

On International Women's Day, a National Health Emergency Requires Legal Action

Ending gender inequity will take significant and urgent legal reform.
Here's how it can be done.

BY DELPHINE O'ROURKE

Before COVID, the health inequities that women endured were already untenable, particularly for women of color. American women had the highest rates of maternal mortality, chronic disease burden and emotional distress of any developed country. We also had the lowest rate of having a regular doctor or place of care, more than one-third of us skipped care because of costs and nearly half of us reported medical bill problems. The burden of the past two years has triggered an out-of-control downward spiral impacting our physical health, mental well-being and financial security. COVID turned a dire situation into a national health crisis.

Yet, as we begin to imagine a post-COVID world, we are loudly decrying the long-term effects of inflation and the supply chain breakdown with very little, if any, audible dialogue or action on the rapidly declining health of millions of American women. The current legal and regulatory barriers are real and must be tackled. We need laws that support women and don't create obstacles that make us sicker. We need our leaders to pass

legislation that directly improves education, access to care, clinical outcomes and reimbursement for innovation in women's health. And we need it now.

To date, the private sector has taken the lead in meaningfully redefining care for women and rapidly innovating new therapeutics, services and devices. Companies like Organon are dedicated to women's health and tackling diseases with a disproportionate impact on women, advancing maternal health and creating a new generation of therapeutics. Recently, Organon announced a health day for all of its 9,500 employees celebrated on International Women's Day. Hopefully, other employers will follow Organon's lead and today will begin a collective narrative around "health care" rather than "sick care" for all Americans.

The private sector, however, cannot do it alone. It cannot mandate significant and urgent legal reform. Our legislators and policymakers can and must. There were 4,234 bills introduced to the 117th Congress that touched on women's health: on average, they have a 2% chance of becoming law. As a



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country, we cannot afford to wait for these bills to linger and die in congressional halls. We need swift legal and regulatory relief.

By declaring the current state of women's health a national crisis, President Biden and Secretary of Health and Human Services Xavier Becerra can immediately waive unnecessary and burdensome regulatory barriers and pass emergency laws to respond to the women's health crisis. Over the past two-plus years, Republicans and Democrats have enthusiastically embraced active government intervention in our health. At the federal level and in all 50 states, existing laws have been waived and new laws passed to combat COVID. The Biden and Trump administrations relied on

a variety of existing laws such as the Social Security Act, the Occupational Safety and Health Act, and the Public Health and Safety Act for legal authority to mandate increased education, access, care outcomes and reimbursement to fight COVID.

One of the lessons of the federal government's active legal intervention to protect our public health is that a relaxation of certain health care regulations can actually drive better care and innovation. Inconsistent state laws regulating the practice of medicine, barriers to providing asynchronous vs. synchronous care, and gaps in insurance coverage for preventive health services are just some examples of laws impeding innovation and contributing to the women's health crisis. Untangling these overcomplicated laws would take years. A presidential declaration that the women's health crisis is a public health emergency would allow our leaders to use legal and regulatory tools to address the most immediate needs and pave the way for rapid innovation. Let's start here:

Education

Prohibit discriminatory social media and other censorship of education on women's health and wellness caused by, for example, AI algorithms that confuse education about "breastfeeding" for "sex" and "porn."

Access

Sign an executive order to foster consistent access to critically needed telehealth services for women in all 50 states services including removing in-person

requirements to establish patient-provider relationships, greater broadband capacity and payment parity rates with in-person care.

Clinical Outcomes

Expand the scope of preventive services for women that must be covered by insurance under the Affordable Care Act and ensure that the millions of women who had to defer preventive care during the pandemic have access to free services, at-home tests and other innovative solutions to early detection until we are back to pre-COVID levels of preventive screening.

Clinical Trials

Ensure that women—including those from diverse backgrounds and gender identities—are legally required to be included in clinical trials beyond the current limited requirements set by the Food and Drug Administration and National Institutes of Health in 1993. Many conditions that exclusively affect women have been historically ignored in medical research, and there's a pressing need to catch up. Millions of women in the United States suffer from lack of adequate treatment for polycystic ovary syndrome, endometriosis, premenstrual dysphoric disorder and HIV in pregnancy, just to name a few. We need gender equity in clinical trials and we need increased funding for comprehensive studies and more rapid review of innovative solutions.

Reimbursement

Forty-two percent of babies born in the U.S. in 2020 were born to

mothers who are insured by state Medicaid and living in poverty. Maternal death rates have continuously increased over the past 20 years and, shockingly, the majority of those deaths were preventable. Non-Hispanic Black women die from pregnancy-related causes at a rate three to four times that of non-Hispanic White women. These harrowing statistics have only gotten worse during COVID. We need a comprehensive federal plan—think CARES Act for American moms—that funds, at a minimum, education, enhanced pre- and post-natal care, early detection of signs and symptoms and initiatives that address social determinants of health.

This list is just the start. We need to leapfrog from where we are today to a country that values women's health and wellness. It's going to take more than the declaration of a national health emergency to ensure the health of future generations of American women. However, without immediate regulatory action, it will likely be too late. Our current gender inequities will have an intergenerational impact on our public health, our economy and on our long-term national sustainability from which we may not be able to recover.

On International Women's Day 2022, we all need to raise our voices and loudly demand health care policies and laws to care for all of our mothers, sisters and daughters, and ourselves.

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