

Recalibrating Negligence Liability Post-Dobbs

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Research Study & Participants



Mid-size city in Ban State

25 clinicians (OB-Gyn, MFM, ER, addiction, adolescent med, RE)

Diverse practice settings

No conscientious objectors



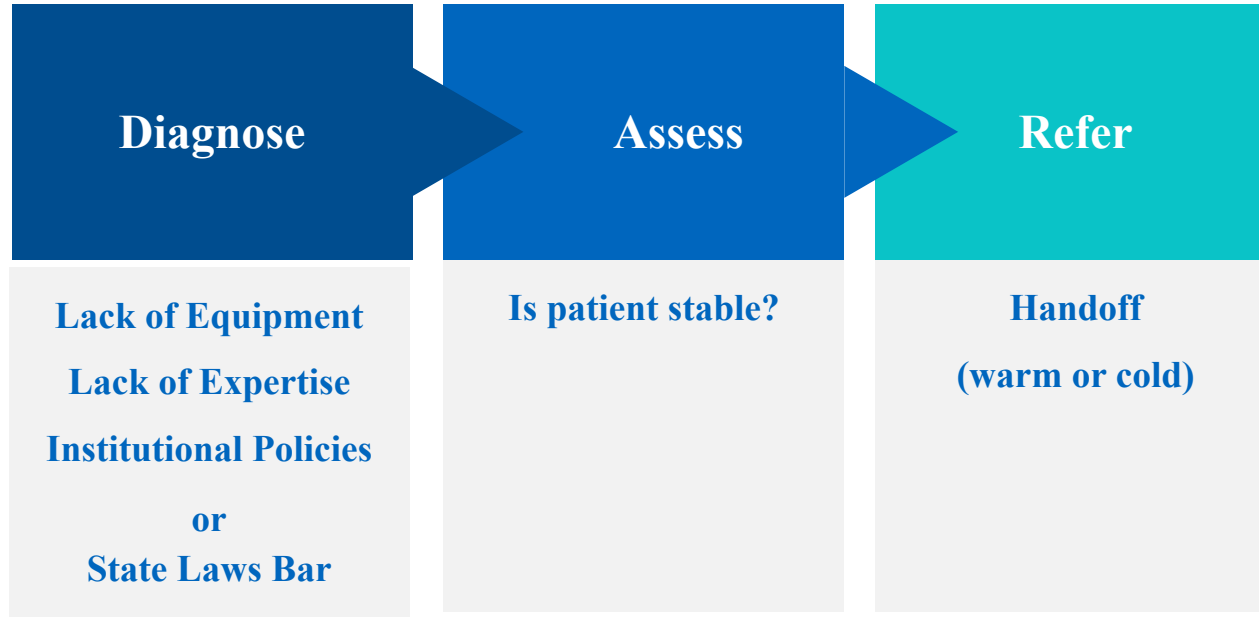
Findings: Fear Transforming Care



“No physician wants to be the one that is the example. You know, that's going to jail and losing their license and their ability to support their family and practice in their community.”

—OB-Gyn, Catholic Institution

Standard approach to informed consent when tx unavailable...



Silence



“‘There are other states with different options, but that's something you'd have to explore because I'm not allowed to refer you there, based on the law.' That's how I would counsel somebody.”

—OB-Gyn, Catholic Institution

Referrals by OB-Gyns in Ban States



78% don't make out-of-state referrals

30% don't inform their patients about online resources that explain abortion options (travel, telehealth, abortion medication)

(KFF Survey, 6/2023)

