

CONCERNED
WOMEN *for* AMERICA
LEGISLATIVE ACTION COMMITTEE

October 11, 2022

The Honorable Denis McDonough
Secretary
Department of Veterans Affairs
810 Vermont Avenue NW
Washington, D.C. 20420

RE: Interim Final Rule on Reproductive Health Services, RIN 2900-AR57, Docket No. VA-2022-VHA-0021-0001 (September 9, 2022)

Dear Secretary McDonough:

As CEO and President of Concerned Women for America Legislative Action Committee (CWALAC), I am writing on behalf of the hundreds of thousands of women across the nation whom I represent to oppose the interim final rule (IFR), VA-2022-VHA-0021-0001: *Reproductive Health Services*. While this IFR contains several serious procedural and substantive concerns, we focus our objections on a select few: taxpayer funding for abortion, misleading assertions about when abortion is medically necessary, and failure to provide conscience protections for health professionals with objections to abortion.

Through this IFR, the VA amends its medical regulations to permit abortions and abortion counseling through the medical benefits package available to veterans and the care available to beneficiaries of the Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA). Veterans who need assistance for service-connected injuries deserve our attention and funding. Unfortunately, this action does little more than turn veterans into a campaign prop for a radical, pro-abortion agenda. For the reasons described below, we urge you to rescind the IFR.

Taxpayer funding of abortion. The VA asserts that “allowing even one preventable death of a veteran or CHAMPVA beneficiary by limiting access to abortions is unacceptable.”¹ This is tragically ironic. For many Americans, the intentional killing of a baby in the womb, which is what happens in an abortion, is not healthcare and should not be classified as such. You recently announced that the VA performed its first abortion—the death of an unborn child—under the IFR.² If the IFR remains in place, it is only the beginning of taxpayer funding for abortion. Specifically, taxpayers will be on the hook for \$2.1 million in Fiscal Year (FY) 2023 and \$11.3 million over the next five fiscal years to provide veterans and their beneficiaries with elective abortions, abortion counseling services, and abortion travel.³

The IFR sharply deviates from the tradition of the Hyde Amendment, introduced in 1976 to halt the flood of taxpayer money towards the then-newly constitutionalized right to abortion. The Hyde Amendment has

¹ Regulatory Impact Analysis for RIN 2900 - AR57(IF) at 2, <https://www.regulations.gov/document/VA-2022-VHA-0021-0002>.

² Courtney Kube & Minyvonne Burke, “VA performs its first abortion weeks after saying it would in certain cases,” NBC News (Sept. 22, 2022), <https://www.nbcnews.com/health/health-news/va-performs-first-abortion-weeks-saying-certain-cases-rcna49007>.

³ Regulatory Impact Analysis for RIN 2900 - AR57(IF) at 3, <https://www.regulations.gov/document/VA-2022-VHA-0021-0002>.

enjoyed almost fifty years of bipartisan support. Moreover, a 2022 poll shows that a majority of Americans oppose taxpayer funding of abortion.⁴ Subsidizing elective abortion violates our rights of conscience. Taxpayer funding of abortions should have no place in our policies to help veterans.

Medical necessity. The VA asserts in the IFR that “access to abortion-related medical services is needed to protect the lives and health of veterans.” The VA attributes this need to “abortion bans” in states where there is no “assured access to abortion services.” This is, at best, misleading. A comprehensive review of current state legislation protecting the unborn reveals that each of those states permits abortion in the rare and heartbreaking circumstance when it is necessary to save the life of a pregnant woman.⁵ No state prevents medical treatment to save the life of a pregnant woman. The reality is that the VA IFR simply aims to expand abortion access beyond the will of the people in a given state. Not all states permit abortion in the case of the “health” of the mother as the IFR does. This is because in practice, the “health” exception functions as a green light for elective abortions. The U.S. Supreme Court has broadly construed abortion for reasons of “health” with no limiting principles.⁶ Whether the desire for an abortion is due to “emotional,” “psychological,” or “familial,” reasons, anything goes. Besides the death of an unborn child, the reality is that women are failed when they buy the lie that an abortion resolves any issues along these lines. Their pain is real, but the deception of the abortion industry is not. The IFR appears to capitalize on this broad definition, and as a result, erroneously deems elective abortions a “medical necessity.”

Conscience protections. The right of conscience should be guaranteed as an inalienable right that is given by God and protected from government overreach. While we maintain that the IFR should be rescinded, at the very least, the IFR must explicitly declare protections for employees with faith- or conscience-based objections to abortion from adverse employment action. Healthcare providers deserve affirmative protection from government discrimination if they decline to participate in abortions. Absent clarification, the IFR creates the opportunity for violation of employee rights during the implementation process. The First Amendment, the Religious Freedom Restoration Act, Title VII of the Civil Rights Act, and the Coats-Snowe Amendment are invaluable tools to enforce our country’s tradition of freedom of conscience. But we cannot count on vigorous enforcement of these protections under a pro-abortion administration and when the process is a bureaucratic nightmare that can take years. In the interest of shielding healthcare providers from VA overreach, the IFR must include explicit conscience protections.

Veterans deserve assistance for their service-connected injuries, not politics. The IFR reveals a disconnect and lack of concern that surrounds their sacrifices by the very department that was created to ensure their well-being. We urge you to rescind this IFR.

Sincerely,

Penny Young Nance
CEO and President
Concerned Women for America LAC

⁴ Knights of Columbus, “New Knights of Columbus/Marist Poll: A Majority of Americans Support Legal Limits on Abortion, and Oppose Taxpayer Funding,” Cision (Jan. 20, 2022), <https://www.prnewswire.com/news-releases/new-knights-of-columbusmarist-poll-a-majority-of-americans-support-legal-limits-on-abortion-and-oppose-taxpayer-funding-301465042.html>.

⁵ Mary E. Harned & Ingrid Skop, “Pro-Life Laws Protect Mom and Baby: Pregnant Women’s Lives are Protected in All States,” 86 Charlotte Lozier Institute On Point at 2-3 (updated Sept. 2022), <https://s27589.pcdn.co/wp-content/uploads/2022/09/On-Point-86-Pro-Life-Laws-Protect-Mom-and-Baby-pdf-edited-version-.pdf>.

⁶ See *Doe v. Bolton*, 410 U.S. 179, 192 (1973) (“health” includes “all factors—physical, emotional, psychological, familial, and the woman’s age—relevant to the well-being of the patient”).