



Abortion from the Medico-Legal Perspective

Media Module 2

Trainee Guide

Contributors

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Overview

The popular media frequently reports on current events and policy relevant to women's reproductive healthcare and reproductive psychiatry, such as reproductive rights, access to contraception, and access to safe and legal abortion.

The ability to respond to patient questions about current policy regarding their reproductive rights is an important professional skill for physicians to develop. In particular, psychiatrists should have a basic understanding of reproductive healthcare policy and ethical practice, recognize areas of legal liability, and be able to communicate about reproductive rights in an accurate, reassuring, and clinically relevant manner. Thus, the goal of this module is to have participants build communication skills that enable them to serve as knowledgeable, thoughtful, and ethical representatives of reproductive psychiatry to a lay audience.

This session consists of three parts: 1) Reviewing and critiquing items about abortion policy from the media; 2) Appraising comparable literature from reliable sources; 3) Small and large group discussion.

The aim of the session is to compare media items with literature from reliable sources, such as medical databases, governmental websites, and reputable organizations. The purpose of critically appraising the media items is to show that in the post-*Dobbs* era, the legal landscape surrounding abortion is changing rapidly. News articles and social media may not always reflect the most up-to-date information and may contain inflammatory rhetoric from political figures and activists, spreading misinformation and stoking uncertainty and fear in patients and psychiatrists alike. Psychiatrists should be able to help patients contextualize their own situation as abortion policy evolves.

Sessions usually last 50 minutes but can be modified, depending on the number of media items and articles selected. The media conference is tailored for PGY-4 psychiatry residents but can be modified for any resident trainee group. A small group setting with time and space to work within break-out groups is recommended. After review of the media items and the medical literature, the group will divide into small groups of 2-3 participants to discuss the articles and answer the questions. The group leader will then facilitate a large group discussion.

Learning Objectives

1. Demonstrate the ability to analyze ethical and medico-legal issues related to pregnancy termination, as portrayed in the lay media.
2. Locate and analyze relevant medical literature as it relates to the mental health of pregnancy termination.
3. Recognize potential areas of legal risk, warranting involvement of legal counsel.
4. Communicate thoughtfully and accurately with a lay audience (e.g. a patient in a reproductive psychiatry consultation).

Media Items

1. News Article: “Alabama can prosecute those who help women travel for abortion, attorney general says.” Published by AL.com on August 30, 2023. <https://www.al.com/news/2023/08/alabama-can-prosecute-those-who-help-women-travel-for-abortion-attorney-general-says.html>
2. Youtube Video: “A warning from Alabama clinics on abortion: 'this is coming for blue states.'” Published by MSNBC on September 10, 2023. <https://youtu.be/pc3U0MBPqJ0?si=61niWtxk-zMmY1P0>
3. Governmental Press Release (Optional): “Justice Department Files Statement of Interest in Case on Right to Travel to Access Legal Abortions.” Nov 9, 2023. <https://www.justice.gov/opa/pr/justice-department-files-statement-interest-case-right-travel-access-legal-abortion>
4. News Article: “Nebraska mom gets prison time for giving daughter abortion pills.” Published by The Cut, Updated September 22, 2023. <https://www.thecut.com/2023/09/nebraska-mom-daughter-charges-illegal-abortion-facebook-chat.html>
5. News Article (Optional): “Medical exceptions to abortion bans often exclude mental health conditions.” Published by New Jersey Monitor on October 23, 2023. <https://newjerseymonitor.com/2023/10/23/medical-exceptions-to-abortion-bans-often-exclude-mental-health-conditions/>

Pre-Assessment Learning

Evolving Abortion Law and Forensic Psychiatry. Susan Hatters Friedman, Jacqueline Landess, Nina Ross, Aimee Kaempf. Journal of the American Academy of Psychiatry and the Law Online Dec 2022, 50 (4) 494-501; DOI:10.29158/JAAPL.220076-22 <https://jaapl.org/content/50/4/494>

Pages 21 – 34. Huss L, Diaz-Tello F, Samari G. (2023). **Self-Care, CriminalizedI: The Criminalization of Self-Managed Abortion from 2000 to 2020.** If/When/ How: Lawyering for Reproductive Justice. <https://www.ifwhenhow.org/resources/selfcare-criminalized/>

Optional Supplemental Reading

Verma N, Grossman D. **Self-Managed Abortion in the United States.** Curr Obstet Gynecol Rep. 2023;12(2):70-75. doi: 10.1007/s13669-023-00354-x. Epub 2023 Mar 7. PMID: 37305376 <https://link.springer.com/article/10.1007/s13669-023-00354-x>

