



Reproductive Rights: New Beginnings, Continued Challenges

The American Association of University Women (AAUW) supports the right of every woman to safe, accessible, affordable, and comprehensive family planning and reproductive health services. This position stems from AAUW's 2011-2013 Public Policy Program, which advocates, "choice in the determination of one's reproductive life ... increased access to health care and family planning services including expansion of patients' rights," as well as "supports international family planning programs."¹ Family planning fosters self-sufficiency, promotes preventive health care, and educates people on ways to protect themselves and their families from the spread of sexually transmitted infections. AAUW trusts that every woman has the ability to make her own informed choices regarding her reproductive life within the dictates of her own moral and religious beliefs. Further, AAUW believes that these deeply personal decisions should be made without governmental interference. AAUW members have made the protection of reproductive rights a policy principle since 1977.

The Supreme Court's 1973 ruling in *Roe v. Wade* legalized abortion for all women and found abortion to be a constitutionally protected fundamental right. All women, regardless of race, religion, age, or socioeconomic standing have a constitutionally protected right to choose. In order to be more than an abstract right however, this right must include real access to a full range of reproductive health and family planning options. Unfortunately, many of the most vulnerable groups of American women are being denied fundamental control of their reproductive lives due to increasing restrictions successfully advanced by anti-choice lawmakers at both the state and federal levels. Unfortunately, even while taking positive steps for women's health overall, the health care reform law signed by President Barack Obama in March 2010 contained additional restrictions on women's reproductive rights.

The lack of comprehensive support for reproductive health has resulted in dire outcomes for American women. Half of all pregnancies in the United States are unintended.² Of three million unintended pregnancies annually, four in ten of those end in abortion.³ The United States continues to have one of the highest rates of sexually transmitted infections (STIs) in the industrialized world,⁴ and, although teen birth rates have recently declined, the birth rate of girls ages 15 to 19 was 39.1 births per 1,000 in 2009, one of the highest rates in the industrialized world.⁵

Leadership to Protect Reproductive Health

Fortunately, certain reproductive health policies have shifted both domestically and internationally to represent and meet the needs of all women. At the outset of his administration, President Obama acted swiftly to overturn the Global Gag rule, also known as the Mexico City policy, and reinstated the United States' family planning contributions to the United Nations Population Fund (UNFPA).⁶ Thanks to these actions, many more women worldwide will have access to critical reproductive health care and the U.S. can once more assume a leadership role in providing foreign aid for family planning.

In March 2009, the Obama administration took a step in the right direction by proposing to

rescind a new Department of Health and Human Services rule that severely limits women's access to reproductive health and family planning services, including some of the most common forms of birth control.⁷ This “midnight regulation,” adopted during the Bush administration’s final days, unnecessarily expands existing policies that allow health care employees to refuse to provide services that are contrary to their personal beliefs. The so-called conscience clause allows workers to refuse to provide services, information, and referrals without any consideration for patients' right to access appropriate care and full information. AAUW strongly supports the proposal to rescind this misguided regulation and continues to look forward to a final rule being published to that effect.

AAUW believes that abstinence-only education programs are harmful to students’ reproductive health. In 2009, the omnibus appropriations act substantially decreased funding to abstinence-only programs, and 2010 federal appropriations replaced two separate abstinence-only programs⁸ with a \$114 million Teen Pregnancy Prevention Initiative that applied evidence-based practices to reduce the incidence of unplanned pregnancies among the nation’s youth.⁹ AAUW is pleased that the administration’s initiative provides significant funding opportunities for comprehensive sex education programs and reduces funding for some abstinence-only programs. Unfortunately, the 2011 continuing appropriations legislation reinstated the ban on Washington, D.C.’s use of its own taxpayer money to fund abortions for low-income women.¹⁰ Additionally, while the new health care law includes additional federal funding for comprehensive sex education programs, the law also included funding for abstinence-only education programs.¹¹ In this time of fiscal challenges, now is the time to end *all* abstinence-only programs and begin exclusively funding medically accurate, age appropriate, comprehensive sex education in our schools.

In August 2011, the U.S. Department of Health and Human Services decided to adopt the recommendations of the Institute of Medicine and require that “the full range” of approved contraceptive methods be included among preventive-care services available to women without a co-payment or cost sharing.¹² Unfortunately, the department included a “religious refusal” exemption provision to the proposed rule, allowing religious employers to refuse to cover their employees’ contraception. AAUW opposes this exemption, as it will deny thousands of women access to affordable contraceptive care.

