CONNECTICUT VETERANS LEGAL CENTER

Director, Office of Regulation Policy and Management
U.S. Department of Veterans Affairs
810 Vermont Avenue NW, Room 1064
Washington, DC 20420
via: www.Regulations.gov

Comment Concerning Proposed Rule To Remove Exclusion for Abortion Services

Dear Director,

On behalf of the Connecticut Veterans Legal Center (CVLC), we file this comment regarding the Department of Veterans' Affairs' (VA) proposal to "reinstate the full exclusion on abortions and abortion counseling from the medical benefits package." This exclusion was removed in 2022, in response to the Supreme Court's decision to overturn *Roe v. Wade*, 410 US. 113 (1973) in *Dobbs v. Jackson Women's Health Organization, et al.*, 597 U.S. 215 (2022).

CVLC opposes this exclusion for the following reasons: (1) existing federal law mandates that abortion be available cases of rape and incest, and to protect the welfare of the mother; and (2) excluding abortion from the VA medical benefits package would have a disproportionate and potentially fatal impact upon female veterans, the fastest growing population of veterans in the country.

I. WHO WE ARE

Connecticut Veterans Legal Center provides legal representation at no-cost to low-income Veterans. CVLC is a 501(c)3 nonprofit agency and while we partner with many government and non-government agencies, we are a completely independent nonprofit. As a recovery-focused organization, CVLC primarily, but not exclusively, serves clients through a Medical-Legal Partnership model in which we partner with Veterans Administration Hospitals ("the VA") and other connected providers to provide holistic support for Veterans alongside their clinicians to secure housing and access to healthcare and income benefits. Our mission is to empower, support, and improve the lives of Connecticut Veterans by providing free legal assistance to help them overcome legal barriers to housing, healthcare, income, and recovery.

Through our work, we have represented many veterans who became pregnant in service as a result of rape and who were forced to carry the pregnancy to term. VA did not provide abortion or abortion counseling prior to 2022, and our clients who were pregnant due to sexual assault during that time period suffered both mentally and physically because of those pregnancies It is for this reason that we issue comment on this proposed rule, urging VA to provide abortion care

and counseling in accordance with federal law and not to promulgate the proposed exclusion of healthcare services.

II. EXISTING FEDERAL LAW MANDATES THAT ABORTION MAY BE USED IN CASES OF RAPE, INCEST, AND THE WELFARE OF THE MOTHER.

The Hyde Amendment was enacted September 30, 1976. The law states that federal funds could not generally be used to pay for an abortion, but in all versions of the amendment passed since 1994, provides exceptions for the life of the mother and when the pregnancy results from rape or incest.[1]

Since the Supreme Court overturned *Roe v. Wade*, states have been able draft state-specific abortion laws that may not include exceptions for the life of the mother or for rape or incest. The Hyde Amendment, however, has not been modified to remove these exceptions.[2] As the federal government is not bound to a singular state's decision on abortion, it must look to federal law concerning the medical procedure. Should VA choose to expand or restrict abortion at all, it must comply with federal law. This includes the Hyde Amendment.

The Proposed Rule states that VA will allow for the provision of abortion only "when a physician certifies that the life of the mother would be endangered if the fetus were carried to term." It contains no mention of what happens if a woman is raped or if a family member's assault on them results in pregnancy. While the Hyde Amendment clearly states that abortion can be paid for with federal funding in these cases, the Proposed Rule would do away with these essential exclusions.

In these cases, women veterans would be left to deal with pregnancies resulting from sexual assault or incest, incidents that are traumatic unto themselves without the addition of a pregnancy. In states where abortion is illegal, women veterans would be forced to carry these pregnancies to term at great mental harm and potential physical risk. Military sexual trauma is far too common, with 38.4% of women veterans reporting MST,[3] for pregnancy resulting from sexual assault to be an abstract hypothetical.

Even more worrying is the requirement that women must have a medical professional certify that their life is in danger before performing an abortion. This certification process is not made clear in the proposed rule and seems to run contrary to the availability of the procedure in these instances as dictated in the Hyde Amendment. Should a doctor order that a woman receive an abortion due to hemorrhage, a severe birth defect, or a miscarriage, that order should be self-evident. If a doctor must certify that this abortion would save the life of the mother, it will have a chilling effect on doctors practicing medicine and providing the best care possible for their patients.