Mabel Felix, Laurie Sobel, and Alina Salganicoff. **A Review of Exceptions in State Abortion Bans: Implications for the Provision of Abortion Services.** Published May 18, 2023 <https://www.kff.org/womens-health-policy/issue-brief/a-review-of-exceptions-in-state-abortion-bans-implications-for-the-provision-of-abortion-services/#:~:text=Exceptions%20to%20state%20abortion%20bans,lethal%20anomalies%20incompatible%20with%20life>

Additional Resources

- <https://www.abortionfinder.org>
- <https://reproductiverights.gov>
- <https://www.reprolegalhelpline.org>

Presentation of Media Items

Present Media Items #1 & #2: (20 minutes for media presentation: 20 minutes discussion)

- 1) News Article: “Alabama can prosecute those who help women travel for abortion, attorney general says.”
- 2) YouTube Video: “A warning from Alabama clinics on abortion: ‘this is coming for blue states.’”

What are the ethical and medico-legal issues covered in these pieces of media?

How might the claims made in these media pieces influence the pregnant person considering abortion or their family members?

How might the claims made in these media items influence clinicians or psychiatrists who are treating pregnant persons considering abortion?

(Optional) Present Media Item #3: (10 minutes presentation: 20 minutes discussion)

- 3) Governmental Press Release: “Justice Department Files Statement of Interest in Case on Right to Travel to Access Legal Abortions.” Nov 9, 2023

What are the ethical and medico-legal issues covered in these pieces of media?

Are the statements made by the Department of Justice legally binding? Do they protect patients seeking abortion avoid criminalization? Do they protect clinicians from counseling patients about how to seek legal abortions out of state?

How might the claims made in this media piece influence the pregnant person considering abortion?

How might the claims in this media item influence clinicians or psychiatrists who are treating pregnant persons considering abortion?

Present Media Items #4: (10 minutes presentation: 15 minutes discussion)

- 4) News Article: “Nebraska mom gets prison time for giving daughter abortion pills.” Published by The Cut, Updated September 22, 2023.

What are the ethical and medico-legal issues covered in this piece of media?

How might the claims made in this media piece influence the pregnant person considering abortion?

How might the claims in this media item influence clinicians or psychiatrists who are treating pregnant persons considering abortion?

(Optional) Present Media Item #5: (10 minutes presentation: 15 minutes discussion)

- 5) News Article: Medical exceptions to abortion bans often exclude mental health conditions. Published by New Jersey Monitor on October 23, 2023.

What are the ethical and medico-legal issues covered in this piece of media?

How might abortion bans described in this media piece influence the pregnant patient who has a mental health condition that seriously threatens her health or the health of the fetus and resides in a state without a mental health exception?

What problems does excluding mental illness as exceptions to abortion bans pose?

Appraisal of Resources

Resource #1 - Medical Literature (15 minutes presentation: 30 minutes discussion)

Evolving Abortion Law and Forensic Psychiatry. Susan Hatters Friedman, Jacqueline Landess, Nina Ross, Aimee Kaempf. Journal of the American Academy of Psychiatry and the Law Online Dec 2022, 50 (4) 494-501; DOI:10.29158/JAAPL.220076-22

How were psychiatrists involved in abortion care in the pre-Roe era when illegal abortion was common in the United States?

What type of ethical dilemmas are psychiatric certifications for abortions likely to pose for psychiatrists?

What are laws that have been used historically to criminalize pregnant individuals and those that have given birth?

What was the original intention of feticide laws and how are they used to criminalize pregnant women?

In what circumstances, if any, might a pregnant person with mental illness benefit from an abortion to protect their life?

How would you approach the situation in which a patient requests psychiatric certification for abortion care?

In what ways have physicians and psychiatrists been required to participate in the surveillance and reporting of pregnant and postpartum people to legal authorities?

Resource #2 - Legal Report (15 minutes presentation: 25 minutes discussion)

Pages 21 – 34. Huss L, Diaz-Tello F, Samari G. (2023). **Self-Care, Criminalized: The Criminalization of Self-Managed Abortion from 2000 to 2020.** If/When/ How: Lawyering for Reproductive Justice.

According to the report, how many pregnant people were criminally investigated or arrested from 2000 to 2020 for self-managing (or assisting with) abortions?

What was the demographic breakdown? What are the implications of this distribution?

What was the primary method of self-managed abortion?

Which trimester was the most common for self-managed abortions?

Where these individuals charged under statutes that prohibited self-managed abortions?

What were the outcomes of the cases? Of those found Guilty, what type of sentencing did they receive?

What was the most common way the cases came to the attention of law enforcement?

What are reasons that healthcare providers perceive the need to report self-managed abortions to law enforcement (whether or not there is a true necessity to report)?

How might implicit bias play a role in reporting self-managed abortion to law enforcement?

What should physicians and healthcare professionals consider if they perceive that a pregnant or postpartum person should be reported to law enforcement or some other state authority?