

February 27, 2023

The Honorable Joe Biden  
President of the United States

Dear President Biden:

We, the undersigned organizations who support reproductive health, rights, and justice, write to urge you to ensure that the harmful Weldon Amendment is not included in your Fiscal Year (FY) 2024 budget. The Weldon Amendment is a poison pill budget rider that for far too long has misused religion to intimidate states that seek to protect abortion care by threatening critical federal health funding. The Weldon Amendment also emboldens health care entities to deny patients abortion care and coverage, prioritizing health care providers' beliefs over patient care. At this moment, following the devastating *Dobbs v. Jackson Women's Health Organization* decision, it has never been more urgent to strike Weldon from the annual budget and ensure the most basic protections for people who need abortion care.

Since FY 2005, Weldon has been attached to the Hyde Amendment<sup>1</sup> in the annual Labor, Health and Human Services, Education, and Related Agencies bill. It is deceptively written to prohibit "discrimination" against health care entities – anyone from hospitals, health insurance plans, individual nurses and doctors – that refuse to provide, cover, pay for, or refer for abortion. The Weldon Amendment is pernicious because it has been used to threaten policymakers with the loss of critical federal health dollars for advancing policies that protect and expand abortion care and coverage at the federal, state, and local levels. For example, in December 2020, during a pandemic, the Trump Administration attempted to strip California of \$800 million in federal Medicaid funding annually because state law ensures residents have insurance coverage of abortion.<sup>2</sup>

The Weldon Amendment also allows health care providers to leave patients without the care they need. There are no provisions in the Weldon Amendment to protect patient access to abortion services, which is harmful and also causes confusion about the application of other

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<sup>1</sup> Consolidated Appropriations Act, 2023, Pub. L. No. 117-328, § 506, 136 Stat. 4459, 4908.

<sup>2</sup> U.S. DEPT OF HEALTH & HUM. SERVS., *HHS to Disallow \$200M in California Medicaid Funds Due to Unlawful Abortion Insurance Mandate; Refers Vermont Medical Center to DOJ for Lawsuit Over Conscience Violations* (Dec. 16, 2020), <https://public3.pagefreezer.com/content/HHS.gov/31-12-2020T08:51/https://www.hhs.gov/about/news/2020/12/16/hhs-disallow-200m-california-medicaid-funds-due-unlawful-abortion-insurance-mandate.html>. In January 2020, the Trump Administration issued a notice of violation to the state of California. See U.S. DEPT OF HEALTH & HUM. SERVS., *HHS Issues Notice of Violation to California for its Abortion Coverage Mandate* (Jan. 24, 2020), <https://public3.pagefreezer.com/content/HHS.gov/31-12-2020T08:51/https://www.hhs.gov/about/news/2020/01/24/hhs-issues-notice-of-violation-to-california-for-its-abortion-coverage-mandate.html#:~:text=OCR%20is%20issuing%20a%20Notice,that%20did%20not%20cover%20elective.>

federal laws that protect patient access to care.<sup>3</sup> By its own terms, then, the Weldon Amendment poses tremendous injury to patients. And it also has been used by hostile administrations to expand refusals of care, harming even more individuals who need care. Both the George W. Bush Administration and the Trump Administration issued rules that relied on Weldon and other refusal of care laws to allow virtually any entity involved in health care to deny patients care and even information.<sup>4</sup> Fortunately, the most harmful provisions of these policies were blocked and reversed, including during the Obama Administration, by federal courts, and now by your Administration with the current Notice of Proposed Rulemaking (“Safeguarding the Rights of Conscience as Protected by Federal Statutes”)<sup>5</sup> – but the Weldon Amendment must be eliminated entirely to ensure similar policies expanding its reach are not enacted in the future.

The harm of the Weldon Amendment is more dire now, as states rush to ban abortion, leaving millions of people across the country without abortion access and forcing them to travel out of state to seek care. More than ever, states that want to protect their residents and those coming to their state must be allowed to enact policies that expand abortion access. The Weldon Amendment hampers these efforts. At the same time, the impact of refusals of care has only worsened following the *Dobbs* decision, as reports of patients being turned away for essential medical care and urgent medical interventions continue to arise. Eliminating Weldon will help remove any confusion or purposeful obfuscation about the application of other federal laws and empower states where abortion is still legal to protect and expand access to care.

Eliminating the Weldon Amendment is not only critical as a matter of policy, it is also popular with voters. We saw that even before the *Dobbs* decision: a July 2021 poll in battleground congressional districts found that 6 in 10 oppose allowing health care providers to refuse treatment to a woman seeking an abortion because of religious or moral beliefs.<sup>6</sup> More recently, in a June 2022 poll of likely 2022 voters, the majority opposed the idea that institutions, including insurance companies (66 percent of respondents), employers (63 percent), and hospitals (59 percent), should be able to refuse abortion care based on personal or religious beliefs. Nearly two-thirds recognized that refusal of care laws put patients’ health and lives in danger.<sup>7</sup>

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<sup>3</sup> Other federal laws, such as EMTALA and Section 1557 of the ACA still apply. Yet, Weldon’s lack of patient protections has caused confusion and emboldens health care entities to refuse care despite the requirements of these and other federal laws.

