

## *The Legal Rights of Women in Vermont*

# Reproductive Rights

### Chapter 12

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Women's control over the timing and spacing of their families is directly linked to improved health, educational and professional attainment, and to economic security. All women in Vermont, regardless of their age or marital status, should understand their rights around birth control, abortion and other issues related to reproductive health so that they can make informed choices for themselves.

### **Birth Control**

**You do not need permission from a parent, guardian or husband to get birth control.** The choice to use birth control is up to you. If the method needs to be prescribed by a medical professional, you can be seen regardless of age. Information gathered at a medical facility is private and cannot be released to anyone without your permission. **However, if you use a family health insurance card to pay for your visit, an explanation of what services were provided to you at the visit may be sent to the person who holds the insurance policy.** Therefore, if you do not want family members to know of your visit, and you do not have an income of your own, you should discuss with the provider whether they have a sliding fee scale or offer free services to teens. Most community family planning health centers have sliding fee scales or offer free services to teens.

### **Insurance Coverage for Contraception**

**A Vermont law passed in 2016 requires health insurance plans to provide coverage with no deductible, co-payment, or other cost-sharing for contraceptive methods approved by the U.S. Food and Drug Administration and prescribed by a health care provider.** This no cost-sharing benefit also covers vasectomies. Health insurance plans that don't provide coverage of prescription drugs are not required to provide coverage of prescription contraceptives and prescription contraceptive devices. These provisions went into effect for Vermonters enrolled in Medicaid on October of 2016. Health insurance plans must comply by October 1, 2017.

In addition to no cost-sharing for F.D.A.-approved contraceptive methods, provisions in this law established other benefits. This law allows women to pick up a year's supply of birth control in one visit. The law's improved reimbursements to health care providers make it easier for medical offices to stock and provide Long-Acting Reversible Contraceptives (LARCs), such as injections, intrauterine devices (IUDs), and subdermal implants to patients the same day as their office visit. This law also requires health insurance plans offered through the Vermont Health Benefit Exchange (Vermont Health Connect) allow a pregnant woman and her family to enroll at any time during her pregnancy.

## **Emergency Contraception**

Emergency contraception is Food and Drug Administration (FDA) approved and is often referred to as "EC", "the morning after pill", or "Plan B". It is effective if taken within five days of unprotected sex, although it is more effective the sooner it is taken.

Recently, the FDA approved a new emergency contraception pill called Ella. Ella must also be taken within five days of unprotected sex, and is even more effective at preventing pregnancy. All women are required to get a prescription from a doctor before obtaining Ella.

Another option for emergency contraceptive is the insertion of a copper IUD, commonly called ParaGard. If used within five days of unprotected sex, ParaGard is extremely effective at preventing pregnancy. A doctor must insert ParaGard. It may be difficult to make a doctor's appointment for this procedure within the five-day window of time. Once ParaGard is inserted, a woman can choose to keep it in her body and use it a method of birth control for up to ten years.

**In Vermont, a woman 18 or older can get most emergency contraception from a pharmacist without a prescription. Women 17 or younger must have a prescription from a doctor to get emergency contraception.** Pharmacists have the authority to dispense emergency contraception without a prescription if they have entered into an agreement with a physician. If your local pharmacist does not have this authority, you can still get emergency contraception with a prescription or by simply finding a pharmacist that can provide it to you without a prescription. **If your pharmacist does not provide emergency contraception, they are required to refer you to another pharmacy that does, or to a family planning health center.** Pharmacists are required to provide you with information before dispensing emergency contraception. You must sign a form indicating this information has been given to you. Any exchange between you and the pharmacist is private and cannot be released to any other person without your consent.

## **Abortion**

**In Vermont, you have an unrestricted legal right to get an abortion regardless of your age or marital status.** You do not need to notify or get permission from a parent, guardian, or spouse.

