

Reproductive justice

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Objectives

- At the conclusion of this session, participants will be able to:
 - Discuss ways in which marginalized people are particularly affected by the *Dobbs v. Jackson* decision
 - Summarize current federal law and trends in current state laws that address abortion services and contraceptive care
 - Explain methods by which clinicians can provide abortion and contraceptive care today

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Defining reproductive justice

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Reproductive justice¹

¹ SisterSong Women of Color Reproductive Justice Collective. Reproductive justice. <https://www.sistersong.net/reproductive-justice/>. Accessed October 20, 2023.


- Defined in 1994 in Chicago by a group of Black women who called themselves Women of African Descent for Reproductive Justice, now known as SisterSong
- It is defined as the human right to:
 - Maintain personal bodily autonomy;
 - Have children;
 - Not have children;
 - Parent the children we have in safe and sustainable communities



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Relevant history

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History of termination of pregnancy in the U.S.²

² Acevedo Z. Abortion in early American. *Women Health*. 1979;4(2):159-167.

- In the times of the Puritans, abortion was legal until quickening
 - Methods used were those known in England as well as those used by Indigenous people
- However, several factors led to abortion being banned by the late 1800s
 - Pharmacists and midwives provided competition to physicians for the provision of abortions
 - Physicians advocated for the abolition of abortion rather than tolerate the competition
 - The emancipation of enslaved people threatened the White and free majority
 - The wave of European immigration also threatened the White majority as immigrants from Spain and Italy were viewed as not being truly White

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The Mississippi appendectomy and Black individuals³

³Peace J. Mississippi appendectomies: reliving our pro-eugenics past. *M*. October 28, 2020. <https://monagazine.com/2020/10/28/peace-j-mississippi-appendectomies-usa-eugenics-forced-coerced-sterilization/>

- Charles Davenport, a proponent of eugenics in the early 20th century, believed that genetics was responsible for developmental delay, criminal behavior, promiscuity, and poverty
- To that end, he worked to enact laws permitting compulsory sterilization
 - He had funding from the Rockefellers and the Carnegies to do so
- The Supreme Court ruled in favor of compulsory sterilization in its 1927 ruling in the *Buck v. Bell* case that involved a 17 year old mentally ill girl who became pregnant due to rape
- Thirty-one states permitted forced sterilization until 1978, resulting in the sterilization of over 60,000 individuals
- Hysterectomy in such cases was often known as a "Mississippi appendectomy" as the patient was not informed of the intent of the surgery

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Mississippi appendectomy and Black individuals^{3,4}, cont'd (2)

³Peace J. Mississippi appendectomies: reliving our pro-eugenics past. *M*. October 28, 2020. <https://monagazine.com/2020/10/28/peace-j-mississippi-appendectomies-usa-eugenics-forced-coerced-sterilization/>
⁴Roberts D. *Killing the Black body: race, reproduction, and the meaning of liberty*, 20th anniversary edition. New York: Vintage, 1998.

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Disparities among queer people⁹

⁹Tam MW. Queering reproductive access: reproductive justice in assisted reproductive technologies. *Reprod Health*. 2021;18:164.

There have been coerced sterilizations in Canada among trans people and people with differences of sexual development

Queer people have been denied access to assisted reproductive technology due to heteronormative standards

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Termination of pregnancy after *Dobbs v. Jackson*

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Terminations of pregnancy in the U.S. after *Dobbs*³

³Society of Family Planning. #WeCount Report. April 2022 to June 2023. Published October 24, 2023. https://societyfp.org/wp-content/uploads/2023/10/WeCountReport_10.16.23.pdf. Accessed February 25, 2023.

- Prior to the *Dobbs* decision in June, there was an average of 69,940 voluntary terminations of pregnancy (VTOPs) performed monthly in April and May 2022
- Between July 2022 and June 2023, there was an average of 79,673 terminations performed monthly for an average difference of 9,733/month

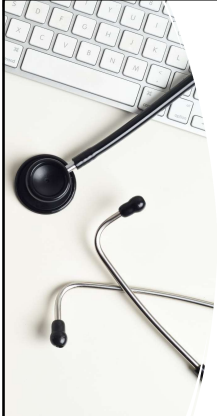
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Disparities in access to abortion in a post-*Dobbs* America³

³Society of Family Planning. #WeCount Report. April 2022 to June 2023. Published October 24, 2023. https://societyfp.org/wp-content/uploads/2023/10/WeCountReport_10.16.23.pdf. Accessed February 25, 2023.

