Ethical Principles for Abortion Care

INTRODUCTION

These ethical principles have been developed by the Board of the National Abortion Federation as a guide for practitioners involved in abortion care. This document provides a common ethical framework for abortion providers. These ethical principles are intended to guide decision making in the challenging situations abortion providers face when providing health care or interacting with the broader medical or non-medical community.

These principles should serve providers in conjunction with NAF's *Clinical Policy Guidelines* (CPGs)[i] as a guide for providing the highest standard of care. Maintaining high-quality abortion care is a primary obligation of the provider.

This document will be adjusted to reflect current thinking on a range of issues. It will anticipate and be responsive to the ever changing climate of abortion care in North America.

Abortion practice is an activity that arises from the moral imperatives to respect the autonomy of the patient and to alleviate suffering. Thus, within the clinician-patient relationship, the provider's foremost obligation is the medical duty to protect, advance, and advocate for the health and well-being of the patient. Providers should practice with the highest standards of professional conduct and with compassion and respect for the inherent dignity and worth of every individual.

Laws that compromise safe and compassionate abortion care create ethical dilemmas for providers. For example, laws may ban certain safe procedures, require unnecessary and costly additional services or equipment, mandate the communication of irrelevant or inappropriate scripted information, or otherwise make abortion less safe and accessible. This document is not intended to provide instructions or guidelines for how to handle these situations, but, rather, to offer ethical principles to inform provider decision making, recognizing that the legal environment will vary by jurisdiction.

DUTY OF CARE

Providers must treat the patient in accordance with professional standards necessary for safe and compassionate abortion care. Providers must also, to the extent it is within their ability, offer appropriate treatment to a patient or prospective patient in a medical emergency.

A clinician-patient relationship is generally created by mutual consent. Except in a medical emergency, a provider may decline to accept a patient for legitimate reasons consistent with the non-discrimination principles in this document, for example, if the patient has previously engaged in anti-abortion protests at the facility or harassed the provider and/or the provider's patients.

A provider may end a clinician-patient relationship by making clear to the patient that the relationship has concluded, but only after meeting all professional obligations to the patient, including facilitating the patient's transfer or referral if appropriate.

INFORMED CONSENT

The decision whether or not to have an abortion must rest with the patient. The provider must ascertain before providing an abortion that the patient, unless unable to comprehend or participate in the decision, has freely chosen to end her pregnancy, is prepared to do so and has not been coerced in any way. In the event the patient is unable to comprehend or participate in the abortion decision, the provider should refer to the Incompetent Patient principles below.

The informed consent process must give the patient an opportunity to learn and/or discuss whatever information she or her provider believe is relevant to her treatment decision. The process must include a description of the abortion procedure; any medically accepted alternatives that might be appropriate for the patient; and the medically accurate risks and benefits of the abortion to be provided and its alternatives.

The provider must follow Standards 1&2 under Informed Consent as stated in the CPGs, namely:

Standard 1: The clinician must ensure that accurate information is provided regarding the risks, benefits, and possible complications of abortion.
Option 1.01: This information may be provided either on an individual basis or in group sessions.

Standard 2: There must be documentation that the patient affirms that she understands the procedure and its alternatives; the potential risks, benefits, and possible complications; that her decision is uncoerced; and that she is prepared to have an abortion.

The language used in the informed consent process should be comprehensible and culturally appropriate.

The provider must follow Standard 3 under Education and Counseling as stated in the CPGs, namely:

Standard 3: Each Patient must have a private opportunity to discuss issues and concerns about her abortion.

As appropriate, the provider should encourage patients who are struggling with the decision to have an abortion and/or the informed consent dialog to involve a trusted family member, friend, advisor or expert counselor (e.g., social worker) who can offer assistance.

INFORMED CONSENT AND THE INCOMPETENT PATIENT

The provider should treat every patient as having decision making capacity unless there is strong evidence to the contrary.

When a court has declared a patient is incompetent and has appointed an alternate decision-maker ("surrogate") and the patient is therefore unable to give informed consent for an abortion, but is still capable of communicating, the provider should offer an appropriate explanation, ascertain the patient's preferences, and seek the patient's assent if possible. Much will depend on the circumstances of each case, and providers should exercise their best professional judgment in light of the circumstances.

The provider may provide an abortion for an incompetent patient based on the informed consent of the surrogate. The informed consent process with this surrogate should follow the guidelines set forth in the Informed Consent section. If the patient and the surrogate disagree, the provider may decline to provide the abortion or take other appropriate action based on his/her best professional judgment. The provider may consult with appropriate experts in making this decision.

