

# The 'Hobby lobby ruling' and what it means for U.S. health care

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Some predict challenges to medical practices that conflict with religious beliefs; others dismiss such scenarios as alarmist.

(HealthDay)—The U.S. Supreme Court's ruling on contraception coverage—as mandated under the Affordable Care Act—could lead to a legal quagmire that might allow companies to deny insurance coverage for any medical practice that violates their religious principles, some health care experts say.

But other experts counter that such predictions are unlikely to come true.

The justices ruled 5-4 last month that Hobby Lobby Stores Inc. and Conestoga Wood Specialties Corp. did not have to provide contraceptive coverage that violated their religious beliefs. Prior to the ruling, U.S. companies were required to provide such coverage under the Affordable Care Act, the controversial 2010 health-reform law often referred to as Obamacare.

Some health care experts say they're now bracing for follow-up lawsuits from companies that might have religious objections to a range of medical services, such as vaccinations or blood transfusions.

"The court's decision clearly opens the door for other for-profit 'closely held' companies to challenge the [Affordable Care Act's] coverage

requirement on the basis that they conflict with their owners' religious beliefs," Bob Doherty, the American College of Physicians' senior vice president of governmental affairs and public policy, said in his ACP Advocate Blog.

Other pending lawsuits are expected to further challenge the Affordable Care Act's requirements for contraception coverage, some observers predict.

Federal judges, including the Supreme Court itself, have already issued several injunctions that allow religious nonprofits to refuse participation in contraception coverage in what's called a "workaround." Under this arrangement, insurance companies step in to provide the contraception coverage that company officials oppose on religious grounds.

"I think there will be a significant number of women who will wind up being unable to get contraception because they may not be able to afford contraception on their own. And it is not yet clear what alternatives will be put in place that will enable women to obtain contraception in an affordable manner," said Ron Pollack, founding executive director of Families USA, a nonprofit advocacy group for health care consumers.

## High court's ruling focused on 'closely held corporations'

Initial news coverage framed the June 30 Hobby Lobby decision as having limited impact, because it applied only to "closely held" corporations, such as family-owned businesses. And the decision included language that said it can't be applied more broadly to other health services that are required coverage under the Affordable Care Act.

But, "closely held" corporations are estimated to represent nine out of 10 of all businesses, employing 52 percent of the American workforce,

Doherty said.

"Most of them, of course, are not likely to seek a religious exemption from specific coverage requirements, and not all of them will prevail in court if they do," Doherty said. "But some will, perhaps for ideological reasons masquerading as a religious belief."

The Supreme Court's decision almost certainly will be used in other lawsuits to challenge services like vaccination, to which some religions object, some experts predicted.

"The Roberts [Chief Justice John Roberts] court tends to issue its ruling pronouncement in narrow terms, but in ways that open the door for much larger application," Pollack said. "It is very hard to say what the ultimate implications of Hobby Lobby will be in other matters where people have religious scruples against certain types of medical care."

But, lawyers for religious groups involved in post-Hobby Lobby lawsuits said it's very unlikely that courts would uphold such challenges to important medical services.

Courts have consistently ruled that it's in the state's interest to override religious objections when it comes to life-and-death issues, said Eric Kniffin, an attorney for the Catholic Benefits Association. The group says it's committed to "providing life-affirming health coverage consistent with Catholic values."

For example, courts have upheld the right of doctors to provide emergency care to a child, even if the parents have religious objections to medical care.

"Our law already knows how to deal with those situations, and it will," Kniffin said. "There's no real fear that this is opening up a Swiss-cheese situation where the government isn't able to protect employees under these other circumstances."

Kniffin is leading a lawsuit for nearly 200 Catholic organizations and employers, including archdioceses, which object to the contraception coverage requirements of the Affordable Care Act. A federal judge has granted an injunction

exempting the Catholic groups from fines or penalties for not providing such coverage while their objections are argued in court.

### **Federal 'workaround' not acceptable to many employers**

Other federal lawsuits have targeted the "workaround" procedure created by the Obama Administration under which insurance companies will provide contraception coverage to workers without the employer's participation, as long as the employer fills out a short form affirming their religious objection to providing contraception.

Just days after its Hobby Lobby ruling, the Supreme Court issued a temporary injunction allowing Wheaton College, a Christian liberal arts college in Illinois, to refuse to comply with the workaround.

Wheaton's objection is that the workaround doesn't eliminate employers' moral culpability for a practice they oppose, Kniffin said.

"In order to be exempt, we have to instruct to assign the legal duty to do something we think is immoral to someone else, and that's not a solution," he said.

Dr. Jeanne Conry, immediate past president of the American Congress of Obstetricians and Gynecologists, said all the legal uncertainties make it difficult for gynecologists to work with patients and find the best treatment for them.

For example, physicians may encounter obstacles to fitting a woman with an IUD, a contraceptive device specifically targeted by the Hobby Lobby decision.

Conry gives the hypothetical example of a 34-year-old patient with diabetes and high blood pressure.

"I'm trying to select the best form of contraception for her; the absolute best thing would be an IUD," she said. "We now have such great IUDs, they have very low risks compared to a birth control pill and they work better. And we've now had an employer tell us how to treat a patient, and that

employer shouldn't be interfering with that woman's health care."

Doctors who decide to place an IUD in a patient during routine care could end up in a red-tape tangle, thanks to the Hobby Lobby decision, she said.

"During a cervical cancer screen, we put an IUD in right then and there, and she walks out," Conry said. "I've just placed something that costs \$600 to \$800. She's going to get a bill for that. Even if I pull it out, she still has to pay for it if the company denies coverage."

**More information:** To learn more about women's preventive services that are mandated by the Affordable Care Act, visit the [U.S. Health Resources and Services Administration](#).

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