CECA
Coalition to Expand Contraceptive Access

Developing a Post-Roe Contraceptive Access Strategy: Environmental Scan Report

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INTRODUCTION

Given shifts in abortion access and privacy rights and state attacks on contraception, coordinated efforts to preserve and expand access to contraception are more important than ever. The Coalition to Expand Contraceptive Access (CECA) is bringing together evidence and diverse stakeholders to understand the potential impact of these shifts and to shape responsive, proactive strategy. This effort will help align the work of various coalitions, organizations, federal agencies, and individuals, and will serve as a resource and supportive structure for the reproductive health, rights, and justice fields.

As an initial step in this effort, CECA conducted an environmental scan that responds to four key questions:

1. What is the status of contraceptive access at federal and state levels?
2. How does the Supreme Court's decision in Dobbs v. Jackson Women's Health Organization impact this access?
3. What efforts are underway to preserve and expand contraceptive access in a post-Roe era?
4. What support is needed to preserve and expand contraceptive access?

This scan encompasses findings from written materials as well as listening sessions with diverse groups of stakeholders. It should serve as a resource to anchor and inform discussions on how access to contraception may shift in a post-Roe environment, and which strategies may help preserve or advance contraceptive equity moving forward.

INFORMATION SOURCES

This report combines key findings and themes from the following information-gathering activities:

1. **Environmental scan of written materials:** We conducted a scan of policy and issue briefs, fact sheets, news articles, federal legislation, white papers, peer-reviewed literature, and other relevant written materials published from June 2021 through February 2023. We also reviewed state legislative trackers to identify existing and anticipated policies related to contraception.
2. **Listening sessions and one-on-one discussions:** CECA convened seven structured small group discussions ("listening sessions") and approximately 15 one-on-one discussions from September to December 2022 with diverse experts to gather insights on the existing and potential threats to equitable contraceptive access in a post-*Roe* environment. Experts included federal policymakers and agencies; state-level lawmakers and advocates; reproductive justice leaders; clinicians and representatives of clinical organizations; private industry leaders; researchers; and legal experts.

Given that this topic is rapidly evolving, we envision this report as a living document that will require periodic updates to remain inclusive of the current and shifting context. With the implications of the *Dobbs* decision on contraceptive access still emerging in the peer-reviewed evidence, the current scan primarily includes learnings from grey literature (e.g., organizational and policy issue briefs, government documents and reports, news articles, editorials, and other similar written materials). Additionally, the information gathered from the listening sessions and one-on-one discussions should be interpreted as anecdotal evidence.

KEY FINDINGS

In June 2022, the Supreme Court of the United States (SCOTUS) overturned the constitutional right to abortion with their decision in *Dobbs v. Jackson Women's Health Organization*. This ruling eliminates longstanding federal standards for abortion access in the United States and enables states to severely restrict and even ban abortion. While the *Dobbs* decision focuses on abortion rights, the decision's logic and the responses of lawmakers, clinicians, and others underscore the precarity of contraceptive access.

Even prior to the *Dobbs* decision, contraceptive access had long been limited by existing policies and uneven resources. For example, as of May 2022, 18 states had enacted abortion-related restrictions on the use of public funds for family planning services, prohibiting the allocation of public funds to organizations that provide, contract with, or counsel patients on abortion.[1] These restrictions constrain the resources available to publicly funded family planning providers, who are already generally underfunded, and directly compromise the provision of quality and timely reproductive health care.[1,2] Further, the contraceptive coverage mandate under the Affordable Care Act (ACA) has been undermined by exemptions that allow employers with religious or moral objections to exclude contraceptive services from employee-sponsored health plans. Recent reports show that several health insurers and group plans required to cover contraceptive services without cost-sharing are out of compliance with ACA requirements.[3,4] Without clear accountability mechanisms by federal and state agencies, such noncompliance often remains unchecked and results in barriers to contraceptive care that disproportionately affect Black, Indigenous, and other people of color (BIPOC), people with lower incomes, and those with distinct health care needs (e.g., contraindications to estrogen use).[3,4] At the time of the *Dobbs* decision, 12 states had also imposed refusal of care policies, which allow health care providers, including pharmacists, to deny provision of contraceptive care based on religious or moral objections.[5]

In a policy context that already constrains access to contraception, understanding the potential impact of the *Dobbs* decision can help inform a coordinated strategy and actions to preserve and expand contraceptive access. In the sections below, we outline the threats to access, highlight existing and promising tactics to preserve or expand access, and summarize the resources needed to support quality contraception in a post-*Roe* era.

New or Worsening Threats to Contraceptive Access

Four major themes emerged regarding new or worsening threats to contraceptive access, in light of the *Dobbs* decision.