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[1] *See* Lieu, Edward and Shen, Wen, The Hyde Amendment: An Overview, United States Library of Congress, https://www.congress.gov/crs-product/IF12167.

[2] *Id*.; *see also* Deal, Laura, State Laws Restricting or Prohibiting Abortion, Congressional Research Service, https://www.congress.gov/crs-product/LSB10779.

[3] Wilson LC. The Prevalence of Military Sexual Trauma: A Meta-Analysis. Trauma Violence Abuse. 2018 Dec;19(5):584-597. doi: 10.1177/1524838016683459. Epub 2016 Dec 16. PMID: 30415636.https://pubmed.ncbi.nlm.nih.gov/30415636/

Miscarriages occur in nearly 30% of pregnancies[4] – and now that abortion is no longer readily accessible in many states, women are dying from the condition. Joseli Barnica[5] suffered a miscarriage at 17 weeks, but her medical team refused to intervene as the fetus still had a heartbeat. For 40 hours, Ms. Barnica suffered in excruciating pain as her uterus was filled with bacteria and infection. Three days after she delivered, she died. Porsha Ngumezi[6] suffered the same fate. She required two blood transfusions following a miscarriage at 11 weeks. Rather than perform the simple surgical procedure that would have removed the remaining tissue from her uterus, her doctor gave her misoprostol – a typically safe drug used to begin the process of abortion, but risky when miscarriage has already taken place. Three hours later, Porsha was dead.

It is hard to see how the veteran community will not suffer the same fate with the proposed rule. It is only a matter of time before a physician must weigh their patient's life against their own livelihood. This proposed exclusion will only exacerbate a growing epidemic of maternal death that disproportionately impacts our nation's veterans.

III. EXCLUDING ABORTION FROM THE VA MEDICAL BENEFITS PACKAGE WOULD HAVE A DISPROPORTIONATE AND FATAL IMPACT UPON FEMALE VETERANS.

The fallout of the Dobbs decision has already impacted a disproportionate number of female veterans – over 50%.[7] More than 400,000 women veterans live in states that severely restrict or ban abortion.[8] The veteran community also contains more than 11,000 transgender men and other individuals who may require abortion care and counseling.[9] These individuals who live in states that have completely banned abortion will have nowhere to go if they require these lifesaving procedures.

For example, the state of Texas has the largest veteran population in the country – 1.54 million as of late 2023.[10] Over 207,000 of those veterans are women.[11] Texas also has one of

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[4] Surana, Kavitha, et. al, A 'Striking' Trend: After Texas Banned Abortion, More Women Nearly Bled to Death During Miscarriage, July 1, 2025, https://www.propublica.org/article/texas-abortion-ban-miscarriage-blood-transfusions.

[5] Jarmillo, Cassandra, et. al, A Texas woman died after the hospital said it would be a crime to intervene in her miscarriage, October 30, 2024, https://www.texastribune.org/2024/10/30/texas-abortion-ban-josseli-barnica-death-miscarriage.

[6] Presser, Lizzie, et. al, A third woman has died under Texas' abortion ban as doctors reach for riskier miscarriage treatments, November 27, 2024, https://www.texastribune.org/2024/11/27/texas-abortion-death-porsha-ngumezi.

[7] McShane, Julianne, State abortion bans could affect over half of female veterans and women with disabilities, analysis finds, July 11, 2022, https://www.nbcnews.com/news/us-news/state-abortion-bans-affect-half-female-veterans-women-disabilities-ana-rcna37688.

[8] Fact Sheet: Abortion Access for Veterans, Center for Reproductive Rights, August 6, 2025, https://reproductiverights.org/fact-sheet-abortion-access-veterans.

[9] *Id*.

[10] Texas Veterans Commission, Texas has largest veteran population in U.S., leads nation in PACT Act disability claims assistance, July 27, 2023, https://tvc.texas.gov/news/texas-has-largest-veteran-population-in-u-s-leads-nation-in-pact-act-disability-claims-assistance.

