

<http://somatosphere.net/2013/04/abortion-rights-and-patent-laws.html>

Web Roundup: Abortion Rights and Patent Laws

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This month's Web Roundup is dedicated to the role that legislation and the courts have in promoting or restricting access to medical care. In particular, I will focus briefly on the passage of anti-abortion legislation in the US and a few recent court cases that are testing the limits pharmaceutical patents. While not overtly theoretical in nature, I have found these events to be particularly useful for discussing critical medical anthropology in undergraduate courses.

Abortion Rights

The abortion debate is an issue that never seems to totally go away. According to the [Guttmacher Institute](#), a pro-abortion rights non-profit organization, 93 provisions addressing reproductive health have passed at least one legislative body in the US since the beginning of the year. Of particular note is the Arkansas bill that limits abortion at twelve weeks and the North Dakota bill that bans most abortions as early as six weeks, both of which violate the Supreme Court standing that abortions can occur up to the point where the fetus is viable outside of the womb. In a second measure, North Dakota has also banned abortions sought for genetic abnormalities such as Down syndrome, making it the first state in the country to do so [\[KOAA\]](#). The Center for Reproduction Rights has vowed to fight the legislation, however as of April 15, they were already in court fighting another law that bans medication to induce abortion [\[Jamestown Sun\]](#).

Anti-abortion advocates also scored a victory in Virginia with the Board of Health's passage of new abortion clinic regulations. With these new regulations, abortion clinics now have to abide to the same building codes as surgical units and will be mandated to comply with standards related to specific hallway and door measurements, ventilation systems, and front entrance coverings. According to the NARAL Pro-Choice Virginia Deputy Director, "the overall goal of these restrictions is to limit access to safe, legal abortions" [\[MSNBC\]](#).

Patent Laws

On a different front, there have been several legal challenges to pharmaceutical companies who tinker with the composition of their pharmaceuticals to make a new version of an older drug, a process called “evergreening”. The practice has been contested both abroad and in the US. In India, the Cancer Patients Aid Association won a case in the Indian Supreme Court claiming that Novartis’s reformulation of its cancer drug Gleevec was not different enough to drastically improve its efficacy, a precondition for a new patent in India. The ruling paved the way for Indian generic companies to continue manufacturing the generic version of the drug that costs patients approximately 68,000 USD less per year [[New York Times](#)]. As one of the largest producers of generic medications, the ruling enables Indian pharmaceutical producers to sell the medication to developing nations around the world.

Within the US, the issue of generics has also been in the news with the recent Supreme Court case, Federal Trade Commission (FTC) v. Watson Pharmaceuticals et al. At the center of the issue is whether Solvay, the maker of AndroGel, a prescription testosterone gel, can pay generic manufacturers 45 million per year not to make a generic version of their drug. The case came out of a two year litigation battle between Solvay and generic manufacturers who claimed that Solvay’s patent expired years ago and the changes made to the product were not enough to justify a new patent. A settlement was eventually reached in the case, where Solvay agreed to pay generic manufacturers 45 million per year not to produce the product, successfully protecting their 400 million annual market. Consumer advocates, hospitals, and medical providers call this practice “pay to delay” and claim that it unfairly undermines competition and forces patients to pay more for pharmaceuticals. The FTC agreed and argued that the practice violates the nation’s anti-trust laws. A ruling is expected later in the year [[NPR](#)].

Finally, on April 15, the Supreme Court heard a case on whether human genes can be patented. The case centers around the company, Myriad Genetics, which has patents on two parts of the human genes that are used to detect breast cancer, BRCA 1 and BRCA 2. Through its patent the company has exclusive rights on the test that can be used to detect mutations in the genes that lead to ovarian and breast cancer. The American Civil Liberties Union claims that since the genes are part of nature, they cannot be patented and that Myriad Genetics’s monopoly over the test makes it too expensive for some women. On the other hand, the company claims that without the protection of patents, companies would be less likely to do this type of research. [[NBCNEWS](#)]

Each one of these events highlights the tension between patients,

lawmakers, and corporations. Moreover, they illustrate the role courts may have in advocating for patients' access to family planning (in whatever form it takes), affordable pharmaceuticals, and their own genetic material.

Further Readings:

In TIME Magazine last month Steven Brill wrote an amazing article about medical billing and the ever-growing cost of healthcare. [Bitter Pill: Why Medical Bills Are Killing Us](#)

A study by the National Voices Project found that there are disparities in mental health access for children. [National Voices Project](#)

AMA citation

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