Table 1. Summary of New or Worsening Threats to Contraceptive Access

Key Findings – New or Worsening Threats to Contraceptive Access	
Themes	**Key Findings**
1. A convergence of legal, political, and cultural attacks	The *Dobbs* decision has brought to the fore legal, political, and cultural attacks that may impact contraceptive access.
2. Fear, confusion, misinformation, and stigma among health systems, providers, and patients	Health systems, providers, and patients fear criminalization in the provision or receipt of contraception, often due to mis- and disinformation and a complex, rapidly evolving legal landscape.
3. Concerns that the contraceptive care workforce cannot meet the current or future demand	In the wake of *Dobbs,* demand for contraception may increase, and anecdotal reports already reference an increased demand in long-acting, permanent, and emergency methods of contraception. Constraints on the contraceptive care workforce may challenge its ability to meet shifting demands.
4. Threats to contraceptive equity	The *Dobbs* decision threatens contraceptive equity by exacerbating existing barriers to contraceptive access that disproportionately affect BIPOC groups and people living in rural areas and other contraceptive deserts.

Theme 1: A convergence of legal, political, and cultural attacks

The *Dobbs* decision, on its own, has devastating consequences for abortion and potentially for contraceptive access in the United States. However, its impact is magnified by converging and continued threats to people's reproductive health care access and human rights. For example, the timing of this decision intersects with a politicization of U.S. courts; growing public distrust of science and evidence; and prevalent mis- and disinformation related to social and health issues, including access to reproductive health care. Prior to and since the *Dobbs* decision, there has been an overwhelming increase in state-level abortion restrictions, which inevitably affect contraceptive access.[6,7] Many states with restrictive abortion laws also have reproductive health care workforce shortages, limited sex education available in schools, stalled efforts to expand Medicaid coverage to reproductive health and pregnancy services, the deliberate undermining of LGBTQ and immigrant rights, under-resourced health care systems, and, among other health and wellbeing indicators, grim maternal mortality rates—especially for Black birthing people.[8–10] In the current post-*Roe* era, the convergence of political, legal, and cultural attacks not only intensify the implications of the *Dobbs* decision, but also set the stage for additional threats, especially to people's access and right to contraception.

Constitutional right to contraception

The *Dobbs* decision presents a new threat to the constitutional right to contraception and may presage future erosions to constitutional protections around the personal right to privacy. In *Griswold v. Connecticut,* the SCOTUS decided that the constitutional right to privacy prohibited the criminalization of contraceptive use or provision for married couples, which—along with the extension of this right to unmarried people seven years later in *Eisenstadt v. Baird*—formed the legal basis for *Roe v. Wade*.[11] In his concurring opinion in *Dobbs*, Supreme Court Justice Clarence Thomas called for a reconsideration of court decisions based on similar precedents, including *Griswold*.[12,13] Policy experts at The Century Foundation speculated, "Although no other justices signed onto Justice Thomas' opinion, there is enough evidence to suggest that contraception will be the next big fight over reproductive autonomy."[14]

Misclassification of contraception as abortifacients

A worsening threat to contraceptive access, already exacerbated by the post-*Roe* policy environment, is the misclassification of contraception. In multiple listening sessions, participants raised concerns around the emerging and erroneous conflation of emergency contraception (EC) and intra-uterine devices (IUDs) as abortifacients, which has threatened access to these contraceptive methods.[10] Indeed, under this false pretense, several federal and state legislators have introduced revisions to bills stating this conflation—despite available science—in order to restrict access.[15] As policy experts at the National Women's Law Center (NWLC) state, "these policymakers are preying upon abortion stigma, believing that if they can convince people that birth control methods are abortion, they can successfully restrict access to birth control – or ban it altogether."[15]

Prior to the *Dobbs* decision, lawmakers in some states had already attempted to pass legislation restricting access to ECs and IUDs. For example, in 2021, lawmakers in Idaho passed a bill barring health clinics at public schools from dispensing ECs, in a section of the bill entitled "Abortion-Related Activities."[15] In 2021, lawmakers in Missouri also attempted to restrict the state's Medicaid agency from providing reimbursements for ECs and IUDs.[16] In 2022, an Idaho state legislator announced his intention to hold hearings on legislation banning ECs and IUDs.[15,16] Texas has banned coverage of EC from state-funded family planning programs for more than a decade.[15]

Restrictive policy defining personhood as beginning at point of fertilization

Relatedly, some policymakers have sought to reclassify what constitutes a "pregnancy" and redefine "personhood" as beginning at fertilization in order to label ECs, IUDs, and potentially other contraceptives as abortifacients and restrict access to the same.[15] For example, the National Right to Life Committee has developed model legislation that would ban abortion from the moment of fertilization, instead of implantation, paving a way for further restrictions on contraception.[12] At the state-level, a Louisiana State House committee passed a bill in May 2022 stating that personhood begins at fertilization, though the bill was later withdrawn.[15–17] Texas Senate Bill 8, the state law that bans abortions as early as six weeks of pregnancy, provides a definition of pregnancy that includes "begins with fertilization."[15] According to NWLC, there is potential that this state law could be interpreted to restrict access to birth control.[15]