- Of those who are not eligible for Medicaid because of state restrictions to the Affordable Care Act (ACA), almost 66% are people of color
- Undocumented immigrants cannot purchase health insurance via the ACA exchanges
- Black and brown women are more likely to be pressured to use contraceptives or to limit their childbearing
- Latinx, Black and Indigenous women earn about half of what a White man earns

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Disparities in access to abortion in a post-*Dobbs* America³

³Society of Family Planning. #WeCount Report. April 2022 to June 2023. Published October 24, 2023. https://societyfp.org/wp-content/uploads/2023/10/WeCountReport_10.16.23.pdf. Accessed February 25, 2023.

- Abortion restrictions make it more difficult for individuals to obtain services
- These are more likely to affect patients who:
 - Are uninsured
 - Are economically disadvantaged
 - Are marginalized
 - Do not speak English
 - Have fewer financial resources due to the need for:
 - Time off from work
 - Travel expenses
 - Child care
 - Access to a vehicle
 - Cash to pay for procedure
 - Multiple appointments due to mandatory waiting periods after initial appointment

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States in which abortion is currently banned in almost all circumstances⁵

⁵Tracking abortion bans across the country." *New York Times*. January 8, 2024. <https://www.nytimes.com/interactive/2022/us/abortion-laws-re-cv-wade.html>

- Alabama
- Arkansas
- Idaho
- Indiana
- Kentucky
- Louisiana
- Mississippi
- Missouri
- North Dakota
- Oklahoma
- South Dakota
- Tennessee
- Texas
- West Virginia

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States in which abortion is currently limited by gestational age⁵

⁵Tracking abortion bans across the country." *New York Times*. January 8, 2024. <https://www.nytimes.com/interactive/2022/us/abortion-laws-re-cv-wade.html>

STATE	GESTATIONAL AGE
Georgia	6 weeks
South Carolina	6 weeks
Nebraska	12 weeks
North Carolina	12 weeks
Arizona	15 weeks
Florida	6 weeks
Utah	18 weeks
Iowa	22 weeks; ban blocked
Montana	To viability; ban blocked
Wyoming	To viability; ban blocked

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States in which abortion is currently legal⁵

⁵Tracking abortion bans across the country." *New York Times*. January 8, 2024. <https://www.nytimes.com/interactive/2022/us/abortion-laws-re-cv-wade.html>

STATE	LIMITS, IF ANY
Alaska	None
Kansas	22 weeks
New Hampshire	24 weeks
Ohio	22 weeks
Virginia	Viability
Wisconsin	22 weeks
Washington, D.C.	None; new protections
California	Viability; new protections
Colorado	None; new protections
Connecticut	Viability; new protections
Delaware	Viability; new protections
Hawaii	Viability; new protections
Illinois	Viability; new protections
Maine	Viability; new protections

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States in which abortion is currently legal⁵, cont'd (2)

⁵Tracking abortion bans across the country." *New York Times*. January 8, 2024. <https://www.nytimes.com/interactive/2022/us/abortion-laws-re-cv-wade.html>

STATE	LIMITS, IF ANY
Maryland	Viability; new protections
Massachusetts	24 weeks; new protections
Michigan	Viability; new protections
Minnesota	None; new protections
Nevada	24 weeks; new protections
New Jersey	None; new protections
New Mexico	None; new protections
New York	Viability; new protections
Oregon	None; new protections
Pennsylvania	24 weeks; new protections
Rhode Island	Viability; new protections
Vermont	None; new protections
Washington	Viability; new protections


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Access to medication abortion^{6,7}

⁶ The availability and use of medication abortion. KFF. Published September 28, 2023. <https://www.kff.org/womens-health-policy/facts-figures/the-availability-and-use-of-medication-abortion/>

⁷ Teitelberg N, Gosh A. "Supreme Court to hear abortion pill case." NPR and WNYC. Published December 13, 2023. <https://www.npr.org/2023/12/13/121832935/mifepristone-abortion-pill-supreme-court>

- Medication abortion (mifepristone and misoprostol) are FDA approved for use up to 70 days gestational age
- It is the method used in over 50% of VTOPs performed in the U.S. with a complication rate of 1%
- The U.S. Supreme Court is expected to rule by June 2024 on the accessibility of mifepristone, which is also used to treat endometriosis and uterine fibroids
- Due to the COVID-19 pandemic, the FDA permitted access to misoprostol and mifepristone via telemedicine consultation
- Patients can have medications shipped to them in virtually any state, but there is the potential for legal consequences, including arrest, prosecution, and imprisonment
- The cost of medication abortion depends but can be as much as \$500



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Current issues⁸

- Idaho v. United States**, currently before the U.S. Supreme Court
 - At issue is whether the federal Emergency Medical Treatment and Labor Act (EMTALA) overrides Idaho's Defense of Life Act
 - Idaho prohibits abortion unless it is required to prevent death
- Florida banned abortion unless the pregnancy is measured at or less than 6 weeks, 0 days
- This will mean that patients seeking termination who live in southern Florida will face a drive of at least 14 hours to reach the nearest abortion clinic

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Obstetrical and contraceptive care

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Obstetrical care^{9,10}

⁹ Dekker CS, Nelson ML, Buchanan-Peet KA, Camarero I. A mother's cry: a race to eliminate the influence of racial disparities on maternal morbidity and mortality rates among Black women in America. *Obstet Gynecol*. 2020;127(1):e207.

