Chapter Eleven

REPRODUCTIVE RIGHTS

Courts have held that most reproductive choices are private matters. The Alaska State Constitution explicitly protects the right to privacy. A woman’s right to make reproductive choices freely is part of a larger constitutional right of privacy or liberty. Decisions relating to contraception and procreation are among the many decisions that an individual may make without unjustified governmental interference because they are basic to individual dignity and autonomy. They may be regulated only if constitutional guarantees of privacy and self-determination are protected.

However, the government indirectly influences a woman’s access to birth control, available medical procedures, and health care services by conditioning or eliminating funding for programs.

What is the right to reproductive freedom?

The fundamental right of every individual is to decide freely and responsibly when and whether to have a child. It includes the principles of individual liberty and right to privacy. Reproductive freedom includes the right to:

- Privacy, especially in human relationships;
- Education and information that empower individuals to make informed decisions about sexuality and reproduction; and
- Nondiscriminatory access to confidential, comprehensive reproductive health care services.

Reproductive rights include access to information and services related to sexuality, reproduction, methods of contraception, fertility control, and parenthood.

How can a woman obtain information and access to family planning centers in Alaska?

The State of Alaska funds low cost, confidential family planning services at the following locations:

- Mat-Su Public Health Center in Wasilla
- Kachemak Bay Family Planning Clinic in Homer
- Municipality of Anchorage Health Department
- State Public Health Centers in Fairbanks, Juneau, Ketchikan, Kodiak, Sitka and Kenai

Services available include:

- Family planning counseling;
- Pregnancy testing;
- STD testing and counseling;
- HIV testing and counseling;
- Prenatal monitoring;
- Postpartum home visits;
- Emergency contraception; and
- Birth control and contraceptive methods.

See the Resource Directory at the end of this handbook for contact information for the clinic nearest you.
Planned Parenthood of the Great Northwest

Planned Parenthood of the Great Northwest (PPGNW) is a non-profit organization that provides confidential family planning services to minors and adults, both men and women. Planned Parenthood is committed to preserving access to all forms of safe reproductive health care – including abortion. Medical services available from PPGNW include:

- gynecological exams & pap smears;
- birth control and other contraceptive methods;
- emergency contraception;
- pills by mail;
- pregnancy testing and options counseling;
- STD testing and treatment including confidential HIV/AIDS testing and counseling;
- HPV vaccine;
- abortion (medical and surgical abortions available at Anchorage, Juneau, and Fairbanks clinics), adoption & prenatal referrals;
- screenings for breast and cervical cancers;
- colposcopy and cryotherapy;
- menopausal services; and
- vasectomies

See the Resource Directory at the end of this handbook for information on the reproductive services available in Alaska.

What if I do not have money to pay for services?

Many women are eligible for free and/or low cost contraceptive services, pregnancy testing, diagnosis/treatment of sexually transmitted diseases, HIV testing, and other services. Planned Parenthood and Public Health clinics offer free or sliding scale services to low income Alaskans, based on the household income levels. Medicaid also covers contraceptives, prenatal care, and testing for STDs. Most private insurance companies cover preventive services at no cost, including contraceptives, annual well woman visits, STD counseling, HIV testing and screening, HPV testing, and domestic violence screening and counseling (see Health Insurance section of this chapter). Check with your health care provider to determine how to pay for your services.

SEXUALLY TRANSMITTED DISEASES

There are two types of sexually transmitted diseases (STDs) – bacterial infections and viral infections. Bacterial infections can be treated and cured whereas symptoms of viral infections can often be treated, but not permanently. Common bacterial STDs are syphilis, chlamydia, and gonorrhea. Common viral infections include the human immunodeficiency virus (HIV), hepatitis B & C, herpes simplex I & II, and the human papilloma virus (HPV).

It is important to get tested regularly for STDs, and you have the right to ask your partner to be tested as well. Most STDs are easily treatable. However, STDs that are left untreated may have long-term negative effects on your health and cause cancer or sterility. Other STDs, such as HIV/AIDS, may shorten your life. Many STDs do not have symptoms or at least do not have symptoms right away. Therefore, you may not be aware that you have contracted a STD and unknowingly pass it to your partner or vice versa. While your annual gynecological exam and pap smear may detect some STDs, many STDs will not show up on
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your annual exam. The only way to be certain whether you have an STD is to be tested for specific STDs.