Theme 2: Fear, confusion, misinformation, and stigma among health systems, providers, and patients

A culture of fear, confusion, misinformation, and stigma is already impacting contraceptive care seeking and provision. In multiple listening sessions, participants shared that health systems, providers, and patients alike fear criminalization in the provision or receipt of contraception, often due to mis- and disinformation and a complex legal landscape.[10]

Fear and confusion among contraceptive providers

The rapidly changing reproductive health policy landscape since the *Dobbs* decision has created confusion among health care providers regarding the legality of providing contraceptive care. The lack of legal clarity and consequences was repeatedly expressed during our listening session with clinicians, although this theme was also omnipresent across all sessions and one-on-one discussions. In listening sessions with clinicians, health care providers have expressed feelings of loss of morale, fear of legal action or licensure loss, uncertainty and confusion regarding their practice of reproductive health.[10,18]

This legal confusion and concern are far-reaching, influencing delivery of care in diverse settings and to a range of potential contraceptive users. Recent reports suggest that emergency room nurses in Arizona were uncomfortable providing EC to their patients who had experienced sexual assault, fearing that such care could be considered provision of an abortifacient.[19] In another example, clinicians in a listening session described their colleagues' concerns and hesitation around placing IUDs for fear of potential legal ramifications and criminalization.[10] Additional anecdotal evidence suggests that some contraceptive providers are excluding young people from their care due to confusion around adolescent rights to contraception and parental rights by state.[10] It is evident that the fear of the legal reach of the *Dobbs* decision and other threats to contraception has resulted in conservative interpretations or misinterpretations of current law and resultant risk avoidance in their provision of care.

Concerns regarding the legality of contraception among health systems and institutions

Health systems and other institutions have responded similarly to state-level restrictions on abortion and reproductive health more broadly. The ambiguous language included in Missouri's state abortion ban prompted a major state health system to temporarily suspend dispensing EC, for fear of violating state law.[17,20,21] In September 2022, in response to Idaho's abortion ban, the University of Idaho issued a memo prohibiting university employees from providing reproductive health counseling, dispensing ECs and other contraceptive methods, and distributing condoms as a method of contraception.[22,23] The University President later sent a follow-up memo stating that "there is no change to student access to contraceptives" as the student health clinics are operated by third-party companies who are not university employees.[24] Although the University's guidance was clarified, the confusion that ensued was lasting.[25]

Confusion, fear, and stigma among contraceptive users

Disinformation campaigns related to birth control continue to shape public confusion and misinformation regarding contraception.[26] In this context, it is unsurprising that current contraceptive users have expressed confusion about which methods are legal and available to them in a post-*Roe* environment. Findings from a Kaiser Family Foundation poll fielded in early 2023 demonstrated that confusion about the legality of EC post-*Roe* is widespread; more than half of respondents who lived in states with abortion bans either incorrectly stated that EC pills were illegal in their state or stated that they were unsure.[27,28] Further, contraceptive users may fear losing access to their current method, should it suddenly become unavailable due to a legal shift.[18] For example, recent data from Power to Decide found that half of the young adults surveyed believe birth control will be harder to access in the

future, with the majority citing the *Dobbs* decision as a basis for their response.[29] During our listening sessions with clinicians and in one-one-one discussions, participants shared that individuals who are traveling out of state to receive an abortion and obtain contraceptive care at that point have also shared concerns with providers regarding what they are or are not able to disclose in their patient-provider encounters in their states of origin.[10] In general, we heard recurring anecdotal input about users' fear of losing access to confidential services in a post-*Roe* environment, with the subsequent potential for stigmatized care and perceived criminalization.[10] There is concern that such fear and confusion may result in a "chilling effect" that limits contraceptive care-seeking, especially among groups already vulnerable to stigma, such as young people.

Finally, disinformation campaigns related to birth control have continued to shape public knowledge and misinformation regarding contraception. Such campaigns also have a stronghold in crisis pregnancy centers, which provide false information about abortion yet often offer contraceptive services, and are growing on social media platforms using the hashtags #naturalbirthcontrol and #gettingoffbirthcontrol.[26,30,31]

Theme 3: Concerns that the contraceptive care workforce cannot adequately meet the current or future demand

With abortion severely restricted or altogether banned in certain states, it is possible that the demand for contraception will increase following the *Dobbs* decision.

Potential shifts in contraceptive demand

Although population-level research is needed to confirm and quantify changes in contraceptive demand, some anecdotal evidence and initial small survey findings suggest a shift. Multiple listening session participants reported an uptick in requests for long-acting, permanent, and emergency methods of contraception, particularly among people traveling for care.[10] Some published reports, too, have documented increased interest in EC, long-acting contraceptive methods, including among young people, as well as interest in male contraceptives including vasectomy and male contraceptive pills.[18,32–34] An online poll conducted on behalf of TIME found that a notable share of respondents had switched their contraceptive method since the *Dobbs* decision.[35] Over one in ten respondents reported considering permanent methods in the future and one in five reported considering EC, nearly twice the share that had previously used this method.