Opportunities to Improve Reproductive Health

Accompanying these positive actions of the administration, there are also a number of legislative proposals that would ensure women can seek and receive the care they need. AAUW will continue to work with members of Congress on the following initiatives:

- ***Improve Public Funding for Reproductive Health.*** Anti-choice members of Congress have continually attempted to reduce funding for Title X, which is critical in providing reproductive services to low-income women. This is despite the fact that for every government dollar spent on contraceptive services, an average of \$3.80 is saved in Medicaid costs for newborn and pregnancy-related care.¹³ Nevertheless, taking inflation into account, funding for the family planning programs under Title X declined by 61

percent between 1980 and 2007.¹⁴ Title X funding was a source of contention during the 2011 budget debate, with House Republicans seeking to bar Planned Parenthood from accessing Title X funds. A compromise was eventually reached and Title X funds were not restricted.¹⁵ AAUW opposes any attempt to limit access to Title X funding and supports increasing Title X funding.

- ***Put Prevention First.*** The Prevention First Act is a comprehensive package of preventive health and education measures designed to help reduce unintended pregnancy and to support reproductive health. This commonsense legislation includes measures to help women obtain family planning services and information by increasing funding for Title X and expanding family planning services under Medicaid; guaranteeing equity in contraceptive coverage by requiring private insurers that offer prescription coverage also to cover all FDA-appropriate prescription contraceptives; ensuring that sexual assault survivors receive factually-accurate information about emergency contraception (EC) and access to EC upon request; increasing funding for important public education programs to inform women and doctors about EC and its benefits; increasing annual funding for teen pregnancy prevention programs; and establishing the first-ever federal program for comprehensive sex education that requires taxpayer-funded federal programs to include medically accurate information about contraception. All of these programs will ensure that all women have access to comprehensive family planning and reproductive health services.
- ***Invest in Comprehensive Sex Education.*** In light of the fact that the United States has the highest rate of teen pregnancy¹⁶ and sexually transmitted infections¹⁷ in the developed world, AAUW supports comprehensive sexuality education or programs that include information about both abstinence and contraception. In the best curricula, abstinence is always stressed, but information with regard to delaying sexual activity as well as ways to deal with peer pressure on the issue must also be included. AAUW opposes federally-funded programs that limit young people's information and choices by promoting abstinence-only education. These programs censor information on contraception, pregnancy prevention, and sexually transmitted infections and are a disservice to our nation's youth. Over 80 percent of abstinence-only curricula contain "false, misleading or distorted information about reproductive health."¹⁸ Abstinence-only programs have never been proven effective in delaying the onset of sexual activities of young people, and often result in riskier sexual behavior by teenagers.¹⁹ AAUW is pleased that the administration's Teenage Pregnancy Prevention Initiative provides significant funding opportunities for comprehensive sex education programs and reduces funding for some abstinence-only programs. Unfortunately, while the new health care law includes additional federal funding for comprehensive sex education programs, the law also included funding for abstinence-only education programs.²⁰ In this time of fiscal challenges, now is the time to end *all* abstinence-only programs and begin exclusively funding medically accurate, age appropriate, comprehensive sex education in our schools.