HPV is not only very common in both men and women, but it also causes 70 percent of cervical cancers. To reduce your chances of getting cervical cancer, the Centers for Disease Control recommends that both boys and girls get the HPV vaccine Gardasil starting at 13 years old. Individuals 19-26 who have no health insurance and meet financial criteria may be eligible for the Merck Vaccine Patience Assistance to receive the vaccine at no charge.

You can be tested for STDs at your local physician’s office, public health clinic, or at Planned Parenthood.

**BIRTH CONTROL AND CONTRACEPTIVES**

In Alaska, licensed physicians and nurse practitioners can prescribe birth control methods including birth control pills, diaphragms, cervical caps, vaginal rings, patches, intrauterine devices (IUDs), injectable birth control (depo provera) or implants. Any pharmacist can sell non-prescription birth control materials, such as male and female condoms, spermicides, contraceptive foams, creams, jelly, films, or suppositories over the counter. In consultation with a physician, community health aides can provide prescription birth control materials. (Community health aides are primary health care providers working in rural areas under agreements with Indian Health Service physicians.) In larger communities, Planned Parenthood and most public health clinics provide birth control methods.

The Alaska Department of Health and Social Services is responsible for preparing information about family planning, fetal alcohol syndrome, and the effects of drug use and battering during pregnancy. [AS 18.05.035-.037]. These materials are free and available at hospitals, public health clinics, and women’s health clinics throughout the state.

**What contraceptive choices are available?**

There are many forms of birth control and you should discuss effectiveness, side-effects, and cost with your provider to find the best choice for you. Please remember that condoms (both male and female) are the only form of birth control that also protect against sexually transmitted diseases (STDs).

There are behavioral methods of birth control such as continuous abstinence, predicting fertility (rhythm method), and withdrawal methods. It is important to have a professional teach you about predicting fertility. Even with the withdrawal method, some pre-ejaculate can cause pregnancy. Because these methods depend on your personal behavior, their effectiveness varies greatly.

*Barrier methods*

The most common form of barrier methods are the female and male condoms, which are both widely available at pharmacies and stores without a prescription and for free at Planned Parenthood. They are the only birth control method that protect against both pregnancy and sexually transmitted diseases. The male condom is 85 to 98 percent effective and the female condom is 79 to 95 percent effective. Vaginal spermicides such as foams, jellies, creams, films, and suppositories can be applied inside the vagina in combination with any barrier method of birth control for more effective birth control.

Other barrier methods include the sponge, which is available without a prescription, and the diaphragm and cervical cap, which requires an exam to ensure proper sizing and fit. These devices are inserted into the vagina before sex and are 84 to 94 percent effective. Cervical caps are less effective for women who have given birth.
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Hormonal birth control
The most common form of hormonal birth control is the birth control pill, which includes naturally occurring hormones that prevent your body from releasing an egg each month (ovulation), therefore preventing pregnancy. The pill is 92 to 99 percent effective when taken properly. There many brands with varying doses of hormones so a prescription is required; the best pill is different for every woman.

There is also a birth control patch, which looks like a band-aid and slowly releases hormones through the skin. It is placed somewhere on the body for three weeks and removed for one week. Used properly, the patch is 99 percent effective and requires a prescription. There is also a vaginal ring (NuvaRing), which releases hormones to a more localized part of the body. The ring is inserted into the vagina for three weeks and removed for one week. Depo-Provera is an injection that lasts three months and is 97 to 99 percent effective.

Long-acting reversible contraceptives
There are also multiple long-acting contraceptive methods that are inserted once and last several years.

The intrauterine device (IUD) is one option. The IUD is a flexible T-shaped device that is inserted into the cervix by a physician and prevents fertilization. It is 98 to 99 percent effective. There are three types of IUDs: the ParaGuard, a hormone-free copper version that can be left in place for up to 12 years; the Mirena, a low-dose hormonal model that can be left in place for five years; and Skyla, a new hormonal version specifically for women who have not given birth and is effective for up to three years.

There is also the implant, which is a small flexible rod that is injected under the skin of a woman’s upper arm. The implant lasts up to three years and is over 99 percent effective.

Planned Parenthood has a free brochure describing each contraceptive method’s effectiveness, advantages, possible side-effects, and cost.