Constraints on the contraceptive care workforce to adequately meet the demand

Providers are grappling with how to sustain both an acute and long-term supply of contraception to meet this potential uptick in demand. One listening session participant from a clinical organization described the staffing challenge of caring for an influx of out of state abortion patients while meeting existing demand for contraception and other preventive care.[10] The capacity of the workforce will likely be further threatened as the effects of the *Dobbs* decision continue to unfold. Experts expect that clinical education and training for obstetricians/gynecologists and other contraceptive care providers will be significantly constrained in a post-*Roe* era, additionally impacting the pipeline of providers trained to provide comprehensive reproductive health care.[13,36,37] Residents and other health professions trainees interested in pursuing women's health may find clinical training programs in states with restrictive abortion laws less attractive, an issue that "may lead to spillover efforts in other clinical areas, including…contraceptive access and family planning guidance."[13] As providers leave restrictive states to practice elsewhere and burnout continues to affect the contraceptive care workforce, there is a growing concern that providers will not be available to meet a potential surge in contraceptive need.[38]

Moral objections to provision of care within the contraceptive care workforce

State conscience clauses have long impacted the pool of contraceptive care providers. These clauses allow health care providers (as well as health facilities and, in some cases, health plans) to refuse to offer services such as abortion or contraception due to moral, religious, or ethical objections. Currently, 12 states allow some health care providers to refuse to provide services related to contraception and many hospitals across the country have policies that permit refusals to provide comprehensive reproductive health and pregnancy care.[5,39] Some colleagues anecdotally noted an uptick in providers' refusals to provide contraceptive care, especially in a post-*Roe* environment.[10]

Theme 4: Worsening inequities in contraceptive access

The *Dobbs* decision threatens contraceptive equity by exacerbating existing barriers to contraceptive access. Limited contraceptive access in a post-*Roe* context may disproportionately affect Black women, young people, people living in rural communities, and people living in contraceptive deserts—groups that already face challenges to accessing comprehensive reproductive health care.[11,14,40] Some lawmakers continue to oppose, block, or overturn efforts to expand or protect access, such as attempts to provide public funding for reproductive health services, to authorize pharmacists to prescribe and dispense contraceptives, and to require insurance companies to cover an extended supply of oral contraceptives.[16] In another example from December 2022, a federal judge in Texas ruled against young people's right to access confidential contraceptive services. This decision requires the state's Title X-funded clinics to receive parental consent for minors seeking birth control services, despite prior efforts by the Title X program to protect the privacy of young clients.[41–43] Adolescents in Texas and across the country already face multiple barriers to contraceptive care; now, with threatened access to confidential, affordable contraceptive care, the inequities in contraceptive access for young people will only be magnified.

Listening session participants shared how the post-*Roe* climate has already induced clinic closures, reduced availability of care, prompted longer wait times for services, and threatened confidentiality of services.[10,44] Many of these barriers are not new; indeed, similar obstacles to contraceptive access have been found in states with restrictive reproductive health policies prior to the Dobbs decision.[45,46] Simultaneously, the rapid expansion of the Catholic health system, which now includes three of the country's six largest private health systems, threatens to further restrict contraceptive access, particularly in rural areas where religiously-affiliated hospitals may be the sole women's health provider.[47] Catholic health systems also have some of the most expansive refusal policies, which can allow for refusals of abortion care, contraceptive care, sterilization, infertility services, and other critical procedures.[39] The *Dobbs* decision is also anticipated to threaten access to comprehensive sex education for young people and weaken reproductive health care in student health centers.[48,49] Together, these barriers will have a differential impact on those who already face barriers in accessing quality contraception, including minors; people living on low-incomes; BIPOC communities; undocumented immigrants; people traveling for care; and those living in rural or highly restrictive regions. Further stratification of care and reinforced social and health inequities will likely result.

Promising Strategies to Preserve and Expand Contraceptive Access

In response to these extant and anticipated threats, federal agencies, state governments, and organizations are enacting or considering various strategies to protect contraceptive access.

Table 2. Summary of Strategies Underway to Protect and Expand Contraceptive Access

Key Findings – Strategies Underway to Preserve and Expand Contraceptive Access	
Strategy Level	Description
Federal strategies	Executive and legislative efforts to: • Enact federal protections for contraception access • Issue guidance and enact protections for contraceptive provision and coverage • Advance evidence-based contraceptive care and expand access to care • Increase public awareness of reproductive rights
State strategies	State legislative efforts to: • Build protections for contraceptive access, such as codifying the right to reproductive health and contraceptive access in state constitutions • Expand contraceptive access by implementing policies such as increasing state funding for family planning services and expanding advanced practice clinicians' scope of practice
Organizational strategies	Organizational strategies include efforts to: • Leveraging institutional pressure and positions • Increase individuals' knowledge and access to contraceptive care • Adopt sustainable practices for health systems and providers • Spark a culture shift around reproductive rights