An abortion is easiest and safest when performed during the first trimester (up to 14 weeks). In Vermont, it is unlikely you will find a clinic that offers abortions after the nineteenth week. Early in the pregnancy, there is also the option of a medical abortion (the abortion pill) instead of a surgical abortion. Abortions that either present a danger to the mother's health or where there is a severe fetal deformity are performed in a hospital.

A minor's rights in Vermont are the same regardless of whether the choice is to have an abortion or carry the child to term.

- A minor has the right to decide to abort her pregnancy or carry it to term.
- In Vermont, a minor 14 years old or older can petition the court for a guardian if she is having a dispute with her parents over her pregnancy.
- Parents cannot legally force a minor child to give her baby up for adoption.
- The Vermont Department of Child and Family Services (DCF) may become involved if the minor has been abused or neglected, or is unmanageable.

There are no laws that require a minor in Vermont to obtain her parents' permission in order to get an abortion. **However, since parents have legal authority over most of their children's health care decisions, individual doctors might have practices about sharing the minor's health information with her parents.** If this is a concern for you, be sure to ask whether or not you will be seen confidentially and whether your medical records will be provided to your parents before choosing an abortion or birth control provider.

### **Crisis Pregnancy Centers**

Vermont does not regulate crisis pregnancy centers or ensure they provide accurate information regarding pregnancy and abortion. Crisis Pregnancy Centers do not provide abortion services or referrals for abortion services. They can assist you if you are pregnant, in need of support, and have made the choice to carry your pregnancy to term.

### **Insurance Coverage for Abortion**

While women in Vermont have unrestricted access to abortions, this does not mean that all health insurance policies will pay for the cost. The Federal Budget Act passed in 1996 took away all federal employees' ability to choose a health insurance plan that covers abortion services. This affects all women and their female dependents who work for federal agencies in Vermont. Similar restrictions now also apply to women who serve as Peace Corps volunteers and women in federal prisons, although none exist in Vermont. U.S. military servicewomen and the female dependents of U.S. military servicemen cannot have abortions paid for by Department of Defense funds. If you have an abortion in a military hospital you must pay for it yourself.

Abortions are sometimes covered by individual insurance plans. Women should be aware that the service might not be confidential on the “explanation of benefits” that might be sent to the insurance policy holder regardless of whether it is a parent or a spouse. **If you have health care insurance and are not a federal employee, you should check with your provider to find out if the cost of abortion is covered by your policy.** Some policies provide coverage while others do not.

### **Medicaid Coverage of Abortion**

The right to obtain an abortion is protected under the U.S. Constitution, according to the 1973 U.S. Supreme Court decision in *Roe v. Wade*. This U.S. Supreme Court decision holds that the constitutional right to privacy extends to your right, in consultation with your physician, to manage your own pregnancy. This includes your right to seek and obtain an abortion. **A state cannot create a law that restricts abortion contrary to this constitutional right.** A state can, however, offer more rights to women. Vermont has done this by covering abortions with Medicaid funding. **In Vermont, if you are eligible to receive Medicaid you are entitled to have the cost of abortion covered under the state Medicaid program.**

Since the U.S. Supreme Court decision in *Roe v. Wade*, there have been a number of other decisions by the Court allowing states to enforce laws that limit and restrict the right to abortion. These restrictions include mandatory waiting periods, particular forms of pre-abortion counseling, parental consent and notification laws, Medicaid funding restrictions for low-income women, bans on insurance coverage for abortion, gestational limits, bans on particular abortion procedures, prohibitions on the use of clinic facilities, prohibitions on certain medical personnel performing procedures, and prohibitions on the use of public facilities or the participation of public employees in providing abortion services. **Vermont has not adopted any of these restrictions on abortion.**

In 2003, Congress passed the “Partial Birth Abortion Ban Act”. The act bans only one form of abortion performed late in pregnancy, a medical procedure that is extremely rare. It does not ban all abortions after the first trimester. Any Constitutional ban trumps state law. However, in Vermont there are no other limitations or restrictions.

