

Emergency Contraception

BACKGROUND: Emergency contraception (EC) can prevent pregnancy when taken shortly after unprotected sex. Currently there are four FDA-approved products on the market. Three of these products are approved for preventing pregnancy when taken within 72 hours after unprotected sex; adults may purchase all of these methods without a prescription, and individuals who are at least 17 years old may purchase one of these methods—Plan B One-Step—without a prescription. The fourth product, Ella can be taken up to 5 days after unprotected sex; it is only available by prescription.

Since the late 1990s, state legislatures have taken different paths to expand access to emergency contraception. First, some states have mandated emergency contraception–related services for women who have been sexually assaulted. Second, some states permitted a woman to obtain the medication without having to obtain a physician’s prescription; with the FDA’s decision, these measures will now apply only to minors. Third, one state has limited pharmacists’ ability to refuse to dispense emergency contraception on moral or ethical grounds. Finally, in some states, regulations discourage pharmacists from refusing to fill prescriptions for contraceptives, with one state having gone so far as to require pharmacies that stock contraceptives to dispense all contraceptive methods. At the same time, other states have attempted to restrict access by excluding emergency contraception from state Medicaid family planning eligibility expansions or contraceptive coverage mandates, or by allowing pharmacists and potentially some pharmacies, to refuse to provide contraceptive services (see [Refusing to Provide Medical Services](#)).

HIGHLIGHTS:

Expanding Access

- 17 states and the District of Columbia require hospital emergency rooms to provide emergency contraception–related services to sexual assault victims.
- 16 states and the District of Columbia require emergency rooms to provide information about emergency contraception.
- 12 states and the District of Columbia require emergency rooms to dispense the drug on request to assault victims.
- 9 states allow pharmacists to dispense emergency contraception without a physician’s prescription under certain conditions.
- 7 states allow pharmacists to distribute it when acting under a collaborative-practice agreement with a physician.
- 3 states, including 1 that also gives pharmacists the collaborative-practice option, allow pharmacists to distribute emergency contraception in accordance with a state-approved protocol.
- 4 states direct pharmacies to fill all valid prescriptions.
- 1 state directs pharmacists to fill all valid prescriptions.

Restricting Access

- 9 states have adopted restrictions on emergency contraception.
- 1 state legislature, in directing the state to apply for federal approval (known as a waiver) to expand eligibility for Medicaid-covered family planning services, added language aimed at excluding emergency contraception from the services to be covered.
- 2 states exclude emergency contraception from their contraceptive coverage mandate.
- 6 states explicitly allow pharmacists to refuse to dispense contraceptives, including emergency contraception.
- 3 states allow pharmacies to refuse to dispense emergency contraception.



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EMERGENCY CONTRACEPTION POLICIES

STATE	EXPANDING ACCESS					RESTRICTING ACCESS				
	EMERGENCY ROOMS REQUIRED TO:		PHARMACISTS MAY DISPENSE EC WITHOUT PHYSICIAN PRESCRIPTION UNDER:		MUST FILL VALID PRESCRIPTIONS		STATE LAW EXCLUDES EC FROM:		STATE LAW ALLOWS REFUSAL TO DISPENSE EC BY:	
	Provide Information About EC	Dispense EC upon Request	Collaborative Practice Agreement	State-Approved Protocol	Pharmacy	Pharmacist	Medicaid Family Planning Expansion	Contraceptive Coverage Mandate	Pharmacist	Pharmacy
Alaska			X*							
Arizona								X	X	X
Arkansas	X							X	X	†
California	X	X	X	X		X				
Colorado	X								†	†
Connecticut	X‡	X‡								
District of Columbia	X	X								
Florida									†	
Georgia									X	
Hawaii			X							
Idaho									X	
Illinois	X				X [§]				†	X [§]
Indiana				X					†	†
Maine										
Massachusetts	X	X	X							
Minnesota	X	X								
Mississippi									X	X
New Hampshire			X							
New Jersey	X	X			X					
New Mexico	X	X		X						
New York	X	X								
North Carolina								X		
Ohio	Ω	Ω								
Oregon	X	X								
Pennsylvania	X	Ψ								
South Carolina		X								
South Dakota									X	
Tennessee									†	†
Texas	X							X ^Φ		
Utah	X	X								
Vermont			X							
Washington	X	X	X		X [§]					
Wisconsin	X	X			X					
TOTAL	16+DC	12+DC	7	3	4	1	1	2	6	3

* Pharmacists may dispense any prescription drug, including emergency contraception.

† A broadly worded refusal policy may apply to pharmacists or pharmacies, but does not specifically include them.

‡ A hospital may contract with an independent medical professional in order to provide the emergency contraception services.

Φ The law exclude emergency contraception explicitly in Texas, implicitly in Indiana.

Ω Policy does not include an enforcement mechanism.

Ψ A hospital may refuse based on religious or moral beliefs to provide emergency contraception when requested by a woman who has been sexually assaulted. However, a refusing hospital is then required to immediately transport the woman to the closest medical facility that will provide her with the medication.

§ A state court has held that the regulation that requires pharmacies to dispense valid prescriptions and drugs otherwise restricted by the FDA cannot be enforced against pharmacies that refuse to dispense emergency contraception.

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FOR MORE INFORMATION:

For information on state legislative and policy activity, click on Guttmacher's [Monthly State Update](#), for state-level policy information see Guttmacher's [State Policies in Brief](#) series, and for information and data on reproductive health issues, go to Guttmacher's [State Center](#). To see state-specific reproductive health information go to Guttmacher's [Data Center](#), and for abortion specific information click on [State Facts About Abortion](#). To keep up with new state relevant data and analysis sign up for the [State News Quarterly Listserv](#).

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