Federal strategies

Federal protections for contraception access

In July 2022, President Biden signed an executive order (EO) to safeguard access to reproductive rights and health care services, including contraception.[50,51] The EO called for federal action to expand access to the full range of reproductive health services, highlighting access to EC and long-acting reversible contraception such as IUDs. In response to the EO, HHS and the White House established an Interagency Task Force on Reproductive Health Care Access to coordinate federal policymaking and programming on reproductive health, co-chaired by the HHS Secretary and the Director of the Gender Policy Council.[52] In October 2022, the Task Force submitted a report to the White House describing the state of reproductive health 100 days after the *Dobbs* decision.[53] Summarizing the Administration's response to the *Dobbs* decision while emphasizing emerging threats to the availability of women's health care, the report stated: "Extreme abortion bans are having consequences that extend beyond abortion, including reports of women being denied access to necessary prescriptions and contraception at pharmacies and on college campuses."[53] Since *Dobbs,* HHS has released multiple reports detailing the Administration's anticipated and ongoing efforts to protect reproductive healthcare, and has listed safeguarding access to birth control as one of the agency's six core priorities.[54,55]

The Department of Justice launched a Reproductive Rights Task Force to monitor state and local actions that may violate legal protections related to reproductive care and rights.[56]

Since the *Dobbs* decision, several federal legislative efforts have been introduced to preserve and expand contraceptive access. Examples of these efforts are summarized in Table 3.

Table 3. Examples of Federal Legislative Efforts Related to Preserving and Expanding Contraceptive Access

Examples of Federal Legislative Efforts Related to Preserving and Expanding Contraceptive Access[57]		
Bill	Description	Status, as of 2/28/2023
Reproductive Freedom for All Act (S.4688)	Establishes a general right of all persons to make certain reproductive decisions without undue government interference	Introduced in Senate on 8/01/2022. Reintroduced in the Senate on 2/09/2023 and referred to the Committee on the Judiciary (S.317)
Safeguard Health Care Industry Employees from Litigation and Distress Act or the SHIELD Act (H.R.8838)	Establishes a framework to limit interference with persons seeking to provide or access reproductive health services at the state level	Introduced in House on 9/15/2022. Reintroduced in House on 1/09/2023 (H.R.62) and referred to the Committee on Energy and Commerce
HHS Reproductive and Sexual Health Ombuds Act of 2022 (H.R.9254)	Establish an Ombuds for Reproductive and Sexual Health within HHS to make evidence-based, medically accurate educational materials on SRH available to the public	Introduced in House on 10/28/2022. Reintroduced in the House on 1/20/23 and referred to the House Committee on Energy on Commerce (H.R.445)
Access to Safe Contraception Act of 2022 (H.R.8421)	Prohibits states from banning any form of contraception that is approved by the Food and Drug Administration	Introduced in House and referred to House Committee on Energy and Commerce on 7/19/2022; Sponsor introductory remarks on measure on 7/21/2022
Right to Contraception Act (H.R.8373/S.4612)	Sets out statutory protections for an individual's right to access and a health care provider's right to provide contraception and related information	Passed in House on 7/21/2022; Introduced in the Senate, read twice and referred to the Committee on the Judiciary on 7/26/2022
Protect Sexual and Reproductive Health Act of 2022 (H.R.8524)	Requires HHS to undertake activities to promote access to sexual and reproductive health and well-being, including renaming and modifying the responsibilities of the HHS Office of Population Affairs; awarding grants for improving access to sexual and reproductive health care to nonprofit or community-based organizations; and establishing an interagency task force to coordinate activities related to sexual and reproductive health and well-being	Introduced in House and referred to House Committee on Energy and Commerce on 7/27/2022
Protecting National Access to Reproductive Care Act of 2022 (S.4748)	Prohibits any State or local government unit, official, or other person acting under color of law to implement or enforce any law, requirement, or limitation that may restrict use of or access to any reproductive health product	Introduced in the Senate, read twice, and referred to the Committee on the Judiciary on 8/02/2022
Reproductive Health Care Accessibility Act (S.5764/H.R.9040)	Establishes various grants and related programs that address sexual and reproductive health care for individuals with disabilities, including HRSA support of training for health care providers who offer sexual and reproductive health care to individuals with disabilities, and educating individuals with disabilities about sexual and reproductive health care	Introduced in Senate on 8/03/2022 and referred to the Committee on Health, Education, Labor and Pensions. Introduced in House and referred to House Committee on Energy and Commerce on 9/29/2022
INFO for Reproductive Care Act of 2022 (H.R.9220)	Amend the Public Health Service Act to provide for a national public awareness campaign to inform health care professionals and trainees on how to help patients navigate the legal landscape with respect to abortion and other reproductive health care services following *Dobbs* decision	Introduced in House on 10/21/2022 and referred to House Committee on Energy and Commerce

