

October 11, 2022

Dr. Shereef Elnahal  
Under Secretary of Health  
Department of Veteran Affairs  
810 Vermont Avenue NW  
Washington, DC 20420

*Submitted electronically via regulations.gov*

**Re: Reproductive Health Services Interim Final Rule, RIN: 2900-AR57**

Dear Dr. Elnahal,

On behalf of the American Academy of Family Physicians, American College of Obstetricians and Gynecologists, and American College of Physicians, representing nearly 348,000 physicians and partners dedicated to advancing the health of our patients, we are writing to express strong support for the policies included in the Department of Veterans Affairs' (VA) Reproductive Health Services Interim Final Rule (the IFR) that will facilitate access to evidence-based reproductive health care for veterans and Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA) beneficiaries. Access to reproductive health care, including abortion care, is a component of comprehensive, evidence-based health care, and our organizations support efforts to strengthen the patient-physician relationship and remove barriers to this care.

**Impacts of Military Service on Women's Health**

There are nearly two million women veterans in the United States. Women are the fastest-growing group within the veteran population, with the total population expected to increase at an average rate of about 18,000 women per year for the next 10 years.<sup>i</sup> Approximately 43 percent of Veteran's Health Administration (VHA) patients who are women are between the ages of 18 and 44.<sup>ii</sup> As more women are serving in the military, and a greater proportion of United States veterans are women, it is essential that the VHA is well prepared to address the health care needs of this demographic group.<sup>iii</sup> Military service is associated with unique risks to women's reproductive health, including a high prevalence of posttraumatic stress disorder, intimate partner violence, and military sexual trauma.<sup>iv</sup> In addition, veterans experience pregnancy complications at a higher rate than the general population, and a higher pregnancy-associated maternal mortality ratio, with mental health conditions cited as a factor in the majority of pregnancy-associated deaths among veterans.<sup>v</sup>

**The IFR Would Remove Burdensome and Harmful Restrictions on Health Care Services**

We commend the Department for providing access to abortion care and counseling for veterans and their family members. These policy changes represent urgently needed steps to respond to the devastating effects of the recent U.S. Supreme Court decision in *Dobbs v. Jackson Women's Health Organization*, which has already jeopardized or eliminated access to abortion care for millions of people.

Abortion care is a component of comprehensive, evidence-based health care.<sup>vi</sup> Like all medical matters, decisions regarding reproductive health care, including abortion care, should be made by patients in consultation with their clinicians and without undue interference by outside parties.<sup>vii</sup> Like all patients, veterans seeking abortion care are entitled to privacy, dignity, respect, and support.<sup>viii</sup> Conversely, when restrictions are placed on abortion access, patients and families suffer.<sup>ix</sup> In those instances, patients of color, those without ample financial means, and those in rural communities are most severely harmed.<sup>x</sup>

Our organizations are very concerned about the growing number of states that are restricting or outright banning abortion care and the resulting negative impact on the patient-physician relationship and patient health, including the health of veterans and their family members. In recent years abortion care has become increasingly excluded from its appropriate place in mainstream medical care.<sup>xi</sup> In the short time since the *Dobbs* decision, those seeking abortion care have been faced with increased confusion and uncertainty, leading to delays and denials of care. Recent studies evaluating the impact of laws restricting access to abortion care have come to alarming conclusions regarding their impact on maternal health. One study found that “state-mandated expectant management of obstetrical complications in the periviable period was associated with significant maternal morbidity.”<sup>xii</sup> Another recent study concluded that abortion bans have the potential to significantly increase pregnancy-related deaths, particularly among Black individuals.<sup>xiii</sup>

The IFR gives appropriate weight to the expert medical judgment of clinicians, who train for years to provide evidence-based, individualized care to their patients, by specifying that “Assessment of the conditions, injuries, illness, or disease that will qualify for this care will be made by appropriate health care professionals on a case-by-case basis.”<sup>xiv</sup> The IFR also clarifies that, when the pregnancy is the result of an act of rape or incest, that self-reporting from the pregnant veteran or CHAMPVA beneficiary constitutes sufficient evidence.<sup>xv</sup> Our organizations implore the Department to ensure that implementation of the IFR maintains this deference to clinical judgment when determining the impact of physical or mental health conditions on the life or health of the pregnant veteran or CHAMPVA beneficiary. If necessary, the Department should be prepared to clarify in any supplemental guidance that no additional administrative barriers should delay or impede access to care determined appropriate by the medical judgment of a health care professional.

### **The IFR is Critical in Light of the *Dobbs* Decision**

As noted in the IFR, the onslaught of state bans and restrictions have created “urgent risks to the lives and health of pregnant veterans and the health of pregnant CHAMPVA beneficiaries in those States.”<sup>xvi</sup> The growing number of states banning abortion care has escalated access inequities and threatens to criminalize or otherwise penalize physicians and other clinicians for providing evidence-based, compassionate care consistent with their medical judgment, clinical guidance, and their patients’ needs. According to VA, over 155,000 veterans who may need abortion care and rely on VA for health care live in states with abortion bans and restrictions.<sup>xvii</sup> Due to this crisis, our organizations agree with the IFR’s determination that the Department had good cause to skip the notice-and-comment process typically required by the Administrative Procedure Act given the urgent need to address newly imminent threats to the health and well-being of veterans and beneficiaries.