When a provider's professional judgment leads the provider to believe a patient lacks decision making capacity, yet the patient has no surrogate, the provider should follow the legal procedures of his/her jurisdiction for the appointment of a surrogate.

INFORMED CONSENT AND THE MINOR PATIENT

Providers should respect the autonomy of those minors who are authorized by law to consent to treatment.

Providers should help minors negotiate judicial or other bypass processes when appropriate.

When a minor patient is struggling with the abortion decision and/or the informed consent dialog, the provider should encourage her to seek support from a trusted parent, other adult family member, advisor, or expert counselor (e.g., social worker) as is appropriate to her circumstances.

REPORTING THE ABUSE OR NEGLECT OF MINOR OR INCOMPETENT PATIENTS

Providers should know the circumstances that trigger a legal obligation to report abuse and neglect in the jurisdictions where they practice.

Providers should inform minor and incompetent patients, and/or unless inappropriate, the incompetent patient's legally appointed surrogate, of the circumstances that will trigger reporting.

Providers should report to appropriate governmental authorities when they believe, based on good-faith professional judgment, that a minor or incompetent patient faces an ongoing risk of abuse or neglect.

When a provider decides to report to governmental authorities, the provider should make a good-faith effort to communicate this decision to the patient, and/or, unless inappropriate, to the incompetent patient's legally appointed surrogate, either before the report is made or as soon afterwards as possible.

CONFIDENTIALITY

Confidentiality is of paramount concern to abortion patients. Providers must respect and protect their patients' right to confidentiality.

Providers may disclose confidential information with the consent of the patient or, unless inappropriate, the patient's legally appointed surrogate. Providers may also disclose confidential information as required by law or to prevent imminent, serious harm to the patient or others. The provider should disclose only the confidential information necessary to achieve the purpose for which the disclosure is made.

Before making a disclosure, the provider should make a good-faith effort to inform the patient, and/or, unless inappropriate, the legally appointed surrogate of the limits of confidentiality, any disclosures required by law, and the foreseeable uses of the information to be disclosed.

Confidentiality might become an issue when third party payers are involved. When any third party, including Medicaid, is involved with payment for abortion care, certain protected information will be given to that entity. Depending on applicable laws and regulations, the provider may need to inform the patient and obtain authorization for the communication of this information.

REFERRALS

Providers should make medical and community/social service referrals as necessary to promote the best interests of the patient.

If a provider declines to treat a patient, the provider should refer the patient in a timely manner to providers who they believe, based on good-faith professional judgment, offer high-quality services appropriate to the patient's needs. It is also appropriate for providers to direct patients to a trusted referral source.

Providers should not refer the patient to any provider in which the original provider or his/her agent or employee has any proprietary or financial interest without first disclosing this proprietary or financial interest to the patient.

AVOIDING MISCONDUCT

Providers must not publicize or represent themselves in any untruthful, misleading, or deceptive manner to patients, colleagues, other health care professionals, or to the public.

When making decisions about patient care, the provider's financial interests must remain subordinate to patient welfare.

The provider must never sexualize the clinician-patient relationship by making inappropriate contact, comments, or sexual approaches of any kind.

The provider must not practice while impaired by drugs, alcohol, or any physical or mental condition that interferes with professional judgment or performance.

NON-DISCRIMINATION

Providers should not discriminate in the provision of abortion care based on sex-based stereotypes or a patient's race, ethnicity, citizenship status, language, religion, age, sexual orientation, gender status or identity, marital status, or disability.

Providers should attempt to make abortion care accessible to economically disadvantaged women.

SAFE AND SECURE ENVIRONMENT

Providers have an ethical obligation to take reasonable precautions to keep their patients and staff safe.

Providers must accord the highest priority to the safety and security of patients and staff, which may involve excluding from the premises a person the provider considers potentially dangerous, disruptive, or threatening.

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[i] NAF's *Clinical Policy Guidelines* are available at http://www.prochoice.org/pubs_research/publications/clinical_policy.html

The National Abortion Federation (NAF) is the professional association of abortion providers in North America. Our mission is to ensure safe, legal, and accessible abortion care, which promotes health and justice for women. Our members include clinics, doctors' offices, and hospitals, who together care for more than half the women who choose abortion each year in the United States, Canada and Mexico City.

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