



DEPARTMENT OF VETERANS AFFAIRS
Veterans Health Administration
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UNDER SECRETARY FOR HEALTH'S INFORMATION LETTER

**GUIDANCE ON RIGHTS OF CONSCIENCE (ROC) AND LEVONORGESTREL
EMERGENCY CONTRACEPTION (EC)**

1. Purpose. Veterans Health Administration (VHA) has an obligation to offer and provide the Food and Drug Administration (FDA) approved emergency contraception, such as Levonorgestrel EC, or other approved contraception to patients when medically indicated. This obligation is not abrogated if a VHA health care provider (i.e., physician, nurse, pharmacist, etc.) declines to participate in offering and providing emergency contraception as a matter of conscience.

2. Background

a. The Department of Veterans Affairs (VA) is providing health care to increasing numbers of women of childbearing potential. Requests from women Veterans for reproductive health services, e.g., emergency contraception, have been increasing in frequency. Approved by the FDA and classified as an emergency contraceptive, Levonorgestrel EC is not an abortifacient. Rather, Levonorgestrel EC is indicated for the prevention of pregnancy following unprotected intercourse or suspected contraceptive failure, and “protects against pregnancy by stopping ovulation, preventing fertilization of the egg, or blocking implantation of the embryo in the uterus.” Studies have shown that Levonorgestrel EC is not effective as an abortifacient and, in fact, has little or no effect on post-fertilization events.

b. Universal and timely availability of emergency contraception is an effective means of preventing unintended pregnancy. Levonorgestrel EC has been available to women 18 years of age and older over the counter (without a prescription) and to women younger than 18 years of age by prescription since 2006. Levonorgestrel EC was added to the VHA National Formulary in 2007. Alternative emergency contraception formulations including higher doses of combination oral contraceptives (Yuzpe regimen) and the copper intrauterine device (IUD) have been available in VA since 2007. Provision of these contraceptive services is consistent with VA authority to provide a package of uniform medical benefits to enrolled women Veterans.

c. Individual health care providers in the United States (U.S.) may raise objections to providing women Veterans with emergency contraceptives. In societies that respect personal autonomy, the right of citizens to refrain from participating in activities that violate their conscience has been regularly recognized and permitted.

d. While in most instances this framework allows practitioners to continue in clinical practice without compromising their own deeply held moral convictions, the framework does not address what needs to be done under circumstances where a provider's rights of conscience (ROC) interferes with a patient's ability to access medical care.

3. Ethical Analysis

a. Health care providers are entitled to ROC similar to others in our society. As such, health care providers may request to opt out of an aspect of clinical care based on a ROC. That is, the "right to protect his or her moral integrity – to uphold the soundness, reliability, wholeness and integration of one's moral character." Claims of ROC must be authentic and genuine in that they cannot be based on racial or other prejudice, self-interested motives, convenience, or personal preferences about an action. Health care providers' objections that rely on undefined personal feelings or concerns (e.g., "It just doesn't feel right," or, "I can't put my finger on it, but I don't feel comfortable with it,") should engender empathy for the discomfort that sometimes comes with being a health care provider, but these feelings and concerns alone do not legitimate the claim of a ROC. Claims of ROC also need to be applied in a consistent fashion. For example, if a provider objects to the provision of emergency contraception because of the possible risk of harm to an implanted, fertilized egg (though the intended effect is to prevent ovulation, fertilization, or implantation), the provider would also object to the provision of any treatment that has a similar risk of interrupting an implanted pregnancy.

b. Accepted ethical standards dictate that within a health care relationship the patient's well-being must be considered paramount relative to the professional's interests. Opting out of patient care based on an ROC is not a health care provider's absolute right. Rather, opting out is subject to ethically appropriate limits based on professional responsibilities, including the responsibility to ensure that a patient receives information about other relevant treatments.