¹⁰ Bamant MS, Dekker CS, Bhakker NR, Tardifon B, Bates C, Simon NR, Espartero M, et al. Risking to mothers to worldwide maternal care. *Int J Gynecol Obstet*. 2023;226(5):5954-5964.

- The U.S. has the highest maternal mortality rate in the industrialized world
- Black patients have a maternal mortality rate that is 300-400% higher than that of White patients
- One study found that if Black patients delivered in the same hospitals as White patients, their morbidity would decrease from 4.2% to 2.9%
- States that have draconian abortion laws also have the highest maternal death rates
- Patients who are Indigenous, Latinx and/or Black have a higher rate of being insulted and demeaned during labor and delivery
- They are also at higher risk of having obstetrical procedures such as episiotomy without their knowledge

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Access to obstetrical care

- The COVID-19 pandemic led to the closing of obstetrical care units in over 1,000 U.S. counties
- Other issues, including a shortage of clinicians, including physicians, midwives and nurses, has led to fewer obstetrical units
- Since *Dobbs v. Jackson*, more obstetrical practitioners have left many states that have banned abortion
- This results in a higher risk of maternal morbidity and mortality

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Maternity care deserts¹¹

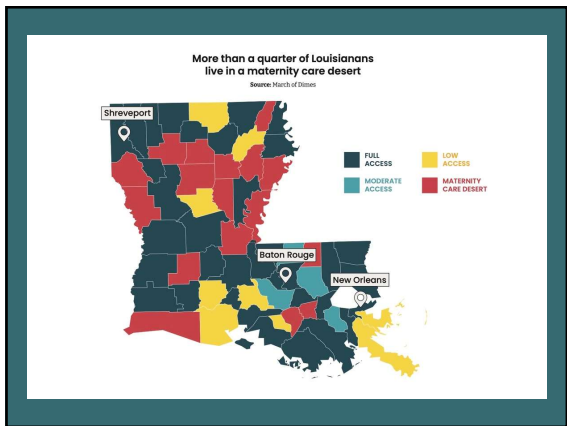
¹¹ Maternity care deserts report. Nowhere to go: maternity care deserts across the U.S. March of Dimes. <https://www.marchofdimes.org/maternity-care-deserts-report>. Accessed May 11, 2024.

Table 1: Definitions of maternity care deserts and access to maternity care

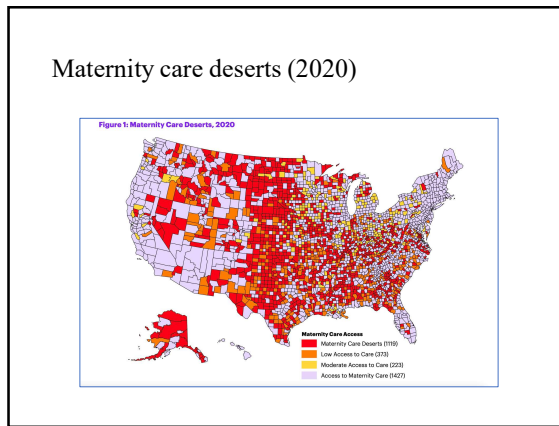
Definitions	Maternity care deserts	Low access to maternity care	Moderate access to maternity care	Full access to maternity care
Hospitals and birth centers offering obstetric care	zero	<2	<2	<2
Obstetric providers (certified nurse midwives per 10,000 births)	zero	<60	<60	<60
Proportion of women 18-64 without health insurance ^a	any	>5%	>10%	any

Notes: CNM/CM = certified nurse midwives/certified midwives.
^aU.S. average is approximately 17%
 Source: Kaiser Family Foundation. <https://www.kff.org/womens-health-policy/fact-sheet/womens-health-insurance-coverage-fact-sheet/>