Guidance and protections for contraceptive provision and coverage

Federal agencies released guidance clarifying the obligations of specific healthcare entities, such as health insurers and retail pharmacies, to protect access to reproductive healthcare and contraceptive coverage. In June 2022, HHS, the Department of Labor, and the Department of Treasury issued a letter reminding health insurers and employer health plan organizations of their accountability to contraceptive coverage requirements under the ACA, and warning against noncompliance with the requirements.[58,59] These agencies later issued a fact sheet clarifying protections for contraceptive coverage under the ACA, and emphasized enforcement actions for non-compliant health plans.[60]

In July 2022, the HHS Office for Civil Rights also issued guidance reminding retail pharmacies that receive federal financial assistance, including Medicare and Medicaid payments, of their legal obligation to ensure access to comprehensive reproductive health services, including contraception.[61] The guidance states that that if a pharmacy provides contraception yet refuses to fill a prescription on the assumption that a method may prevent ovulation or a pregnancy, that pharmacy may be discriminating care on the basis of sex and will be in violation of the ACA and federal civil rights law.[61]

Federal agencies also released guidance clarifying the roles of institutions and healthcare facilities in protecting the provision of contraceptives. In October 2022, the Department of Education Office for Civil Rights issued guidance to universities reiterating Title IX's requirement that institutions protect students from discrimination on the basis of pregnancy.[53,62] The Health Resources and Services Administration (HRSA) issued guidance in a technical assistance resource released in December 2022 to HRSA-funded community health centers reiterating providers' requirement to offer family planning services to their clients.[63]

Finally, to expand coverage under the ACA, the Biden-Harris Administration proposed a rule change in January 2023 that would rescind the moral exemption for contraceptive coverage and created a new pathway to access birth control through an "individual contraceptive arrangement." This shift would protect coverage of contraception among eligible individuals enrolled in health plans sponsored by entities with religious exemptions.[64,65]

Efforts to advance evidence-based contraceptive care and increase awareness of reproductive rights

Reflecting a breadth of existing evidence, the U.S. Food and Drug Administration (FDA) approved changes to the labeling for the EC known as Plan B One Step in December 2022.[54] The label change clarifies the mechanism of action for Plan B One Step to reflect that the pill does not affect an existing pregnancy.[66,67] (The original drug label stated that Plan B One Step may inhibit implantation, a claim that was not supported by scientific evidence.[15]) In an online Q&A about the label change, the FDA also clarified that Plan B One-Step is not an abortifacient.[67]

To create public awareness of reproductive rights, HHS also launched the website ReproductiveRights.gov on June 24, 2022, the day the *Dobbs* decision was issued. The website includes a fact sheet on patients' rights to reproductive health care and information, as well as guidance on how to file a privacy rights or discrimination violation with HHS.[68]

Efforts to expand access to reproductive health care

Federal agencies have taken direct steps to expand access to contraceptive care and reproductive health care broadly. The HHS Office of Population Affairs announced the allocation of $3 million in new grant funding for training and technical assistance for Title X family planning providers, acknowledging the crisis in reproductive health care precipitated by the *Dobbs* decision.[69] These resources are intended to

bolster the capacity of Title X providers to support their patients, especially given recent observed increases in the demand for contraception.[70] In October 2022, HHS announced more than $6 million in new Title X grants and other grants to protect and expand access to reproductive health care.[53]

In July 2022, the Department of Defense (DoD) announced their plan to establish walk-in contraceptive clinics at all military treatment facilities, where service members and their families can access contraceptive counseling and services.[71] The agency is also expanding access to IUDs for service members and their families by eliminating cost-sharing. In October 2022, DoD issued a memo entitled "Ensuring Access to Reproductive Health Care" describing measures to reduce barriers to reproductive health care access and improve awareness of contraceptive care resources.[72,73]

State strategies

Building protections for the right to contraception

Prior to and since the *Dobbs* decision, state lawmakers have sought to advance efforts to codify the right to reproductive health and contraceptive access in state constitutions. In January 2022, New Jersey Governor Phil Murphy signed a bill into law protecting the constitutional right to reproductive choice, including "the right to access contraception, the right to terminate a pregnancy, and the right to carry a pregnancy to term."[74] Colorado codified various reproductive rights in April 2022, including the right of each individual to use or refuse contraception.[75] Similarly, in July 2022, lawmakers in Massachusetts codified access to reproductive health care into state law.[75] After the California State Assembly passed legislation in June 2022 to enshrine the constitutional right to reproductive freedom, including abortion and contraceptive access, in the state's constitution, voters approved the constitutional amendment during the 2022 midterm elections held in November.[76–79] Similarly, voters in the state of Michigan adopted constitutional amendment to codify reproductive rights, including all decisions related to pregnancy, during the 2022 midterm elections.[80]

