

The Honorable Michael O. Leavitt  
Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue, SW  
Washington, DC 20201

July 30, 2008

Dear Secretary Leavitt:

On behalf of the undersigned health care providers and professionals, we are writing to express our grave concerns about a U.S. Department of Health and Human Services (HHS) draft proposed regulation, which we believe will threaten and restrict women's access to reproductive health and birth control services. If implemented, this regulation would upend state laws protecting women's access to care and erect barriers to obtaining basic health services, at a time when we should be working together to expand access to preventive health care.

The HHS draft regulation confuses contraception with abortion. By doing so, it undermines our shared national goal of reducing unintended pregnancy and abortion. The oral contraceptive pill is the most common contraceptive method in the country, and 82% of women have relied on oral contraceptives at some time in their lives.<sup>1</sup> Oral contraceptives, when taken consistently and correctly, are extremely effective at preventing ovulation. Yet the proposed regulation would threaten the state laws that improve access to contraception. Moreover, the regulation specifically defines as problematic state laws that require employers who offer drug benefits to cover contraception, require hospitals to offer emergency contraception to rape survivors and require pharmacies to fill valid prescriptions. Loss of these protections compromises women's access to medical services and safe and effective birth control.

The proposed regulation would redefine abortion as "any of the various procedures – including the prescription, dispensing, and administration of any drug or the performance of any procedure or any other action – that results in the termination of the life of a human being in utero between conception and natural birth, whether before or after implantation." This definition is contrary to major medical authorities, including the American College of Obstetricians and Gynecologists, the American Medical Association, and the British Medical Association, which define an established pregnancy as occurring after a fertilized egg is implanted in the lining of the uterus. The sweeping proposed definition is so overly-broad that it could capture a range of hormonal contraceptives and non-hormonal devices approved by the Food and Drug Administration (FDA) to prevent pregnancy.

Furthermore, the draft regulation expands the scope of providers who can claim objections. The meaning of the term "assist in the performance" is broadened to include even people tangentially related to patient care, such as those employed to clean medical instruments, health care entities,

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<sup>1</sup> Mosher W.D., et al., *Use of Contraception and Use of Family Planning Services in the United States: 1982-2002*, *Advance Data from Vital and Health Statistics*, No. 350, 2004.

such as HMOs, and health insurance plans. In fact, entire institutions receiving funding from HHS could choose to make birth control unavailable to their patients.

We urge the Administration to reconsider this detrimental regulation.

Sincerely,

American Academy of Family Physicians  
American Academy of Pediatrics  
American College of Nurse Midwives  
American College of Obstetricians & Gynecologists  
American Medical Women's Association  
American Nurses Association  
Association of Women's Health, Obstetric & Neonatal Nurses  
Physicians for Reproductive Choice and Health  
Society for Adolescent Medicine