

September 2, 2025

Steven L. Lieberman
Acting Under Secretary for Health
Department of Veterans Affairs
810 Vermont Avenue NW
Washington, DC 20420

Submitted Electronically

Attention: Reproductive Health Services, 38 CFR Part 17 (RIN 2900-AS31)

Dear Mr. Lieberman:

Physicians for Reproductive Health (PRH) writes to comment on the Department of Veteran Affairs (VA) proposed rule on Reproductive Health Services. PRH is a physician-led national advocacy organization that organizes, mobilizes, and amplifies the voices of medical providers to advance sexual and reproductive health, rights, and justice. Our programs combine education, advocacy, and strategic communications to ensure access to abortion care and equitable, comprehensive health care. We believe that this work is necessary for all people to live freely with dignity, safety, and security.

PRH has a network of over 500 physician advocates, including physicians who work at VA facilities and physicians who serve veterans. PRH writes in strong opposition to this proposed rule. VA proposes a total ban on abortion counseling and abortion services from the medical benefits package for veterans. VA proposes the same ban in the Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA), targeting veterans' beneficiaries and loved ones. Under this proposed rule, veterans and their beneficiaries can no longer access abortion if a pregnancy is result of rape, incest, or endangers the life or health of a pregnant person.

Congress charges VA with the directive to “promote, preserve, or restore the health” of the veterans they serve.¹ VA’s proposed rule willfully neglects the health of veterans and their loved ones by denying them needed care. The proposed rule is antithetical to VA’s direction to help veterans. The Veterans Health Administration (VHA) is the largest integrated health care system in the United States, serving over 2 million women² veterans.³ Women are the fastest growing demographic of veterans. Without abortion services, VA cannot respond to the emerging

¹ 38 C.F.R. § 17.38(b) (2025).

² PRH recognizes the disproportionate impact that bans on abortion have on women, including transgender women. We are also aware that individuals who become pregnant and give birth are transgender men, gender diverse, or do not identify as women. We use the term “women” throughout the comment in reference to the gendered research, sources, or quotes cited.

³ VETERANS HEALTH ADMIN., *About VHA*, <https://www.va.gov/health/aboutVHA.asp> (last visited Aug. 27, 2025); U.S. DEP’T VETERAN AFF., *Women Veterans Health Care*, <https://www.womenshealth.va.gov/materials-and-resources/facts-and-statistics.asp> (last visited Aug. 27, 2025).

health needs of its members.⁴ Access to abortion is essential to a person's freedom to make decisions about their body, life, and futures. All reproductive health care, including abortion, is essential care grounded in evidence-based science and built upon the lived experience and needs of patients. VA should remove all barriers to abortion care and abortion counseling.

I. The proposed rule creates onerous barriers on veterans and their loved ones, thus exacerbating negative health outcomes.

Since the Supreme Court's decision to overturn *Roe v. Wade*,⁵ 22 states have banned abortion entirely or have restrictions in place that limit one's ability to control their reproductive future.⁶ The 2022 VA IFR allowed abortion care and counseling options within VA and CHAMPVA in cases of rape, incest, or where the life or health of the pregnant person was endangered. While these exceptions were narrow, this expansion of care was invaluable for veterans and their family members. VA noted in the 2022 IFR that the fall of *Roe* created "urgent risks to the lives and health of pregnant veterans and the health of pregnant CHAMPVA beneficiaries."⁷ Now, VA's proposed rule strips access and returns the burden of finding care back to veterans and their loved ones. This burden can be insurmountable as individuals face compounding health and socio-economic challenges that push abortion care out of reach.

Pregnancy and childbirth can have severe health consequences, and veterans experience pregnancy complications at a higher rate than the general population.⁸ VA will contribute to worsening maternal health outcomes by denying abortion care to veterans and their loved ones. Data shows that those who are denied an abortion may experience enduring chronic health conditions, such as migraines and hypertension, and eclampsia.⁹ Certain health conditions related pregnancy are exacerbated by the physical and mental demands of military service. For example, a 2017 report from the VA's Office of Research and Development found that PTSD may be a risk factor for both gestational diabetes and pre-eclampsia.¹⁰ Further, maternal mortality and morbidity is uniquely high in the United States. This is especially true for Black women who are

⁴ U.S. DEP'T VETERAN AFF., *supra* note 3.

⁵ *Roe v. Wade*, 410 U.S. 113 (1973).

⁶ CTR. REPROD. RTS., *After Roe Fell: Abortion Laws By State* (last visited Aug. 28, 2025), <https://reproductiverights.org/after-roe-fell-abortion-laws-by-state/>.

⁷ Reproductive Health Services, 87 Fed. Reg. 55288 (Sept. 9, 2022) (codified at 38 C.F.R.pt. 17).