c. VHA Handbook 1004.01, Informed Consent for Clinical Treatments and Procedures, gives patients the right to accept or refuse any proposed medical treatment or procedure. To inform the patient's decision, practitioners must supply information that other patients in similar circumstances would reasonably want to know, including information on risks, benefits, and alternative treatments. While treatments determined not to be clinically indicated need not be discussed, omitting discussion of therapeutic options that fall within the range of broadly-accepted professional standards for medical care is not ethically justifiable. Hence, a health care provider's claim to a ROC against Levonorgestrel EC does not supersede the patient's right to information about the treatment and access to the treatment under circumstances where it is clinically indicated.

d. Health care providers have the right to exempt themselves from certain aspects of care as a matter of conscience, but this right is not unlimited. A claim of ROC is weighed against the provider's professional obligation to care for patients. Despite VHA's commitment to find solutions that respect and affirm the values of patients and staff alike, VHA response to requests by health care providers to exercise their ROC should not affect the patient's care.

4. Provision of Levonorgestrel EC

a. Levonorgestrel EC medication is listed on the VA National Formulary without additional national restrictions. The drug is most effective the sooner it is taken after an episode of unprotected intercourse, generally up to 72 hours. Levonorgestrel EC may be provided for use up to 120 hours after the episode, although effectiveness is lower. In addition to requests for Levonorgestrel EC for immediate use, VA providers may request that Levonorgestrel EC be provided to certain women Veterans before it is needed, also known as “advanced provision.”

b. VHA needs to ensure that emergency contraception is available to all women Veteran patients who may need it. A process needs to be implemented at the local or Veterans Integrated Service Network (VISN) level to ensure availability of emergency contraception to patients in a timely manner (same day) even if a provider declines to provide Levonorgestrel EC or an alternative emergency contraception to the patient because of a ROC. If a provider claims a ROC exception against participating in or providing emergency contraception, supervisors need to work with the individual to manage the claim, using the guidance in Attachment A, and similar guidance published by the American Academy of Pediatrics (AAP) and the American College of Obstetrics and Gynecology(ACOG). Local Human Resource departments and Regional Counsels may assist with requests for ROC accommodations.

c. Questions concerning implementation of ROC need to be directed to the Director, Reproductive Health, Women Veterans Health Strategic Healthcare Group at 202-461-1070.

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ATTACHMENT A

ROC Exception Guidance

The following guidance based on the AAP and ACOG ethical standards balances patient and professional rights when considering provider requests to opt out of patient care with Levonorgestrel EC. Specifically, in the case of a health care provider who does not wish to participate in discussing or providing Levonorgestrel EC based on a ROC, the following steps should be considered:

1. Requests to opt out of participating in care involving Levonorgestrel EC should first be assessed to determine if they are legitimately based on a ROC. That is, is the objection based on a genuine and consistent attempt to preserve the provider's moral character and integrity, and not based on racial or other prejudice, self-interested motives, convenience or personal preferences about an action? Requests must be logically consistent.
2. If a health care provider is requesting to opt out of aspects of a patient's care because of an objection legitimately based on a ROC, VHA must make reasonable attempts to accommodate the provider's request without negatively affecting the patient's physical or mental health. During the time that VHA is attempting to accommodate the provider's request, the provider needs to ensure that information about and access to Levonorgestrel EC is available to all patients for whom it is clinically indicated.
3. If a health care provider's request to opt out of care based on a ROC cannot reasonably be accommodated without negatively affecting patients' physical or mental health, VHA may consider denying the request. Local Human Resources (HR) should be engaged if the provider is claiming reasonable accommodation for religious beliefs and the supervisor is unable to reasonably accommodate. Cases in which a health care provider continues to care for women for whom emergency contraception might be indicated and continues to not inform or provide emergency contraception to patients after a request for a claim of conscience is denied should be managed according to HR policies for employees who are not performing their duties.
4. Processes need to be in place to ensure that patients receive requested emergency contraception on the same day of visit even if a provider declines to provide Levonorgestrel EC to the patient because of a ROC including during the time that VHA is attempting to accommodate the provider's request for ROC.
5. If there is uncertainty about whether a specific request is legitimately based on a ROC, or whether a request can be reasonably accommodated without negatively affecting the patient's care, the local ethics consultation service may be called to assist.