



October 11, 2022

**Electronically Submitted**

The Honorable Denis R. McDonough  
Secretary  
U.S. Department of Veterans Affairs  
810 Vermont Ave. N.W.  
Washington, D.C. 20420

RE: Comments on Interim Final Rule: Reproductive Health Services,  
87 FR 55287 (September 9, 2022), (RIN: 2900-AR57, Docket ID  
2022-19239)

Dear Sir or Madam:

The Ethics & Religious Liberty Commission (ERLC) of the Southern Baptist Convention (SBC) respectfully submits the following comments in opposition to the Department of Veterans Affairs (VA) Interim Final Rule (IFR), "Reproductive Health Services," 87 FR 55287, RIN: 2900-AR57, published in the Federal Register on September 9, 2022.

The ERLC is the public policy and ethics entity of the SBC, which has nearly 14 million members in over 50,000 churches and congregations in the United States. We are charged by the SBC with addressing public policy affecting such issues as religious liberty, marriage and family, the sanctity of human life, and ethics.

The IFR would allow for tax-payer funded abortions as the Department of Veterans Affairs seeks to amend its medical regulations to remove the exclu-



sion on abortion counseling and abortions in the medical benefits package for veterans and eligible spouses and dependents.

The ERLC is gravely concerned about this IFR as the United States government should never force taxpayers to fund abortions nor force healthcare professionals to violate their dearly held beliefs about the value of every human life.

**Every human being has inherent dignity, value, and the right to life.**

Southern Baptists affirm that every life is worthy of protection, beginning with the preborn. We believe life begins at conception and that abortion denies precious human lives both personhood and protection. The Bible is clear that every person is made in the image of God – including the preborn – and his knowledge of these precious lives even precedes the creative act of conception (Jeremiah 1:5; Psalm 139:13). Every human being, no matter their stage of development, abilities, or circumstances of their conception, bears God’s image and has, therefore, been given immeasurable value.

Thus, abortion, at any stage of development denies the preborn child their inherent human rights, given to them by God, and memorialized in secular documents like the U.S. Constitution and the United Nations Universal Declaration of Human Rights. The latter states<sup>1</sup>, “Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.”

Abortion robs a child of their most basic right – the right to live. The U.S. government should never play a role in perpetrating abortions or funding

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<sup>1</sup> United Nations. *Universal declaration of human rights*. <https://www.un.org/en/about-us/universal-declaration-of-human-rights>



those who do. Americans remain divided over the issue of abortion<sup>2</sup>, and many Americans strongly object to their tax dollars being used for such actions, essentially forcing them to be participants in a great moral wrong.<sup>3</sup>

**The IFR is unlawful as it attempts to directly override an explicit statutory prohibition against the VA providing abortion services.**

Section 106(a) of the Veterans Health Care Act of 1992 (VHCA) expressly states, “In furnishing hospital care and medical services under chapter 17 of title 38, United States Code, the Secretary of Veterans Affairs may provide to women . . . [g]eneral reproductive health care . . . but not including under this section . . . abortions.”<sup>4</sup> This is an express statutory prohibition on the VA providing abortions.

In congruence with the 1992 law, the VA’s former regulations governing its medical benefits package effective beginning in 1999 stated that “the ‘medical benefits package’ does not include . . . abortions and abortion counseling.”<sup>5</sup>

Although the IFR claims that the Veteran’s Health Care Eligibility Reform Act of 1996 “overtook” the 1992 law, in fact, there is no mention of abortion in the 1996 act and no evidence that Congress intended to override the 1992 prohibition on abortions by the VA. By a standard reading of the statutes, the 1992 abortion prohibition still stands.

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<sup>2</sup> Pew Research Center. (2022, July 9). *America’s abortion quandary*. Pew Research Center's Religion & Public Life Project. <https://www.pewresearch.org/religion/2022/05/06/americas-abortion-quandary/>

<sup>3</sup> Knights of Columbus. (2022, January 20). *Americans’ opinions on abortion*. <https://www.kofc.org/en/resources/communications/marist-polling-slide-deck2022.pdf>

<sup>4</sup> Section 106(a)(3) of the Veterans Health Care Act of 1992, Public Law 103-585, November 4, 1992, 106 Stat. 4947), 38 U.S.C. 1710 note

<sup>5</sup> 38 CFR § 17.38(c)(1), 64 Fed. Reg. 54217, Oct. 6, 1999



**The IFR fails to provide exceptions for medical care providers who cannot preform abortions because it violates their conscience rights and deeply held religious beliefs.**

Christian doctrine and Southern Baptist teaching require that faith govern every aspect of a Christian's life. The Bible instructs that faith in Christ Jesus should suffuse all that we do (Romans 6:6–22; 12:1–2; 1 Cor. 4:1–2). Because God is the origin and Creator of humanity and everything in the world belongs to Him (Psalm 24:1), Christians believe that God is concerned with all areas of life. Thus, Christians seek to follow Jesus in every endeavor and see their entire lives in relationship to God as resulting from and pointing to the saving work of Jesus Christ (Col. 3:17; 23–24; 1 Cor. 10:31). Moreover, the Bible teaches that Christians should discern when to refrain from activities that would be unhelpful, or harmful, to their neighbor (1 Cor. 6:12; 10:23–11:1).

Additionally, the First Amendment of the U.S. Constitution protects the religious freedom of all citizens to practice their religion. The Establishment and Free Exercise Clause of the First Amendment and laws like the Religious Freedom Restoration Act (RFRA) safeguard citizens from government interference with their ability to live out their faith without a compelling government interest.

The IFR hinders VA medical providers' ability to honor their religious convictions regarding the sanctity of human life. The IFR provides no exceptions for medical professionals who cannot perform abortions or counsel women to have abortions due to their deeply held religious beliefs. There is no explanation as to how the VA will adequately protect these conscientious objections to abortions. A veteran's desire to end the life of their child in a VA hospital is not a sufficient "government interest" to justify asking Americans to violate



their conscience and be complicit in ending the life of an innocent child. In fact, the government's interest should be in wielding its authority to prevent the taking of that innocent child's life.

Abortion is not health care. Health care preserves human life while abortion ends it. For these reasons, the IFR should be retracted. The fact that the IFR does not even attempt to address the fundamental First Amendment rights of medical providers or taxpayers is further evidence that it is unlawful. Forcing pro-life Americans to fund the practice of taking innocent lives and forcing VA employees to perform abortions or counsel a patient about abortions is not only antithetical to our nation's principles—it is unconstitutional.

In summary, the IFR must be rescinded as it is unlawful and will lead to untold violations of conscience rights and religious freedom. We urge the Department to withdraw this harmful rule.

Thank you for the opportunity to comment.

Respectfully submitted,

Brent Leatherwood  
President  
Ethics & Religious Liberty Commission  
of the Southern Baptist Convention