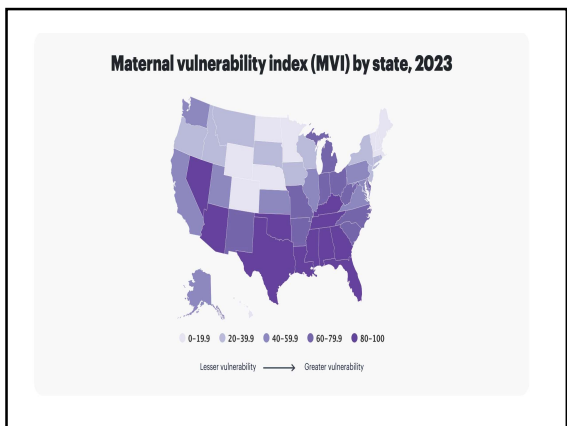
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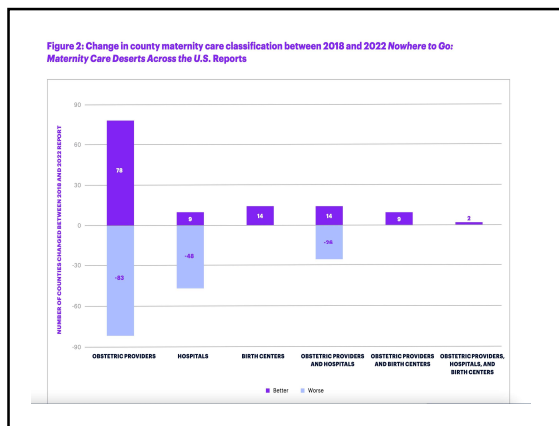
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Disparities in access to contraception¹²⁻¹⁴

- People of color and Latinx people are at higher risk of using a less effective means of contraception than others
- Black individuals are more likely to receive biased care concerning or to be pressured to undergo sterilization procedures
- Cisgender women are far more likely to encounter difficulty obtaining sterilization compared to cisgender men
- Patients who are Medicaid recipients face more difficulty obtaining sterilization procedures than those with private insurance because of federal mandatory waiting periods
- Contraception has its roots in eugenics and was used to control the populations of Indigenous individuals, Black people, and people of color
 - Margaret Sanger stated in 1921 that “[birth control] is not merely of eugenic value, but is practically identical in ideal with the final aims of Eugenics”

¹²Mesicor AM, Carter SE, Manning N. Racial and ethnic disparities in access to gynecologic care. *Care (Open Access)*. 2022;5(1):207-212.

¹³Hullington BW, Shah Anora K. Fulfillment of desired postpartum permanent contraception: a health disparities issue. *Reprod Sci*. 2022;29:2626-2634.

¹⁴Han MW. Queering reproductive access: reproductive justice in assisted reproductive technologies. *Reprod Health*. 2021;18:164.

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What can you do to provide abortion and contraceptive care today?

- Be very familiar with the laws in your state
- This is a chaotic time and things are changing rapidly
- Seek training in methods of providing long-acting reversible contraception, such as:
 - Copper T380A intrauterine device (Paragard®)
 - Levonorgestrel intrauterine delivery systems
 - Mirena®
 - Skyla®
 - Liletta®
 - Kyleena®
 - Subdermal contraceptive implant (Nexplanon®)

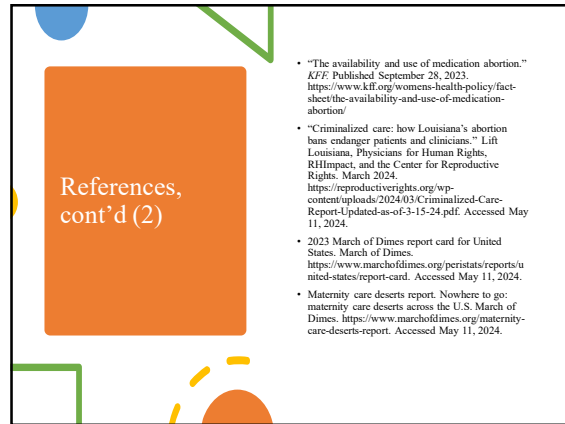
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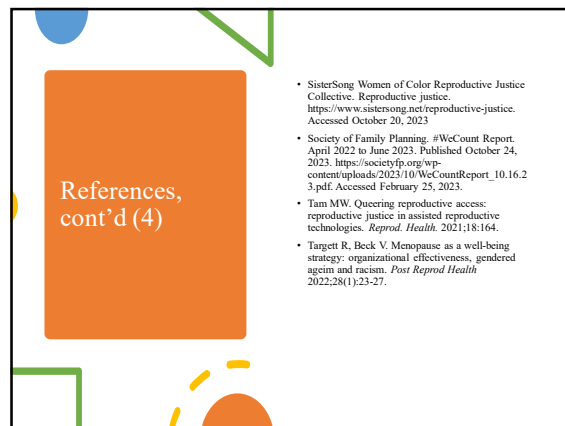
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