⁸ See Jonathan G. Shaw et al., *Selection of Higher Risk Pregnancies into Veterans Health Administration Programs: Discoveries from Linked Department of Veterans Affairs and California Birth Data*, 53 Health Servs. Rsch. 5260 (2018) <https://pmc.ncbi.nlm.nih.gov/articles/PMC6235819/>; Joan L. Combellick et al. *Severe Maternal Morbidity Among a Cohort of Post-9/11 Women Veterans*, 29 J. Women's Health 577 (2020) <https://pubmed.ncbi.nlm.nih.gov/31905319/>.

⁹ ADVANCING NEW STANDARDS REPROD. HEALTH, *The Harms of Denying a Woman a Wanted Abortion Findings From The Turnaway Study*, (2020) https://www.ansirh.org/sites/default/files/publications/files/the_harms_of_denying_a_woman_a_wanted_abortion_4-16-2020.pdf.

¹⁰ Tristan Horrom, *Gestational Diabetes and Preeclampsia Rates Higher in Women with PTSD*, U.S. DEP'T. VETERANS AFFS. (Apr. 26, 2017), <https://www.research.va.gov/currents/0417-pregnancy.cfm>.

three times more at risk of pregnancy-related death than white women.¹¹ VA is abandoning its growingly diverse base by eliminating abortion care and counseling.

It is crucial to note that veterans report sexual trauma at a higher rate than the general population. One in three women veterans report experiencing military sexual trauma.¹² Survivors of sexual trauma can experience adverse health conditions when forced to carry a pregnancy that is the result of rape or incest, such as PTSD, depression, severe anxiety, or chronic pain.¹³ The proposed rule will eliminate abortion care and counseling for survivors of rape and incest. Veterans who experienced military sexual trauma and are pregnant are at a greater risk of mental health disorders. Abortion counseling and abortion services are crucial for those experiencing mental health crisis and living through military sexual trauma.

As highlighted, VHA serves a particularly vulnerable population that is at risk for adverse pregnancy outcomes. In addition to the serious health consequences for patients who are denied abortion in VHA and CHAMPVA, there are onerous barriers associated with seeking care. These barriers are intensified for veterans and their loved ones.¹⁴ VA's proposed rule will force patients to seek care outside the VA system; a patient's trusted provider in VA may not even refer them to an abortion provider outside the VA system. The cost, logistics, risk, and stigma associated with care is so burdensome that many are forced to forgo care all together.¹⁵ Those in hostile states or states with complete bans are left with no option but to travel long distances for care, accruing additional expenses along the way. As care is delayed, the logistical, financial, and systemic burdens increase.

II. The proposed rule will force VA health care providers to deny patients essential health care services and disregard their own best medical judgment.

Health care providers who work in VA facilities are dedicated to serving those who have served. Like all providers, VA health care providers aim to deliver care that is supported by science, research, and years of medical training. Abortion care and compassionate abortion counseling is backed by an overwhelming majority of leading medical organizations, such as the

¹¹ CTR. DISEASE CONTROL, *Working Together to Reduce Black Maternal Mortality* (Apr. 8, 2024) <https://www.cdc.gov/womens-health/features/maternal-mortality.html>.

¹² U.S. DEP'T VETERAN AFFS., *Military Sexual Trauma*, https://www.ptsd.va.gov/understand/types/sexual_trauma_military.asp (last visited Aug. 27, 2025).

¹³ *Id.*

¹⁴ See e.g., Colleen P. Judge-Golden et al., *The Association Between Mental Health Disorders and History of Unintended Pregnancy Among Women Veterans*, 33 J. GEN. INTERNAL MED. 2092 (2018), <https://link.springer.com/article/10.1007/s11606-018-4647-8> (finding high rates of mental health disorders among women veterans make them susceptible to negative health outcomes associated with unwanted pregnancy); Tamara Dubowitz, *Food Insecurity Among Veterans*, RAND CORP. (2021), www.Rand.Org/Pubs/Perspectives/PEA1363-2.html (finding 1.5 million veterans live below the FPL).

¹⁵ See NAT'L P'SHP WOMEN & FAMILIES, *Cumulative Costs of Barriers to Abortion* (June 2024), <https://nationalpartnership.org/wp-content/uploads/cumulative-costs-barriers-abortion-care.pdf>.

American College of Obstetricians and Gynecologists and the American Medical Association.¹⁶ The VA's proposed rule is not grounded in science or reality and will enforce medically unnecessary restrictions on health care. Instead, the proposed rule disregards the medical judgement of highly skilled providers, violates the precious patient-provider relationship, and denies that bans on abortion services harm patients and providers.