U.S. Department of Health and Human Services, Center for Disease Control and Prevention

Emergency contraception
If you have had unprotected sex or your regular birth control method failed and you fear that you may become pregnant, you can obtain emergency contraception (EC) pills. EC is often referred to as the morning after pill, and it is the equivalent of the high dose of hormones found in birth control. EC can reduce the risk of pregnancy for up to 72-120 hours after sexual intercourse, depending on the brand used. If taken within the recommended time, they can reduce the risk of pregnancy from 75 to 89 percent. Another form of emergency contraception is the insertion of a copper intrauterine device (IUD) within five to seven days of unprotected sex.

Emergency contraception does not cause an abortion. EC works by preventing the ovary from releasing an egg for longer than usual so pregnancy cannot occur. If you have already released an egg and gotten pregnant, the morning-after pill will not end or harm the pregnancy.

Emergency contraception is available over the counter at Planned Parenthood, other public health clinics and through your local pharmacist. See the Resource Directory at the end of this handbook for contact information. Planned Parenthood can provide emergency contraception prescriptions by phone for existing patients who are unable to get to a clinic within 72 hours. Another form of EC, known as Ella, is available by prescription only. It is effective up to 120 hours, and is particularly recommended for women

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who are over-weight.

**Do I need consent from my parents to obtain birth control in Alaska if I am a minor?**

No. You can confidentially learn about birth control options and obtain birth control without parental consent. If you use your parents’ insurance, keep in mind insurance explanation of benefits may be mailed home and include information on what services you have accessed; if privacy from your parents is a concern, contact your insurance company about keeping that information confidential.

**Does a woman need her partner’s consent to obtain or use birth control?**

No. A woman can confidentially learn about birth control options and obtain birth control, whatever her age or marital status.

**STERILIZATION**

Any woman may seek sterilization through tubal ligation (‘tying tubes’), in which a woman’s fallopian tubes are closed to prevent a sperm from meeting an egg for fertilization, or transcervical sterilization, when a tiny device is threaded in each fallopian tube to agitate the fallopian tube into growing scar tissue, which permanently blocks the tubes. Sterilization is more than 99 percent effective but in rare cases (about 1 in 100 per year) a woman can still become pregnant after sterilization. Alaska is one of 20 states with no state law regulating these procedures, although there is a 30 day waiting period required by federal law for sterilization programs funded with federal monies. Sterilization should be considered non-reversible and is a permanent decision that should be weighed very seriously with your healthcare provider.

**Can a woman be sterilized without her consent?**

Under extremely limited circumstances, and after a full hearing, a mentally incompetent woman may be ordered to be sterilized at the request of her guardian. The guardian must clearly prove that sterilization is in the best interest of the woman; that she is not capable of making her own decision as to sterilization; and that sterilization is the only practicable means of birth control. Medical evidence must be presented at the hearing and an attorney (guardian ad litem) must be appointed to represent the woman [In re C.D.M., 627 P.2d 607 (Alaska 1981)].

**PREGNANCY**

**What choices are available if I am pregnant?**

There are several options available. You may choose to:

- have a baby and raise the child;
- have a baby and place the child for adoption; or
- end the pregnancy.

There is no right or wrong choice for everyone; only you can decide which choice is right for you. You can talk about your feelings with your partner, someone in your family, or a trusted friend. All Planned Parenthood health centers have staff who can talk with you about your options. Your counselor will not pressure you into any decision against your will. You may bring your partner, your parents, or someone
else if you wish. Look for a health center that will give you complete, accurate, and timely information about your options. If you need help, call your local Planned Parenthood. See the Resource Directory at the end of this handbook for more information.

What types of financial assistance are available to pregnant women in Alaska?

A woman in financial need can seek aid when she learns she is pregnant. One source of help is a federally funded program called Women, Infants, and Children (WIC). WIC provides nutritional assistance to women, infants, and children. Information about the WIC program in your area is available through any public clinic or hospital. Public health clinics also provide free or sliding scale pre-natal care. Pregnant women at certain income levels can also qualify for health coverage through Denali Care, which is Alaska’s Medicaid program for children and pregnant women. See the Resource Directory at the end of this handbook for more information.

ABORTION

Abortion is legal in Alaska. Alaska law states that it must be performed by a licensed physician in a hospital or clinic. Abortion providers are also required to obtain “informed consent” from a patient by providing state-mandated materials about potential medical and emotional implications of an abortion. Patients must undergo a medical examination before an abortion. There are two forms of abortion available, depending on how far along a woman is in the pregnancy.