### **Midwives**

There are two kinds of midwives licensed in Vermont: **direct-entry certified professional midwives (CPM)** and **certified nurse midwives (CNM)**. (CPMs are often called licensed midwives.)

As part of licensing obligations, every licensed midwife must obtain from each client a signed informed consent form that includes the following information:

- the midwife’s education and credentials;
- whether the midwife has professional liability insurance coverage;
- the procedures and risks of home birth if applicable;

- a copy of the emergency plan developed by the midwife for getting an infant to a newborn nursery or neonatal intensive care nursery, and for getting a woman to an appropriate obstetrical department or patient care area, if needed;
- the address and phone number of the office of professional regulation where complaints may be filed.

Private health insurance plans providing maternity benefits and insurance plans in Vermont Health Benefit Exchange (Vermont Health Connect) including Medicaid will pay for services provided by both kinds of midwives including home births. Medicare and Federal employees' insurance plans will not pay for services provided by a direct-entry certified professional midwife. **It is always best to check with your insurance carrier to make sure that the midwife you choose will be paid by your health plan.**

## **STD Prevention and Treatment**

Sexually transmitted diseases (STDs) are caused by infections passed from one person to another during sexual contact. In addition to allowing for various in-person treatment and prevention methods, current Vermont law allows for the use of Expedited Partner Therapy (EPT). EPT is the clinical practice of treating the sex partners of patients diagnosed with certain STDs. With EPT, medication of the patient can be given to his/her sex partner without a prior health exam.

## **HPV Vaccines**

The FDA approved a human papilloma virus (HPV) vaccine for women and girls between the ages of 9 and 26, as well as boys and men in the same ages. The vaccine prevents certain types of HPV, a virus transmitted through sexual contact that can cause cervical cancer and genital warts. Most insurance plans, including Medicaid, will cover the vaccine. Depending on economic need, some girls and boys may receive the HPV vaccine at no cost through the Vaccines for Children program administered by the Vermont Department of Health. Unlike other states, Vermont does not require this vaccination.

Find the most local and most appropriate agency/organization to help you—go to [Vermont Commission on Women's Resource Directory—Women's Health section](#)

## **Relevant Laws**

### **Vermont:**

Beecham v. Leahy, 130 Vt. 164 (1972)

Doe v. Celani, 1986, No. S81-84CnC (requires Medicaid coverage of abortions in Vermont)

Emergency Contraception; Collaborative Practice, 26 V.S.A. §2077 et. seq.

Home Births, 8 V.S.A. §4099d

Licensed Midwives, 26 V.S.A. Chapter 85  
Repealing the Unconstitutional Vermont Statutes Related to the Performance of Abortions (2014), Sec. 1. 13 V.S.A. Chapter 3  
Reproductive Health Equity in Health Insurance Coverage, 8 V.S.A. § 4099c  
Vermont Department of Health, Agency of Human Services: Standard Protocol and Procedures for Initiating and Dispensing Emergency Contraception by Pharmacists, May 2007  
Treatment of Partner of Patient Diagnosed with a Sexually Transmitted Disease, 18 V.S.A. § 1095  
Vermont Health Benefit Exchange, 33 V.S.A. § 1803  
Vermont-Rx, 33 V.S.A. § 2074

### **Federal:**

Ayotte v. Planned Parenthood of Northern New England, 126 U.S. 961 (2006) (affirmed a state's ability to require parental involvement when a minor seeks to terminate her pregnancy)  
Gonzales v. Carhart, 127 U.S. 1610 (2007) (upheld the Constitutionality of 18 U.S.C.A. §1531)  
Partial Birth Abortion Ban Act, 18 U.S.C.A. §1531  
Planned Parenthood v. Casey, 505 U.S. 833 (1992) (permits states to impose restrictions as long as they do not “unduly burden” a woman’s right to choose)  
Roe v. Wade, 410 U.S. 113 (1973) (established a woman’s right to choose an abortion)  
Webster v. Reproductive Health Services, 492 U.S. 490 (1989) (allows states to impose greater restrictions on second trimester abortions)

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