Actual v. Perceived Legal Risks

Prosecution

No Charges Brought
Against Clinicians,
Hospitals

Civil Liability

No Cases Against
Clinicians or Hospitals

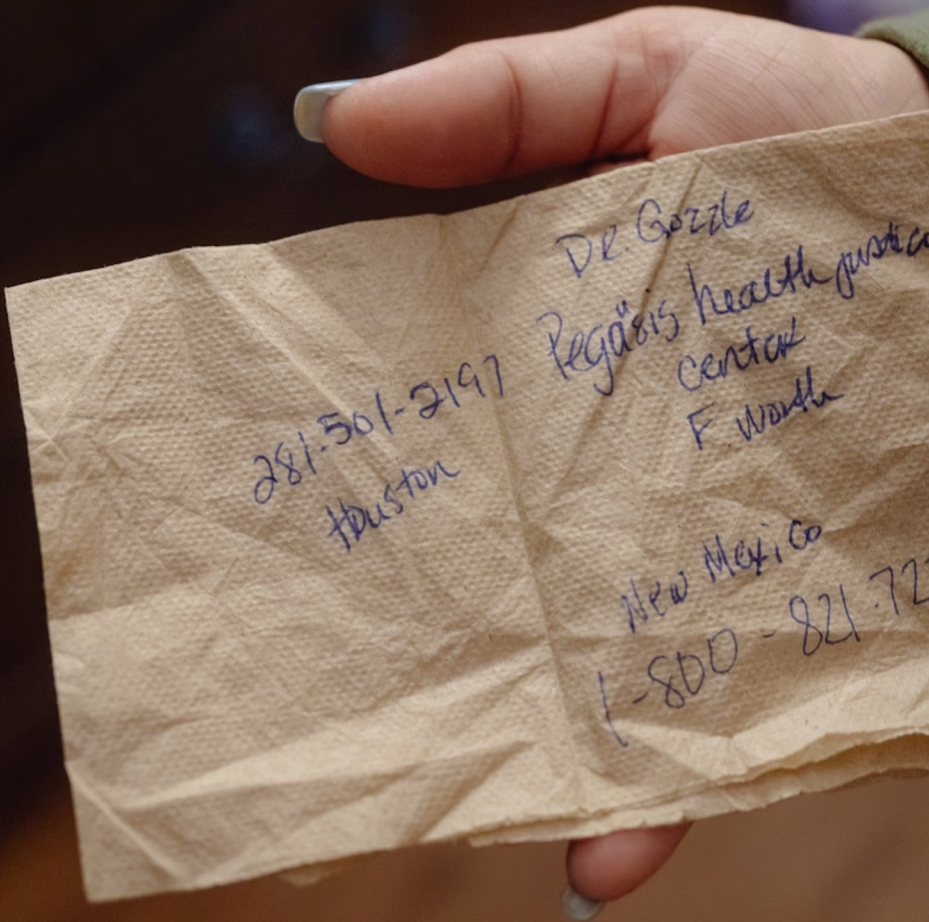
Professional Harm

No Reported Incidents

The Chill's Consequences



- Harms Doctor-Patient Relationship
- Harms Clinicians
- Harms Patients

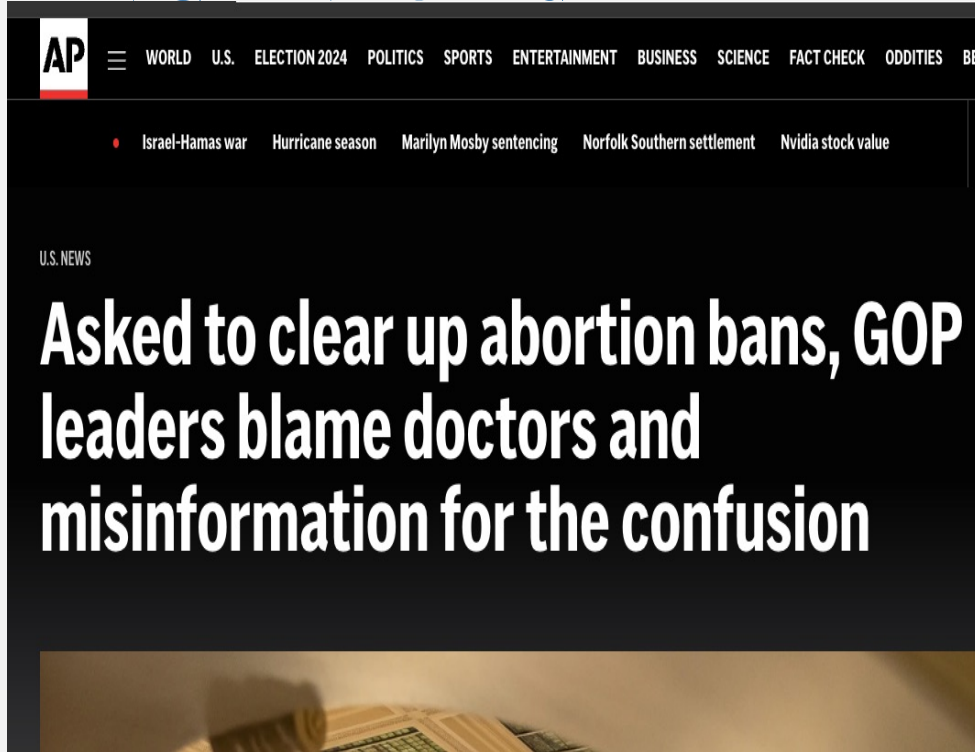


Liability for “Chilled” Medicine

Arlington Memorial Hosp, TX:
ectopic pregnancy (Feb.2024)

South Carolina lawsuit
(February, 2024)

“Medical necessity”
deliberations



Blame Doctors



Blame Hospital Counsel



Blame State Medical Societies



Lawsuits, not Law Reform