Medical abortion (often referred to as the “abortion pill”) is a non-invasive method used to induce an abortion up to nine weeks after the start of the woman’s last menstrual period. The medical abortion is a two-step process. First, a physician gives the patient Mifepristone, which is taken orally. Mifepristone acts to block the hormone progesterone, which breaks down the uterine lining so the pregnancy cannot continue. A second drug, Misoprostol, is then taken 24-48 hours later when the woman is home. Misoprostol acts to empty the uterus. Many doctors also prescribe an antibiotic to prevent infection. More than half of women abort within a few hours of taking the second medication, the remainder within several days. A follow-up appointment is required to ensure the pregnancy has been terminated.

Surgical abortion is available in Alaska up to 13 weeks, at Planned Parenthood and several private physician offices. After 13 weeks, women must travel to Seattle for an abortion. The most common procedure for an abortion is aspiration (also referred to as “suction”) and can be performed up to 16 weeks into the pregnancy. For abortions later in the pregnancy, a D&E (dilation and evacuation) is typically performed. First trimester abortions—when nearly nine out of 10 abortions are performed—have less than 0.05 percent chance of complications.

Does a minor have the right to obtain an abortion without notice to, or the consent of, one or both of her parents?

No. Under Alaska law, an unemancipated minor may not have an abortion in Alaska unless a physician has notified a parent 48 hours before the procedure, or the parent comes to the health center and consents in writing. There are exceptions to this requirement in limited circumstances. If a minor fears for her safety if she is required to involve her parents, she may seek a judge’s order to proceed without parental involvement. Abortion providers and Planned Parenthood can help minors navigate this process. Minors who live in abusive homes may also be excused from the parental notice requirement if they have corroboration of the abuse. Emancipated minors do not require parental notice.
Planned Parenthood and some physicians sued the State of Alaska to challenge the constitutionality of the parental notice law. In 2012, a superior court upheld the parental notification law. The case was appealed and heard by the Alaska State Supreme Court in February 2014. As of January 2015, the court has still not delivered its ruling.

**Does an adult woman have to obtain anyone’s consent or notify anyone before getting an abortion?**

No. Alaska has no laws requiring a partner’s consent or notification before a woman obtains an abortion. In addition, the United States Supreme Court has ruled that states may not force a woman to obtain her spouse’s consent for an abortion.

**Can low-income women obtain government funding for an abortion or other loans and grants?**

Yes, Alaska Medicaid covers medically necessary abortions for eligible women per a 2001 ruling by the Alaska Supreme Court. In 2014, the legislature enacted a law that would limit the circumstances under which Medicaid can pay for abortions. Planned Parenthood filed a lawsuit challenging the constitutionality of the limitations; at present the 2014 law is enjoined, and Medicaid continues to pay for abortions.

Planned Parenthood has information about available funds to help cover some of the cost of an abortion, including transportation expenses, for women with financial need. In addition, the CAIR (Community Abortion Information & Resource) Project is a non-profit organization that provides financial assistance to women seeking abortions who are otherwise unable to afford them. There are also funds available for travel support for Alaska women to travel to Seattle to obtain an abortion. The Washington chapter of the National Abortion and Reproductive Rights Action League (NARAL) also provides housing, transportation, and logistical support to Alaskan women to travel to Seattle for an abortion. See the Resource Directory at the end of this handbook for more information.

**Can a woman obtain an abortion after the first trimester (after 13 weeks) in Alaska?**

Generally, no. There are no facilities that perform an abortion in Alaska after 13 weeks except in rare situations. Usually, after 13 weeks, it is necessary to travel to Seattle. Planned Parenthood can assist you in making arrangements to find a provider in Seattle.

**Where can a woman obtain abortion services or counseling?**

Contact your local Planned Parenthood listed in the Resource Directory at the end of this handbook.