Efforts to expand access to contraception

In addition to preserving contraceptive access, some states are proactively implementing policies to expand contraceptive access and coverage. Efforts include increasing state funding for family planning services (17 laws enacted in 14 states in 2022), expanding advanced practice clinicians' scope of practice to include provision of reproductive health services to the full extent of their training (enacted in 2 states in 2022), and requiring health plans to cover an extended supply of oral contraceptives without cost-sharing (enacted in 3 states in 2022).[75] For example, Maine and New Jersey passed legislation requiring health plans to cover a twelve-month supply of contraceptives without cost-sharing. Policymakers in Massachusetts and Michigan have enacted legislation to expand pharmacists' ability to prescribe and dispense contraceptives. In Washington, lawmakers passed legislation allowing licensed midwives to prescribe and administer contraceptives. In South Carolina, legislators are also advocating for expanded contraceptive coverage under the state health plan.[81] The South Carolina state legislature is also expected to reintroduce the "Reproductive Health Rights Act" in 2023 affirming the right to contraception, in vitro fertilization, sex education, and all other forms of reproductive health care.[82] The National Health Law Program has also created a Model Contraceptive Equity Act that provides template legislative language for advocates seeking to introduce contraceptive equity laws in their states.[83]

Organizational strategies

Leveraging institutional pressure and positions

Many professional, private, and community-level organizations are leveraging institutional pressure and positions to preserve and expand contraceptive access moving forward. This includes advocacy for over-the-counter access to birth control. A strong leader in this charge, the American College of Obstetricians and Gynecologists released a statement in July 2022 expressing the urgent need for this approval, especially in light of the *Dobbs* decision, and reinforcing the vast body of scientific evidence in support of this change.[84] Other professional organizations have released statements emphasizing contraceptive care as a part of standard primary care. For example, the American Academy of Pediatrics released a call to action for pediatricians to provide patients with their contraceptive method of choice, offer universal proactive emergency contraception, and include contraceptive counseling and provision as part of essential standard of pediatric care.[85] The National Family Planning and Reproductive Health Association published talking points on abortion care and contraceptive access, including messaging on how abortion bans threaten contraceptive access and the role of family planning providers in ensuring access to comprehensive reproductive healthcare.[86] Additionally, pharmaceutical companies, such as Bayer, have hired lobbyists for the first time to advocate for contraceptive access to policymakers.[87]

Efforts to increase individuals' knowledge of and access to contraceptive care

Organizations and health care providers are exploring and implementing refreshed strategies to promote knowledge of and timely access to contraceptive care, especially those seeking contraception in the context of abortion care. For example, providers caring for individuals traveling for abortion care are seeking to ensure that their facilities have a sufficient supply of all contraceptive methods, should the individuals seek contraception during their abortion visit.[10] These facilities and providers are also seeking to equip themselves and their patients with accurate information regarding where follow-up care, if needed, can safely occur. More broadly, many community and clinical organizations have begun to develop educational resources accessible to all levels (from policymakers to health systems to providers to patients) to combat the wide-spreading misinformation related to contraception.

Finally, some organizations are implementing innovative strategies to track and expand access to contraceptive and reproductive health care and rights. For example, the Kaiser Family Foundation has launched a tracker to document and follow litigation related to reproductive rights in the state and federal courts.[88] At a more local level, the American Society for Emergency Contraception is working with student activists to expand EC access across college campuses though peer-to-peer distribution. Involvement in this effort, the Emergency Contraception for Every Campus (EC4EC) initiative, has seen an uptick in interest since the *Dobbs* decision.[89,90] Some providers in the listening sessions also shared that they are considering strategies to extend contraceptive methods and counseling to individuals who choose to self-manage their abortions outside of the traditional health care system.[10]

Adopting sustainable practices for health systems and providers

Contraceptive care providers are also exploring opportunities to adjust their models of care to better meet their patients' contraceptive needs and help sustain their businesses given the financial implications of the *Dobbs* decision. For example, some providers shared in the listening session that they are exploring new business models designed to contend with the financial pressures of reduced hours and service offerings. Others are seeking opportunities to improve reimbursement rates for contraceptive care provision.[10] Health systems and providers have also reported prioritizing telehealth mechanisms of care to meet the observed increase in demand for contraception and to reach patients in remote areas. Some have undertaken their own fundraising efforts to develop their telehealth systems, while others have relied on funding from their states.[10]

Sparking a culture shift around reproductive rights

Some organizations are employing strategies to shift the cultural narrative around contraception and abortion. For example, to demonstrate the real, human impact of the *Dobbs* decision, one community organization has focused on lifting up the stories and experiences of those in their community who will likely be disproportionately impacted in the post-*Roe* era. Especially in places where "science doesn't matter," this approach—in addition to sharing traditional data—may be necessary to effect change. Other organizations have focused on centering the expertise and leadership of BIPOC groups to develop meaningful approaches to tackle the current climate.