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Thank you for the opportunity to comment on the importance of the policies in the IFR. There is an urgent need to ensure that veterans and their families have access to comprehensive, evidence-based reproductive health care. We urge you to ensure swift implementation and consider further actions the VA can take to increase access to evidence-based care for veterans and their families. If you have any questions or would like to discuss further, please contact Rachel Tetlow, ACOG Federal Affairs Director, at [rtetlow@acog.org](mailto:rtetlow@acog.org).

Sincerely,

America Academy of Family Physicians  
American College of Obstetricians and Gynecologists  
American College of Physicians

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<sup>i</sup> National Center for Veterans Analysis and Statistics, U.S. Department of Veterans Affairs, *The Past, Present, and Future of Women Veterans 10* (2017), available at

[https://www.va.gov/vetdata/docs/SpecialReports/Women\\_Veterans\\_2015\\_Final.pdf](https://www.va.gov/vetdata/docs/SpecialReports/Women_Veterans_2015_Final.pdf).

<sup>ii</sup> Women Veterans Health Care Facts and Statistics about Women Veterans. U.S. Department of Veterans Affairs. Available at:

<https://www.womenshealth.va.gov/WOMENSHEALTH/latestinformation/facts.asp#:~:text=Women%20Veterans%20Health%20Care,->

[Facts%20and%20Statistics&text=In%202017%20the%20median%20age,of%20women%20Veteran%20VHA%20patients.](https://www.womenshealth.va.gov/WOMENSHEALTH/latestinformation/facts.asp#:~:text=Women%20Veterans%20Health%20Care,-Facts%20and%20Statistics&text=In%202017%20the%20median%20age,of%20women%20Veteran%20VHA%20patients.)

<sup>iii</sup> Health care for women in the military and women Veterans. Committee Opinion No. 547. American College of Obstetricians and Gynecologists. *Obstet Gynecol* 2012;120:1538–42.

<sup>iv</sup> Ibid.

<sup>v</sup> Examining women veterans' access to the full spectrum of medical care, including reproductive healthcare, through the Department of Veterans Affairs (VA) Veterans Health Administration (VHA): Hearing before the U.S. House of Representatives Committee on Veterans' Affairs, 117<sup>th</sup> Cong. (2022) (testimony of Dr. Shereef Elnahal, Under Secretary for Health, Veterans Health Administration, U.S. Department of Veterans Affairs).

<https://docs.house.gov/meetings/VR/VR00/20220915/115111/HHRG-117-VR00-Wstate-ElnahalS-20220915-U1.pdf>

<sup>vi</sup> Abortion Policy Statement, The American College of Obstetricians and Gynecologists, <https://www.acog.org/clinical-information/policy-and-position-statements/statements-of-policy/2022/abortion-policy> (May, 2022)

<sup>vii</sup> Ibid.

<sup>viii</sup> Ibid.

<sup>ix</sup> Increasing access to abortion. ACOG Committee Opinion No. 815. American College of Obstetricians and Gynecologists. *Obstet Gynecol* 2020;136:e107–15.

<sup>x</sup> *Dobbs v. Jackson Women's Health Organization*. Brief amici curiae of the American College of Obstetricians and Gynecologists, American Medical Association, et al. 20 Sept 2021.

[https://www.supremecourt.gov/DocketPDF/19/19-1392/193074/20210920174518042\\_19-1392%20ObsacACOGetal.pdf](https://www.supremecourt.gov/DocketPDF/19/19-1392/193074/20210920174518042_19-1392%20ObsacACOGetal.pdf).

<sup>xi</sup> Increasing access to abortion. ACOG Committee Opinion No. 815. American College of Obstetricians and Gynecologists. *Obstet Gynecol* 2020;136:e107–15.

<sup>xii</sup> Nambiar A, Patel S, Santiago-Munoz P, Spong CY, Nelson DB. Maternal morbidity and fetal outcomes among pregnant women at 22 weeks' gestation or less with complications in 2 Texas hospitals after legislation on abortion. *Am J Obstet Gynecol*. 2022 Oct;227(4):648-650.e1. doi: 10.1016/j.ajog.2022.06.060. Epub 2022 Jul 5. PMID: 35803323.

<sup>xiii</sup> Stevenson, AJ. The pregnancy-related mortality impact of a total abortion ban in the United States: a research note on increased deaths due to remaining pregnant. *Demography*. December 1, 2021; 58 (6):2019–2028. doi: <https://doi.org/10.1215/00703370-9585908>

<sup>xiv</sup> Reproductive Health Services, 87 Fed. Reg. 55294 (September 9, 2022).

<sup>xv</sup> Ibid.

<sup>xvi</sup> Reproductive Health Services; Department of Veterans Affairs 2022, 87 Fed. Reg. 55293.

<sup>xvii</sup> Reproductive Health Services; Department of Veterans Affairs 2022, 87 Fed. Reg. 55293.