications because the drugs are also associated with pregnancy termination.[55]

A 2022 article in the *Annals of Internal Medicine* raised the concerns of rheumatologists about the consequences of *Dobbs* on the delivery of medical care to patients with rheumatic disease. The physician authors expressed fears around three medical issues impacted by abortion restrictions:

> First is a concern about access to medically indicated abortion that has been indicated because of teratogen exposure or active rheumatic disease. Second is a worry about access to necessary medications that are teratogenic. Third is a concern about laws that interfere with patient–clinician discussions about reproductive issues.[56]

Female rheumatology patients will also likely face increased challenges to accessing new and potentially better medications.[57] Furthermore, even if physicians are willing to prescribe teratogens to female patients in states with abortion bans, other providers in the health care system such as pharmacists may deny care as some patients have been reporting.[58]

Although patients have been sharing their stories with the media, empirical data is still limited. Going forward, public health researchers should gather data on access to teratogens and health care outcomes for female rheumatology patients, particularly comparing outcomes in abortion ban states versus abortion access states.

III. Framing Abortion as Health Care

When most people think about legal restrictions on abortion, they likely do not think about stories like those described above. The public generally believes abortion laws affect only women actively seeking abortion care, not people seeking prenatal care or treatment for pregnancy-related complications. Yet, laws curtailing access to abortion are reshaping these patients' medical care — or lack of appropriate medical care. Abortion cannot be isolated from the continuum of women and pregnant people's health care. Degraded health care across the board is the impact of overturning *Roe*, and it is affecting patients across the country. Linking abortion to less stigmatized forms of health care could help voters recognize that abortion care is integral to and deeply integrated with a range of health care needs. If a wider swath of the public fears that abortion bans could threaten access to their needed medical treatments — including contraception, fertility care, miscarriage management, maternity care, cancer treatment, and rheumatology medications — it could generate more antipathy to government overreach into health care decision-making around abortion. Especially since the public tends to have more sympathy for medically indicated abortion care, connecting these less politically polarized medical issues to abortion could help persuade voters that abortion bans represent unwarranted government intrusion into health care decisions.[59] A New York University study found that, as compared to their pro-choice counterparts, individuals with anti-abortion beliefs are more likely to have heard

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about a friend's miscarriage than a friend's abortion, although miscarriage is less common than abortion.[60] In other words, individuals' pre-existing views determine which stories they are told. This selection bias in secret sharing enables abortion opponents to maintain the "self-fulfilling illusion" that the one in three women who have an abortion in America do not represent them or anyone they know and contributes to "a stasis in public opinion."[61] Yet, those unsympathetic to abortion rights, who think they have no personal connections to "that kind" of woman,[62] are likely to know someone who has experienced other types of pregnancy loss.[63]

Creating a more nuanced picture of the full breadth of health harms that flow from abortion bans would help the public develop a fuller understanding of the health care implications of losing abortion rights. This framing of abortion as a public health issue could be used to encourage the voters to protect women and pregnant people's health by rejecting government interference with reproductive health care including abortion care.

A number of legal scholars have argued for reconnecting abortion with women's health and framing abortion care as an aspect of health care.[64] Without constitutional protection for abortion rights, educating the public about how abortion is an essential aspect of health care for a wide swath of patients offers a potentially useful framework for fighting abortion bans at the state and local level. Reframing abortion bans as government mandates that interfere with the physician-patient relationship and harm women's health has proven to be a successful strategy for combatting abortion bans in conservative states, when the issue was put to voters through ballot initiatives.[65] Further public health research on the effects of abortion bans on the wide range of health care issues catalogued above will likely show that abortion bans touch the lives of many individuals who falsely believe that no one in their social circle has a need for abortion care.

IV. Conclusion

In Supreme Court opinions, federal health care legislation, and the popular imagination, abortion has long been perceived as primarily an issue of the politics of "choice" rather than as an essential part of health care. In the post-*Roe* legal landscape, more public health research on the ripple effects of abortion bans could contribute to reframing abortion as an essential health care issue for a broad swath of patients and thereby help to persuade the public to reject abortion restrictions.

Note

The author has no conflicts to disclose.

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The Journal of Law, Medicine & Ethics, 51 (2023): 592-600. © 2023 The Author(s)

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