[11] Women Veterans Program, Status of Texas Women Veterans 2024, November 1, 2024, https://tvc.texas.gov/wp-content/uploads/2024/11/Womens-Veteran-Report-2024.pdf..

the strictest abortion bans in the country.[12] Like the proposed rule, Texas does not allow abortions in cases of rape or incest.[13] Texas does have an exception, however: "The patient must have a life-threatening condition and be at risk of death or 'substantial impairment of a major bodily function' if the abortion is not performed."[14] Whoever is performing the abortion "…must try to save the life of the fetus unless this would increase the risk of the patient's death or impairment."[15]

With this framework, a rape survivor in Texas would not be able to obtain an abortion from a civilian physician. Currently, however, the same rape survivor could receive an abortion from her local VA. This would spare the rape survivor the additional trauma of months of unwanted pregnancy and childbirth; the trauma of carrying the pregnancy and being forced to bear witness to the rape on a daily basis; the trauma of potentially placing this child for adoption or raising them.

With the Proposed Rule, that same rape survivor would either be forced to carry the pregnancy to term or risk arrest by traveling thousands of miles to the nearest abortion clinic in another state.[16] Without the safety net of the VA, Texan veterans may face jail time to secure the abortions that they desperately need.

Finally, CVLC has direct experience with the catastrophic impacts a total abortion ban would have on our nation's veterans. We once represented a veteran who served in the early 2000s. She was raped on base and did not discover she was pregnant until after she separated. She went to VA to ask advice on how to obtain an abortion, but was turned away. She ultimately wound up giving birth to the child and gave the child up for adoption. However, the long-term impact on her mental health impact was profound. She spent nearly a decade as a homeless veteran who did not trust VA to support her. Only after significant counseling and legal assistance she was eventually able to receive healthcare and service-connected disability compensation from VA. In our client's case, she was failed twice – first by the military, where her MST occurred, and then by the VA, who perpetuated that harm by forcing her to continue a pregnancy after rape.

CONCLUSION

The mission of the Department of Veterans Affairs is "To care for him who shall have borne the battle, and for his widow, and his orphan." Despite their exclusion in the VA's mission statement, women have served in the Armed Forces for over 200 years.[17] As such, the VA has

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[12] "Chapter 107A of the Texas Health & Safety Code prohibits abortions in nearly all circumstances." Texas State Law Library, Is abortion illegal in Texas?, June 3, 2025, https://www.sll.texas.gov/faqs/abortion-illegal-texas.
[13] *Id*.
[14] *Id*.
[15] *Id*.
[16] "If a person performs an abortion, they could: be charged with a first or second degree felony, depending on whether the abortion resulted in the death of the fetus; have their license or permit revoked if they are a physician or health care professional; and be subject to a civil penalty of at least $100,000, plus attorney's fees and court costs." *Id*.
[17] DeSimone, D., Over 200 Years of Service: The History of Women in the U.S. Military, United Service Organizations, June 23, 2023, https://www.uso.org/stories/3005-over-200-years-of-service-the-history-of-women-in-the-us-military

the same obligation to women veterans as they do their male counterparts – to care for *her* who shall have borne the battle. This obligation has become only more evident in recent years as the percentage of the veteran population who are women has grown from 4% of the veteran population in 2000 to 11.3% in 2023, to a projected population of 18% in 2040.[18] This promise includes access to a safe and legal abortion.

We urge VA to continue serving women veterans by keeping the 2022 expansion of women's health in place. 88 women were saved in 2023 due to the VA providing them an abortion, a small but significant service to address a harm uniquely imposed on women veterans. We ask that VA honor their service and continue to offer the same healthcare to other veterans who may need it in the future.

Respectfully submitted,

/s/ Chelsea Donaldson
Chelsea Donaldson, Esq., L.M.S.W.
Supervising Attorney
Veteran Benefits and Military Unit
Connecticut Veterans Legal Center
114 Boston Post Road, Ground Floor
West Haven, CT 06516
cdonaldson@ctveteranslegal.org

[18] U.S. Department of Veteran Affairs, Women Veterans Health Care, "Facts and Statistics: Women are the fastest growing group in the Veteran population," , accessed Aug. 28, 2025.