

February 1, 2024

The Honorable Joe Biden  
President of the United States

Dear President Biden:

We, the undersigned organizations that 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) 2025 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' personal beliefs over patient care. As states grapple with the fallout from the erroneous and devastating *Dobbs v. Jackson Women's Health Organization* decision, we must safeguard protections for people who need abortion care and eliminate policies that allow or encourage denials of abortion care. To that end, your Administration must strike the Weldon Amendment from your annual budget.

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. The Weldon Amendment is deceptively written to prohibit “discrimination” against health care entities—including hospitals and health insurance plans, as well as individual nurses and doctors—that refuse to provide, cover, pay for, or refer for abortion. The Weldon Amendment is so 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>

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

<sup>2</sup> *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*, U.S. DEP'T OF HEALTH & HUM. SERVS. (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 HHS Issues Notice of Violation to California for its Abortion Coverage Mandate*, U.S. DEP'T OF HEALTH & HUM. SERVS. (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>. On August 13, 2021, the U.S. Department of Health and Human Services' Office for Civil Rights withdrew its 2020 determination that there had been a Weldon Amendment violation and closed the complaints at issue, finding that the complainants, Skyline Wesleyan Church and Missionary Guadalupanas, did not meet the definition of a “health care entity” under the Weldon Amendment. Letter from Robinsue Frohboese, Acting Director, Off. for C.R., to Rob Bonta, Att’y Gen., State of Cal. (Aug. 13, 2021), <https://www.hhs.gov/conscience/conscience-protections/ca-letter/index.html>.

The Weldon Amendment also encourages health care providers to leave patients without the care they need, allowing individuals and entities to put their personal beliefs ahead of patient care. There are no provisions in the Weldon Amendment to protect patient access to abortion services. At a minimum, this causes confusion about the application of other federal laws that protect patient access to care.<sup>3</sup> By its own terms, then, the Weldon Amendment poses tremendous injury to patients.

The Weldon Amendment also has been used by hostile administrations to expand refusals of care: both the 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 about care.<sup>4</sup> Fortunately, many harmful provisions of these policies were blocked and reversed, including during the Obama Administration, by federal courts, and now by your Administration with the recent rule, “Safeguarding the Rights of Conscience as Protected by Federal Statutes.”<sup>5</sup> But efforts to expand the reach of the Weldon Amendment continue; most recently, anti-abortion lawmakers in the House attempted to create a private right of action that would allow virtually anyone to bring a case in federal court for an “actual or threatened violation” of the Weldon Amendment. We must eliminate the Weldon Amendment permanently to ensure that dangerous policies expanding its reach are not enacted in the future.

The need to eliminate the harmful Weldon Amendment is critical in this moment, as more 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.<sup>6</sup> In this ongoing reproductive health care crisis, it is critical that states have the ability to protect their residents and those coming to their state by enacting 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

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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> The reach of these proposed rules could have meant 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); *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> Nearly one in five abortion patients traveled out of state to obtain care in the first six months of 2023, compared with one in ten patients during a similar period in 2020. *New Data Show That Interstate Travel for Abortion Care in the United States Has Doubled Since 2020*, GUTTMACHER INST. (Dec. 7, 2023), <https://www.guttmacher.org/news-release/2023/new-data-show-interstate-travel-abortion-care-united-states-has-doubled-2020>.

interventions continue to arise.<sup>7</sup> 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. This was evident even before the *Dobbs* decision—a July 2021 poll in battleground congressional districts found that 6 in 10 voters oppose allowing health care providers to refuse treatment to a woman seeking an abortion because of religious or moral beliefs.<sup>8</sup> More recently, in a June 2022 poll of likely 2022 voters, the majority opposed the idea that institutions, including insurance companies (66% of respondents), employers (63%), and hospitals (59%), 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>9</sup>

Eliminating the Weldon Amendment is crucial for patients and states and important to the public. Fortunately, both the House and Senate in FY 2022 and 2023 made historic progress by removing the harmful Weldon and Hyde Amendments from their Labor, Health and Human Services, and Education appropriations bills. Your Administration must similarly demonstrate its commitment to protect abortion rights and serve the will of the people by eliminating the Weldon Amendment.

Sincerely,

Advocates for Youth

AIDS United

ALEPH: Alliance for Jewish Renewal

All\* Above All Action Fund

American Atheists

American Civil Liberties Union

American Federation of State County and Municipal Employees

American Federation of Teachers

American Humanist Association

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<sup>7</sup> Kate Zernike, *Medical Impact of Roe Reversal Goes Well Beyond Abortion Clinics, Doctors Say*, N.Y. TIMES (Sept. 10, 2022), <https://www.nytimes.com/2022/09/10/us/abortion-bans-medical-care-women.html> (“Several high-profile cases of women denied abortion care have captured headlines and set doctors on edge. But doctors say these extreme cases are not isolated; hospitals are routinely refusing or delaying care.”)

<sup>8</sup> Hart Research Associates & Vision Strategy and Insights, Polling of 801 registered voters in battleground congressional districts from July 7-12, 2021, on file with the National Women’s Law Center.

<sup>9</sup> GQR, Mixed mode survey among one thousand registered voters nationally from June 22-30, 2022 including Black, Latino, and AAPI over samples of 100 respondents each, on file with the National Women’s Law Center.

American Society for Reproductive Medicine  
American-Arab Anti-Discrimination Committee (ADC)  
Bend the Arc: Jewish Action  
Catholics for Choice  
Center for Biological Diversity  
Center for Freethought Equality  
Center for Popular Democracy Action  
Center for Reproductive Rights  
Clearinghouse on Women's Issues  
CommonDefense.us  
Congregation Kneseth Israel  
Congregation Tehillah  
Consumer Action  
EMAA Project  
Equality California  
Feminist Majority  
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  
Indivisible  
Ipas  
Jewish Alliance for Law and Social Action

Jewish Labor Committee  
Jewish Orthodox Feminist Alliance  
Jewish Women International (JWI)  
Jews for a Secular Democracy  
Keshet  
League of Women Voters of the United States  
Lilith Magazine  
Minority Veterans of America  
MomsRising  
National Abortion Federation  
National Asian Pacific American Women's Forum  
National Center for Health Research  
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  
National Women's Political Caucus  
PAI  
Partners in Abortion Care  
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 Freedom for All (formerly NARAL Pro-Choice America)  
Reproductive Health Access Project  
Rhia Ventures  
Service Employees International Union (SEIU)  
Service Women's Action Network  
Sexual Violence Prevention Association (SVPA)  
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  
Women of Reform Judaism  
Women's Rabbinic Network