



Written by [Michael Tennant](#) on October 16, 2022

Republicans Demand VA Drop Rule Allowing Its Facilities to Perform Abortions

Congressional Republicans are demanding that the Department of Veterans Affairs (VA) rescind its recently enacted rule allowing VA facilities to perform abortions at taxpayer expense — even in states where abortion is restricted by law.

On September 1, the VA [announced](#) that it had enacted an interim final rule, which would take effect immediately, to “allow VA to provide access to abortion counseling and — in certain cases — abortions to pregnant veterans and VA beneficiaries. Specifically, VA will provide access to abortions when the life or health of the pregnant veteran [or beneficiary] would be endangered if the pregnancy were carried to term, or when the pregnancy is the result of rape or incest.”



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In the statement, VA Under Secretary for Health Shereef Elnahal explained, “We came to this decision after listening to VA health care providers and veterans across the country, who sounded the alarm that abortion restrictions are creating a medical emergency for those we serve. Offering this care will save veterans’ health and lives, and there is nothing more important than that.”

As if the Biden administration’s intentions — namely, skirting state abortion restrictions in the wake of *Dobbs v. Jackson Women’s Health Organization* — weren’t clear enough, the announcement went on to declare that “VA is taking steps to guarantee veterans and other VA beneficiaries abortion-related care anywhere in the country. VA employees, when working within the scope of their federal employment, may provide authorized services regardless of state restrictions.”

Such audacity did not escape the notice of pro-life Republicans on Capitol Hill.

A week after the rule was promulgated, a group of 45 congressmen led by Representatives Andrew Clyde (R-Ga.) and Michael Cloud (R-Texas) sent a [letter](#) to VA Secretary Denis McDonough expressing their “very strong opposition” to the “blatantly illegal” rule.

“A federal agency is permitted to publish an interim final rule such as this only when it has ‘good cause’ to do [so] before first publishing a proposed rule as is normally required,” they wrote. “If [*Dobbs*] is the basis for your alleged ‘good cause’ for issuing the interim final rule, your department is bypassing regular rulemaking processes as part of a blatant political response to a Supreme Court decision, which is wholly unacceptable and inappropriate.”

“Moreover,” they continued, “your department is knowingly violating current law as the Hyde Amendment restricts abortions for active military members, and section 106 of the Veterans Health Care Act of 1992 explicitly prohibits the VA from providing abortion services — both of which are still the law of the land.”



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“You must reverse course immediately, or we will be forced to take further action to hold your department accountable for this overreach,” they warned.

On Tuesday, Senator Steve Daines (R-Mont.) also fired off a [missive](#) to McDonough “insist[ing] that [he] immediately rescind the illegal” rule.

Daines reminded McDonough that he had first claimed the authority to implement such a regulation during a House committee hearing in March 2021, after which Daines had asked the Congressional Research Service (CRS) to “analyz[e] the legality of such an action by the VA.”

In its June 2021 [response](#), CRS also cited section 106 of the Veterans Health Care Act, arguing that it “would appear to demonstrate Congress’s intent not to provide abortion services to female veterans. Although the section permits coverage of general reproductive health care, abortions are specifically identified as a health care service that the VA may not provide.” As a result, CRS argued, “it appears unlikely that a court would uphold regulations that had been revised to make abortion services available, if challenged.”

In other words, McDonough had to have known before creating the rule that he was engaging in highly questionable behavior that would probably be struck down by the courts. But such is the fervor for baby killing on the part of the Biden administration that McDonough proceeded anyway.

“Instead of focusing on improving care for our nation’s veterans, the Biden administration wants VA clinics to provide taxpayer-funded abortions on demand up to the moment of birth,” Daines said in a [statement](#). “This blatantly illegal move must be stopped.”

Outside of a court challenge, that is not likely to happen as long as Democrats control Congress. November’s elections, however, could change that.



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