

Disputes over birth control fuel Obamacare fight

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WASHINGTON (RNS) Conception. Pregnancy. Abortion. Abortifacient.

Those words today are in a rhetorical swamp where contesting religious, medical and political views muddy understanding. And soon the U.S. Supreme Court will wade in.

On March 25, it will hear challenges to the Affordable Care Act's provision that employers must provide insurance coverage with no co-pays for contraception.

A fundamental legal question in *Sebelius v. Hobby Lobby Stores, Inc.* is whether corporations, like individuals, have a right to religious speech. Hobby Lobby is owned by devout evangelical Christians who say they should not be forced to provide contraception services that they find immoral.

While Hobby Lobby officials say they don't object to all contraception, they refuse to provide access to "abortifacient" (causing an abortion) drugs. Since the mandate covers all contraceptive methods approved by the Food and Drug Administration, how these methods work and whether they are abortifacients matters.

The FDA's descriptions never mention the terms "abortifacient" or "abortion." It spells out the primary ways each method works:

- Many prevent a woman from releasing eggs (ovulation)
- Many prevent sperm from reaching or fertilizing the egg
- A few interfere with a fertilized egg attaching (implanting) in the womb (uterus), which is essential for a viable pregnancy.

That last one is key to the objection by Hobby Lobby's evangelical owners, and it gets to the very heart of debates over when life begins, how to define pregnancy and what constitutes an abortion.

Hobby Lobby already provides insurance coverage for 16 other forms of birth control, including pills that prevent ovulation. But they contend their religious freedom rights would be violated if they are required to cover four specific forms of birth control—implanted devices such as intrauterine devices (known as IUDs) a contraceptive rod implanted in a woman's arm and two forms of emergency contraception commonly called "morning after pills."

They say those four methods are abortifacient because, in the words of Hobby Lobby President Steve Green "We believe life begins at conception." In their view, fertilization, conception and pregnancy are synonymous.

The federal government and major medical voices, such as the American Congress of Obstetricians and Gynecologists and the American Medical Association, disagree.

"A pregnancy exists once a fertilized embryo has implanted in the uterus. Prior to that implantation, we do not have a viable pregnancy," said Dr. Barbara Levy, vice president for health policy for the American Congress of Obstetricians and Gynecologists.

Levy's group argues that emergency contraception "cannot prevent implantation of a fertilized egg," and that it is "not effective after implantation; therefore, it is not an abortifacient."

Drugs such as RU-486 or methotrexate combined with misoprostol were designed specifically to bring a medical end to a pregnancy and are clearly abortifacient. But those are not contraceptives, Levy said, and they're not included in the mandate.

Levy contends that her group's definition of pregnancy, established in 1970, "is scientific. By the time I was in medical school, it was crystal clear to all of us."

Public policy has been shaped accordingly.

The Guttmacher Institute, which tracks abortion and public health data, points out that federal regulations that block the use of public funds to pay for abortion nonetheless allow funds for "drugs or devices to prevent implantation." The Department of Health and Human Services' official definition of pregnancy is "the

period of time from implantation until delivery.”

However, some physicians and researchers stand firm on the pre-1970 view that pregnancy begins at the moment of conception, when a sperm unites with an egg. From that perspective, any method that prevents implantation of that fertilized egg (essentially, everything except barrier methods such as condoms) is abortifacient.

If a woman believes life, conception and pregnancy all begin with the fertilized egg, the ethics of informed consent should require doctors to tell patients about this possibility when patients seek prescriptions for birth control pills or an IUD, said Dr. Joseph Stanford.

Stanford, a professor in family and preventive medicine at the University of Utah, is co-author on two research studies on “post-fertilization implantation” and informed consent.

He prefers to avoid both rhetorical battles. “People define conception and pregnancy different ways and no one can say definitively what is or isn’t so,” said Stanford.

So when he deals with patients, he inquires about their beliefs on when life begins and explains all the possible ways—including blocking implantation—that birth control could work. If they still want pills or an IUD, he refers them to colleagues.

Stanford is Mormon. The Church of Jesus Christ of Latter-day Saints has no formal statement on contraception, so his decision is personal, he said: “I am not willing to prescribe anything that may, even some of the time, prevent the further development of a human embryo.”

John Di Camillo, an ethicist with the National Catholic Bioethics Center in Philadelphia, said any artificial birth control method—from condoms to pills or devices—deprives a husband and wife of the full meaning of sexual intercourse. Both the act and the intention—to be fully open to each other—are meaningful, he said.

“If you prevent implantation of a life, that is, essentially, an abortion,” he said. “Even if it is only in a tiny percentage of cases, it still has moral weight.”