Supports Needed to Preserve and Expand Contraceptive Access

To tackle the outlined threats, realize potential strategies, and work toward equitable access in a post-*Roe* climate, a robust system of support, resources, and tools is necessary. The following examples provide an overview of the needed supports described as most pressing by a range of experts.[10]

1. **Stricter application of federal-level regulations:** State-level stakeholders appealed to the federal government to consistently enforce existing laws including the Emergency Medical Treatment and Labor Act (EMTALA) and Title XIX of the Social Security Act (federal Medicaid statute), especially within Catholic hospital systems. Some also expressed a desire for the federal government to regulate or defund crisis pregnancy centers.
2. **Clearer regulatory pathways**: FDA regulatory pathways are difficult and cumbersome to navigate given their complexity. Yet, they are critical to supporting scientific innovations in contraception, which can ultimately expand access to methods and care. The FDA needs to provide clearer direction for their regulatory pathways and, ultimately, develop a less burdensome process to maximize the pursuit and potential impact of contraceptive innovations.
3. **Clear informational resources for policymakers, providers, and the public:** Clear education resources are needed at all levels to combat ongoing disinformation campaigns related to the legality and availability of contraception. Accurate and accessible guidelines that outline how to safely disclose health histories to contraceptive care providers, especially in the context of abortion, are specifically needed. Further, there is a need for fact sheets or talking points that clearly convey the legality of contraception and abortion, in addition to resources that describe the mechanisms of action of specific contraceptive methods (e.g., EC, LARC).
4. **Opportunities or mechanisms for information sharing:** State lawmakers seek information and "playbooks" from other states with more expansive legislation to understand what "better" or "best" case scenarios could be possible and how a similar legislative landscape could be realized in their own states. Within states, clinics and advocates have also expressed the need for a robust network of information sharing between providers, health systems, and state environments. This information would encompass clinical best practices, legal strategies (e.g., how are clinics providing legal clarity to clients and staff), and operations strategies (e.g., contraceptive stocking tips, developing creative reimbursement strategies, identifying low-cost sources of EC). Opportunities for information sharing are also needed within the private industry (e.g., app developers, pharmaceutical companies, payers, investors) and between industry and non-profit groups to understand perceived policy risks and implications in a post-*Roe* era.
5. **Burnout prevention:** The contraceptive care workforce has been contending with worker burnout from the onslaught of challenges presented over the last several years (e.g., the harms of the Trump administration, funding cuts, the Covid-19 pandemic, and staffing shortages), in addition to the *Dobbs* decision. In response, there is a need for best practices or organizational suggestions that can support the rest, recovery, and self/community care of the workforce. These may include creating

spaces of community and connection among the workforce, and developing, sharing and implementing sabbatical policies or other actions that prioritize worker wellbeing.

6. **Legal and insurance experts:** There is an urgent need for legal expertise that can offer clear, consistent, and state-specific guidance on how to provide contraceptive care within the bounds of the law. There is also an expressed desire for expertise on medical malpractice insurance. By shaping providers' understanding of their own risk, such information could help to determine where and how providers practice, with implications for the availability of care.
7. **Data support:** There is a need for innovative research that can help describe the impact of *Dobbs,* anticipate the long-term impact of *Dobbs*, dispel misinformation, and lift up the stories of the people behind the data. Many of the trends described in this scoping review (e.g., uptick in contraceptive demand) should be explored with rigorously conducted research.
8. **Additional funding:** Additional financial resources are needed to support the uptick in contraceptive demand as well as innovations in contraceptive science and technology. Creative funding mechanisms at federal and state levels that center community-based organizations as well as support community-building and community care are needed.

CONCLUSION

This environmental scan summarizes learnings from a range of written materials and expert input on how access to contraception has shifted and may shift further in the post-*Roe* era. The scan also includes a preliminary list of strategies and supports that may help preserve and expand equitable contraceptive access in the short- and long-term. This document is a living report which will be updated periodically with additional data, context, and insight.

Findings from this scan demonstrate that people experienced many barriers to contraceptive access even prior to the *Dobbs* decision, and this stands to worsen. The consequences of the *Dobbs* decision already include elevated fear, confusion, and misinformation among contraceptive users and providers; emboldened anti-contraception advocacy; and increased burdens on the contraceptive care workforce. Absent timely and strategic actions, these trends will continue, amplifying contraceptive inequities and barriers to care across the country.

This scan provides a starting point for discussions of a coordinated strategy to preserve and expand equitable contraceptive access. The work to develop this strategy must be grounded in a sexual and reproductive health equity framework and uphold principles of reproductive autonomy and justice. This includes rejecting any language or actions that may over-promote contraception, or present contraception as a "solution" for limited abortion access, even if it may seem politically expedient. As many of the experts engaged in this scanning process highlighted, we cannot fight one reproductive injustice with another. Instead, we must craft an integrated and holistic contraceptive access strategy and take actions to center those most vulnerable to the consequences of a post-*Roe* era.

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