Abortion is needed health care and is in line with standard medical practice.¹⁷ Bans and restrictions on abortion services interfere with this standard practice and interrupt the patient-provider relationship. Since the 2022 IFR, those who receive care within the VA could finally rely on their regular health care system for abortion services. While the 2022 IFR limited abortion services within an exceptions framework, the IFR correctly deferred to the clinical judgement of providers.¹⁸ Now, providers cannot deliver care in line with a patient's wishes or health needs. Denying abortion care in VA and CHAMPVA will impact individual and public health, thus deepening existing inequity for veterans. For example, people who are denied an abortion are more likely to experience serious health complications at the end of their pregnancy, remain in unsafe relationships, and are more likely to experience poverty.¹⁹ When patients are denied the care that they need from providers that they trust, their health suffers.²⁰

Further, the proposed rule cuts off providers' ability to inform patients of their pregnancy options by eliminating abortion counseling from VA and CHAMPVA benefits. Withholding information from patients is "ethically unacceptable" and in stark contrast to a provider's duty to promote patient welfare.²¹ Informed consent is a core component of providing care that centers dignity and bodily autonomy. Ensuring patients are fully informed about care options certifies voluntary decision making and fosters trust in the provider-patient relationship. Patients should have freedom to make decisions about their health care with support from their providers and without political influence from federal and state governments.

¹⁶ See AM. COLL. OBSTETRICIANS & GYNECOLOGISTS, *Facts are Important: Abortion Is Healthcare*, <https://www.acog.org/advocacy/facts-are-important/abortion-is-healthcare> (last visited Aug. 27, 2025); Kevin B. O'Reilly, *AMA Holds Fast to Principle: Reproductive Care is Health Care*, AM. MED. ASS'N (Nov. 17, 2022), <https://www.ama-assn.org/delivering-care/population-health/ama-holds-fast-principle-reproductive-care-health-care>.

¹⁷ See 38 C.F.R. § 17.38(b) (2025) ("Care referred to in the 'medical benefits package' will be provided to individuals only if it is determined by appropriate health care professionals that *the care is needed* to promote, preserve, or restore the health of the individual and is in accord with generally accepted standards of medical practice.") (emphasis added)

¹⁸ Reproductive Health Services, 87 Fed. Reg. 55289 (Sept. 9, 2022) (codified at 38 C.F.R.pt. 17).

¹⁹ See ADVANCING NEW STANDARDS REPROD. HEALTH, *supra* note 9.

²⁰ See Grace Keegan et al., *Trauma of Abortion Restrictions and Forced Pregnancy: Urgent Implications for Acute Care Surgeons*, 8 Trauma Surgery & Acute Care Open 1067 (2023) <https://pmc.ncbi.nlm.nih.gov/articles/PMC9896239/>.

²¹ AM. MED. ASS'N, *Code of Medical Ethics, Withholding Information From Patients*, <https://code-medical-ethics.ama-assn.org/ethics-opinions/withholding-information-patients> (last visited Aug. 27, 2025).

Finally, increasing reports of individuals who were harmed or lost their lives because of abortion bans prove that exceptions to bans do not protect patients.²² Despite this, VA proposes an extremely narrow exception within CHAMPVA that allows abortion care when a “physician certifies that the life of the mother would be endangered if the fetus were carried to term.”²³ This exception is only within CHAMPVA and not available in the VA medical benefits package. The inconsistency between the two programs will fuel confusion for patients and providers. Confusion for patients and providers is already at an all-time high due to the criminal, civil, and professional consequences that exist for provision of abortion care.²⁴ Vague exceptions that narrowly limit when a provider can deliver care, such as the CHAMPVA exception, force providers to weigh potential legal ramifications instead of providing care. This ultimately results in delays and denials of care. Requiring certification of life endangerment for abortion care is an unworkable and unrealistic exception that hurts both patients and providers.

Conclusion

Everyone—including veterans and their loved ones—deserves access to comprehensive, respectful, and compassionate reproductive health care. For the foregoing reasons, we strongly urge VA to rescind this proposed rule. If you require any additional information about the information raised in this comment, please reach out to Natasha Rappazzo, If/When/How Reproductive Justice Fellow, nrappazzo@prh.org.

Sincerely,

Dr. Jamila Perritt, MD, MPH, FACOG
President and CEO
Physicians for Reproductive Health

²² See Roxanne Szal, *Rest in Power: A Running List of the Preventable Deaths Caused by Abortion Bans*, MS. MAG. (Apr. 3, 2025, 10:07 AM), <https://msmagazine.com/2024/11/04/women-die-abortion-ban-elections-vote/>.

²³ Reproductive Health Services, 90 Fed. Reg. 36415 (Aug. 4, 2025) (to be codified at 38 C.F.R.pt. 17).

²⁴ See Sophie Bjork-James et al., *Doctors Are Preoccupied with Threats of Criminal Charges in States with Abortion Bans, Putting Patients' Lives at Risk*, THE CONVERSATION (Oct. 25, 2024, 8:47 AM), <https://theconversation.com/doctors-are-preoccupied-with-threats-of-criminal-charges-in-states-with-abortion-bans-putting-patients-lives-at-risk-240524>.