**ADOPTION**

*See Chapter Ten for more information about adoption.*

**ARTIFICIAL INSEMINATION, IN VITRO FERTILIZATION, EMBRYO TRANSFERS, AND SURROGATE MOTHERHOOD**

Modern medical techniques and people willing to assist others in having a baby allow couples to bear children in a variety of ways. As artificial insemination, fertilization, and embryo transplant are part of a relatively new field, laws governing the legal relationships that result from use of such techniques are still developing. Anyone considering having a child through artificial insemination, *in vitro* fertilization, embryo transfer, or a surrogate mother should consult an attorney about the obligations, duties, and rights
of the persons (including the child, natural parent, donor or surrogate parent) involved.

The only law currently in Alaska addressing any of the above procedures involves artificial insemination. In Alaska, a child born to a married woman by means of artificial insemination performed by a doctor and consented to in writing by both husband and wife is considered the natural and legitimate child of both spouses [AS 25.20.045]. Although not specifically addressed by statute, where the husband does not consent to artificial insemination, he may not have any legal obligation to acknowledge or support the child [See K.E. v. J.W., 899 P.2d 133 (Alaska 1995)]. Alaska law does not address legal consequences of in vitro fertilization or regulate agreements regarding surrogate motherhood.

PREGNANCY AND MATERNITY LEAVE

Pregnancy-related benefits cannot be limited only to married employees. In an all-female workforce or job classification, benefits must be provided for pregnancy-related conditions if benefits are provided for other medical conditions. If an employer provides any benefits to workers on leave, the employer must provide the same benefits for those on leave for pregnancy-related conditions. See also Chapter 3 on Employment.

An employer may not single out pregnancy-related conditions for special procedures to determine an employee’s ability to work. However, an employer may use any procedure used to screen other employees’ ability to work. For example, if an employer requires its employees to submit a doctor’s statement concerning their inability to work before granting leave or paying sick benefits, the employer may require employees affected by pregnancy-related conditions to submit such statements.

If an employee is temporarily unable to perform her job due to pregnancy, the employer must treat her exactly the same as any other temporarily disabled employee. According to the EEOC, if a woman cannot perform all the duties of her job because of her pregnancy, she must be given light duty work to the same extent it is provided to other employees with temporary disabilities. Women who are pregnant cannot be excluded from disability leave or other leave offered to other employees. Employees with pregnancy-related disabilities must be treated the same as other temporarily disabled employees for accrual and crediting of seniority, vacation calculation, pay increases, and temporary disability benefits.

Pregnant employees must be permitted to work as long as they are able to perform their jobs. If an employee has been absent from work as a result of a pregnancy-related condition and recovers, her employer may not require her to remain on leave until the baby’s birth. An employer may not have a rule that prohibits an employee from returning to work for a predetermined length of time after childbirth.

Employers must hold open a job for pregnancy-related absences for at least 12 weeks each year, and the same length of time as jobs held open for employees on sick or disability leave if greater than 12 weeks.


CHILD CARE

Leave for child care for a new born or sick child is covered by the Family Medical Leave Act (enforced by the U.S. Department of Labor). The FMLA covers employers with 50 or more employees, and allows up to 12 weeks of unpaid leave. However, Title VII requires that leave for child care purposes be granted on the same basis as leave granted to employees for other non-medical reasons, such as non-job related
travel or education.

HEALTH INSURANCE

The 2010 Patient Protection and Affordable Care Act (ACA) requires that insurance companies cover preventative care at no cost, including a wide range of services for women. Specifically, insurance companies (except for some “grandfathered plans”) must cover—with no co-pay—annual well woman visits, STD counseling, HIV testing and screening, HPV testing, and domestic violence screening and counseling. Additionally, the ACA also requires that most insurance companies (except some “grandfathered plans”) cover contraceptive services and counseling with no co-pay or out-of-pocket expense. However, religious organizations, colleges, nonprofits, or “closely-held” corporations that oppose birth control on religious grounds are not required to provide insurance that covers these services. If you have insurance that says it will not provide contraceptive services or requires a co-pay, the National Women’s Law Center provides free assistance on working with your insurance company and for other resources on accessing contraceptives: 1-866-745-5487 or CoverHer@nwlc.org.

Every health insurance plan (except for “grandfathered plans”) must cover pre-natal care and delivery. However the type of coverage, and cost of coverage, will vary between plans. If you are pregnant or planning a pregnancy, please read your plan carefully. The amounts payable by the insurance provider can be limited only to the same extent as costs for other conditions. No additional, increased, or larger deductible can be imposed. The ACA also requires that health insurance plans provide breast feeding support, supplies, and counseling at no cost.

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