<sup>4</sup> Meaning a rape survivor could be denied emergency birth control, a transgender person could be denied gender-affirming care, or a pregnant person could be denied information and counseling on their pregnancy options. *See* Ensuring That Department of Health and Human Services Funds Do Not Support Coercive or Discriminatory Policies or Practices in Violation of Federal Law, 73 Fed. Reg. 78,071 (December 19, 2008) (codified at 45 C.F.R. § 88) and Protecting Statutory Conscience Rights in Health Care; Delegations of Authority, 84 Fed. Reg. 23,170 (May 21, 2019) (codified at 45 C.F.R. § 88).

<sup>5</sup> Regulation for the Enforcement of Federal Health Care Provider Conscience Protection Laws, 76 Fed. Reg. 9,968 (February 23, 2011) (codified at 45 C.F.R. § 88); *New York v. U.S. Dep’t of Health & Hum. Servs.*, 414 F. Supp. 3d 475 (S.D.N.Y. 2019); Safeguarding the Rights of Conscience as Protected by Federal Statutes 88 Fed. Reg. 820 (January 5, 2023) (to be codified at 45 C.F.R. § 88).

<sup>6</sup> Polling conducted by Hart Research Associates & Vision Strategy and Insights (July 22, 2021), available at the National Women’s Law Center.

<sup>7</sup> Polling conducted by GQR between June 22-30, 2022, available at the National Women’s Law Center.

This recognition that eliminating the Weldon Amendment is not only crucial for patients and states, but also what voters want, is what has led to movement in Congress. In FY 2022 and 2023, both the House and Senate made historic progress by removing Weldon and Hyde from their Labor, Health and Human Services, and Education appropriations bills, demonstrating their commitment to protect abortion rights and reflect the will of the public. You have pledged a whole of government response to the crisis created by the *Dobbs* decision; eliminating the Weldon Amendment – and other anti-abortion riders – is an important piece of that response. If your Administration is truly committed to ensuring that people have access to abortion – and therefore have the freedom to control their own bodies, lives, and futures – Weldon must be eliminated.

Sincerely,

Advocates for Youth

AIDS United

ALEPH: Alliance for Jewish Renewal

American Atheists

American Civil Liberties Union

American Federation of State County and Municipal Employees

American Federation of Teachers

American Humanist Association

American Society for Reproductive Medicine

American-Arab Anti-Discrimination Committee (ADC)

Asian Pacific American Labor Alliance, AFL-CIO

Bend the Arc: Jewish Action

Catholics for Choice

Center for Biological Diversity

Center for Popular Democracy Action

Center for Reproductive Rights

CommonDefense.us

Congregation Kneseth Israel

Congregation Tehillah

Consumer Action  
EMAA Project  
Equality California  
Freedom From Religion Foundation  
Friends of the Earth US  
Guttmacher Institute  
Hadassah, The Women's Zionist Organization of America, Inc.  
Hispanic Federation  
Human Rights Campaign  
If/When/How: Lawyering for Reproductive Justice  
Impact Fund  
In Our Own Voice: National Black Women's Reproductive Justice Agenda  
Ipas  
Jewish Labor Committee  
Jewish Orthodox Feminist Alliance  
Jewish Women International (JWI)  
Jews for a Secular Democracy  
Keshet  
Lilith magazine  
MomsRising  
NARAL Pro-Choice America  
National Abortion Federation  
National Center for Lesbian Rights  
National Council of Jewish Women  
National Family Planning & Reproductive Health Association  
National Health Law Program  
National Immigration Law Center  
National Institute for Reproductive Health

National Latina Institute for Reproductive Justice  
National Network to End Domestic Violence  
National Organization for Women  
National Partnership for Women & Families  
National Women's Health Network  
National Women's Law Center  
PAI  
Physicians for Reproductive Health  
Planned Parenthood Federation of America  
Population Connection Action Fund  
Positive Women's Network-USA  
Power to Decide  
Public Citizen  
Public Justice Center  
Rachel Carson Council  
Reconstructionist Rabbinical Association  
Reproductive Health Access Project  
Rhia Ventures  
Service Women's Action Network  
SIECUS: Sex Ed for Social Change  
Society for Humanistic Judaism  
T'ruah: The Rabbinic Call for Human Rights  
The Rabbinical Assembly  
The Workers Circle  
UCSF Bixby Center for Global Reproductive Health  
UltraViolet Action  
Union for Reform Judaism  
URGE: Unite for Reproductive & Gender Equity

USOW

Women of Reform Judaism

Women's Rabbinic Network