



State of California
Office of the Attorney General

ROB BONTA
ATTORNEY GENERAL

March 28, 2025

The Honorable Douglas A. Collins
Secretary
Department of Veterans Affairs
1722 I Street NW
Washington, DC 20421

The Honorable Russell Vought
Director
Office of Management and Budget
725 17th Street NW
Washington, DC 20503

RE: Attorneys General Request an EO 12866 Meeting on “Reproductive Health Services,”
RIN 2900-AS31

Dear Secretary Collins and Director Vought:

On behalf of the States of California, Illinois, Massachusetts, New Jersey, New York, and Washington we write to express deep concern regarding OIRA’s EO 12866 review of the Department of Veterans Affairs’ (VA) Final Rule “Reproductive Health Services” (the “Rule”). This Rule expands veterans’ and their families’ access to vital reproductive health services in the wake of the U.S. Supreme Court overturning *Roe v. Wade*. Specifically, the Rule permits the VA medical benefits package and CHAMPVA to provide abortion counseling for all pregnancies and abortion services in situations where the patient’s life or health is threatened and in cases of self-reported rape or incest.

While it is unclear what regulatory action OIRA is reviewing, as no summary is available for RIN 2900-AS31, the proposed regulatory action is entitled “Reproductive Health Services” and is listed as the interim final rule stage.¹ While we have not had the opportunity to review any proposed rulemaking, we have significant concerns that VA may be taking action to eliminate or rescind the important protections in VA’s Final Rule, “Reproductive Health Services,” 87 Fed. Reg. 15,451 (March 4, 2024).

¹ <https://www.reginfo.gov/public/do/eoDetails?rrid=872014>

The Rule fills a significant gap in healthcare for an important population, offering veterans and their families access to the same healthcare services available to many civilians. Of the 2 million women veterans in the United States, 42% use VA healthcare and are of childbearing age.² It is critical that these veterans are provided, at minimum, with full options' counseling, and abortion services when necessary to protect their life or health or in cases of rape or incest.

Service members make incredible contributions to our national security and infrastructure, and provide critical aid during national emergencies. Service members and their families also make immense sacrifices for the benefit of civilians. They frequently relocate, often forgoing financial or professional opportunities in the private sector, disrupting educational development, and straining social relationships. In exchange, the VA offers medical care at no or reduced cost at its 1,380 locations. Yet it is only through the protections of the Rule that veterans are ensured access to healthcare in the same way as civilians. Relying on the VA for healthcare earned through military service should not have to include sacrificing access to, or traveling out-of-state to obtain, the full scope of medical care.

The Rule aligns with the Emergency Medical Treatment and Labor Act (EMTALA), which has long been interpreted to include emergency medical conditions involving or affecting pregnancy for which necessary stabilizing treatment may include abortion care. Many pregnancy and miscarriage complications are emergency medical conditions requiring time-sensitive stabilizing treatment that can include abortion. In an emergency, any failure to provide, or delays in providing, necessary abortion care puts the pregnant patient's life or health at risk.³ See *Moyle v. United States*, 603 U.S. 324, 340 (2024) (Kagan, E., concurring) (explaining that under EMTALA, there are a "host of emergency medical conditions that require stabilizing abortions...

² *VA to Provide Abortions, Counseling for Cases of Rape, Incest and Medical Complications from Pregnancy*, Military.com (Sept. 2, 2022), <https://www.military.com/daily-news/2022/09/02/va-provide-abortion-counseling-cases-of-rape-incest-and-medical-complications-pregnancy.html>; *Issue Brief: State Abortion Bans Could Harm Nearly 15 Million Women of Color*, Nat'l Partnership for Women & Families (June 2023), <http://www.nationalpartnership.org/our-work/economic-justice/reports/state-abortion-bans-harm-woc.html>.

³ See, e.g., Reuters Fact Check, *Fact Check-Termination of pregnancy can be necessary to save a woman's life, experts say*, Reuters (Dec. 27, 2021), <https://www.reuters.com/article/factcheck-abortion-false/fact-check-termination-of-pregnancy-can-be-necessary-to-save-a-womans-life-experts-say-idUSL1N2TC0VD> (discussing, for example, that placental abruption presents a risk of hemorrhage, which if left untreated, threatens the pregnant person's life and that preeclampsia if not treated quickly can result in the pregnant person's death); American College of Obstetricians and Gynecologists, *Abortion Bans Are to Blame, Not Doctors*, (Oct. 3, 2024) <https://www.acog.org/news/news-releases/2024/10/acog-abortion-bans-are-to-blame-not-doctors> ("Doctors are being forced to practice under draconian laws designed to prevent care in the nuanced and complex situations that occur in real life. These doctors are struggling, too, facing the despair of being prevented from providing lifesaving care.").

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include[ing] pre-eclampsia, preterm premature rupture of the membranes (PPROM), sepsis, and placental abruption”).

Permitting abortion where a pregnancy is the result of self-reported rape or incest, particularly given the prevalence of sexual violence resulting in pregnancy, is vitally important. Sexual violence is far too common in our culture and has pervasive physical and mental health consequences, which are often exacerbated by a resulting pregnancy. Veterans report higher rates of sexual trauma than their civilian peers.⁴ While nothing can erase the damage caused by rape or incest, permitting an abortion in these cases when sought by the pregnant person offers survivors the power to make a medical decision that could help regain a sense of control and healing. The Rule permits self-reported rape or incest as the qualifying standard (as opposed to requiring other official confirmation, such as a police or medical report) for individuals to obtain an abortion. This is particularly important because many instances of sexual violence are not reported to authorities. Patients who are victims of rape or incest are faced with extremely sensitive situations and may not be comfortable filing a police report for safety or other reasons.

Finally, ensuring access to abortion counseling is part of patient-centered care, which builds trust among providers and patients. Effective healthcare requires building trust to ensure a patient is comfortable sharing their concerns with the provider. Patients should have an opportunity to discuss their reproductive healthcare options with a qualified medical professional prior to making a medical decision—abortion is no different than any other medical treatment. Having access to abortion counseling with a trusted provider is particularly important because of the immensely personal nature of choosing whether or not to terminate a pregnancy. The Rule’s coverage of access to abortion counseling is critical to ensure patients can make informed medical decisions.

In order to more fully outline the importance of the Rule to families in our States, we request that OIRA meet with our staff at the soonest possible date. Please contact the California Attorney General’s Senior Advisor Karli Eisenberg at Karli.Eisenberg@doj.ca.gov or (916) 210-7913 to arrange a meeting. We look forward to your prompt response.

Sincerely,



ROB BONTA
California Attorney General



KWAME RAOUL
Illinois Attorney General

⁴ Carey Pulverman & Suzannah Creech, *The Impact of Sexual Trauma on the Sexual Health of Women Veterans: A Comprehensive Review*, *Trauma Violence Abuse*. 22(4): 656-671 (Oct. 2021). doi: 10.1177/1524838019870912.

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