

September 23, 2008

Brenda Destro
Office of Public Health and Science
Department of Health and Human Services
Hubert H. Humphrey Building
200 Independence Avenue, SW, Room 728E
Washington, DC 20201

Re: Ensuring that Department of Health and Human Services Funds Do Not Support Coercive or Discriminatory Policies or Practices in Violation of Federal Law, (RIN 0991-AB48), 73 Fed. Reg. 50274 (August 26, 2008)

Dear Ms. Destro:

As physicians, nurses, and other medical professionals, we, the undersigned, urge the Department of Health and Human Services to rescind the “Proposed Rule Ensuring that Department of Health and Human Services Funds Do Not Support Coercive or Discriminatory Policies or Practices in Violation of Federal Law.” (Fed. Reg. 73, No 166, August 26, 2008). If implemented, the proposed regulation would broaden the scope of existing federal refusal laws by allowing healthcare providers to withhold medical information based on their religious or moral beliefs. It would also open the door for hospitals and physicians to deny access to or information about contraception. The proposed regulation is unnecessary, would damage the integrity of the relationship between healthcare providers and patients, and would undermine the ability of women and families to make informed reproductive healthcare choices.

As healthcare practitioners, we are not required to perform abortions or sterilizations, and those whose personal beliefs conflict with these procedures can step aside without censure. However, irrespective of a provider’s individual beliefs, each healthcare professional is ethically bound to inform patients about all of their options; and, if one cannot or will not provide a service, each healthcare professional is ethically bound to refer patients in a timely manner to someone who can. This approach is essential to the appropriate provision of healthcare services; and efforts to deny women information about contraception, sterilization, or abortion would seriously undermine quality healthcare.

Despite the assertion that the “regulation does not limit patient access to health care,” if implemented it would do just that by allowing and encouraging healthcare providers to withhold information rather than share it. The proposed regulation says it is “promoting open communication within the healthcare industry, and between providers and patients, fostering a more inclusive, tolerant environment in the health care industry than may currently exist” but it does not require disclosure by healthcare professionals of their refusal to provide a service or information. Unless healthcare professionals make some

indication of their refusal, how will a patient know that she is not receiving information essential to a decision that is vital to her health? Implementation of this regulation would effectively allow health care providers' personal beliefs to override patients' right to full disclosure of accurate information and available healthcare services.

The proposed regulation would not only damage the provider-patient relationship, inserting mistrust where trust is essential, it would expand existing law by extending the right to refuse health services to a broad range of healthcare workers who are not directly involved in patient care. Receptionists could refuse to schedule appointments; health insurance agents could refuse to process payments; and operating room staff could refuse to clean equipment based on religious objections to certain medical procedures or services. The proposal estimates that the new regulations would affect 580,000 hospitals, clinics, and other entities and cost \$44.5 million to enforce. The impact that this would have on the millions of Americans who depend on federally funded healthcare services is enormous.

Additionally, the proposed regulation fails to make explicit that healthcare providers cannot deny women contraceptives by claiming they are tantamount to abortion. By not providing a definition of abortion consistent with medical authority, the regulations leave healthcare providers and institutions free to equate certain forms of contraception with abortion. Moreover, the proposed regulation would protect the refusal to provide or discuss "other medical procedures." Someone who objects to birth control could therefore take cover in the regulation.

The proposed regulation relieves healthcare professionals of a responsibility that must be upheld: the obligation to talk with patients about all of their options and, for services which cannot or will not be provided, refer them to someone who can help them without delay. This practice is followed when treating cancer and mending broken bones; and if this principle is not held as a standard for reproductive medicine, it is a failure for patients and the health of the country.

We urge the Department of Health and Human Services to withdraw this proposed regulation.

Sincerely,

American Academy of Pediatrics
American Nurses Association
American Psychiatric Association
Association of Women's Health, Obstetric and Neonatal Nurses
Physicians for Reproductive Choice and Health
The Society for Adolescent Medicine