- **Support International Family Planning.** AAUW supports federal funding for comprehensive international family planning programs, and opposes attempts to restrict their services and funding sources. These critical services give millions of women and families around the world access to reproductive healthcare and the information needed to plan the timing and spacing of pregnancies. Specifically, the United Nations Population Fund (UNFPA) helps developing countries improve reproductive health through maternal and child healthcare, family planning, and other services. In recent years, the United States has failed to support UNFPA’s critical work to promote voluntary family planning and maternal health in 150 countries. While the Obama Administration and the 111th Congress restarted the US commitment to UNFPA, the 112th Congress has proposed eliminating funding once again. AAUW will oppose such efforts. UNFPA support provides reproductive health services, including family planning and contraceptives, pre-and postnatal care, and prevention of HIV/AIDS and other STIs, and addresses social inequities that stand in the way of good health. Family planning programs help women make informed decisions, which in turn help to reduce the incidence of maternal and infant mortality and improve the overall health of women and families around the globe. International family planning also fosters self-sufficiency, promotes preventive healthcare, and educates people on ways to protect themselves and their families from the spread of STIs.
- **Expand prescription drug coverage.** Contraception and related outpatient services are basic health care for women and, like other basic health care needs, should be covered by health insurance policies. An insurance plan that specifically excludes women’s contraception, while covering other prescription drugs, services, and devices, represents sex discrimination in violation of Title VII of the Civil Rights Act of 1964.²¹ Health insurance plans that cover prescription drugs and devices should provide equal coverage for contraceptive drugs and devices. In addition, plans that cover outpatient medical services should cover outpatient contraceptive services.²² These proposals facilitate access to contraception in a simple, cost-effective way and would reduce the rate of unintended pregnancies. AAUW supports federal legislation which would ensure equitable coverage of contraceptive drugs, devices, and medical services in private health insurance plans. AAUW was pleased that the health care law outlawed discrimination against women in health care and contained a specific women’s health provision, sponsored by Sen. Barbara Mikulski (D-MD) and supported by AAUW, under which insurance companies will be required to cover additional preventive health care and screenings for women – such as mammograms and pap smears – at no additional premium or co-payment cost.²³ AAUW was pleased when the Department of Health and Human Services proposed that contraception be covered by insurance without a co-payment or cost sharing.²⁴ Unfortunately, the department included a “religious refusal” exemption provision to the proposed rule, allowing religious employers to refuse to cover their employees’ contraception. AAUW opposes this exemption, as it will deny thousands of women access to affordable contraceptive care.

- ***Affirm access to emergency contraception.*** Approved for use by the U.S. Food and Drug Administration in 1997, emergency contraception prevents pregnancy after unprotected sex or contraceptive failure. In May 2004, Barr Laboratories applied for over-the-counter status for Plan B, an FDA-approved emergency contraception pill that is commonly referred to as the morning-after pill. In 2006 the FDA legalized the purchase of emergency contraception without a prescription for women over the age of 18, with proof of identification. Women 17 and under, according to the FDA's decision, were still required to have a prescription from a doctor to purchase Plan B. The FDA additionally mandated that the pills only be available in drug stores with a pharmacist who is able to verify the consumer's age and answer questions about the pills.

In March 2009, a New York federal court ordered the Food and Drug Administration to reconsider its previous decision to limit non-prescription access to emergency contraception to women age 18 and older, asserting that the entire process had been influenced by "political and ideological" considerations imposed by the Bush administration.²⁵ This decision moved emergency contraception to over-the-counter for women 17 and older, and was another step toward ensuring all women have access to the medicine they need. In June 2009, the FDA approved a generic version of Plan B,²⁶ and an FDA advisory committee further endorsed a five-day emergency contraception pill called Ella in June 2010.²⁷ AAUW encourages such efforts to increase education and access to emergency contraception for all women, including minors, and believes emergency contraception should be available without a prescription. Greater awareness of and improved access to emergency contraception could help reduce the rates of unintended pregnancy and abortion in the U.S.

- ***Ensure access to legally prescribed or available contraception and emergency contraception.*** Despite more widespread access to emergency contraception, reports of pharmacist refusals to fill prescriptions for emergency contraception and all forms of birth control continue. Currently, only eight states – California, Illinois, Maine, Massachusetts, Nevada, New Jersey, Washington, and Wisconsin –require pharmacists or pharmacies to ensure that patients receive their medication. Seven states –Alabama, Delaware, New York, North Carolina, Oregon, Pennsylvania, and Texas–allow refusals but prohibit pharmacists from obstructing patient access to medication. Only six states– Arizona, Arkansas, Georgia, Idaho, Mississippi, and South Dakota– permit refusals without critical protections for patients, such as requirements to refer or transfer prescriptions.²⁸

AAUW believes pharmacies that dispense prescription drugs, services, and devices should be required to fill women's prescriptions for contraception, as well as sell legal emergency contraception. Pharmacies that may have employees whose personal beliefs run contrary to women's reproductive rights should ensure that procedures are in place to fill a woman's legal prescription or request for emergency contraception in a timely fashion. An individual employee's personal beliefs cannot be allowed to trample on women's constitutionally protected civil rights.

Attacks on Reproductive Rights

Reproductive rights have been under attack for decades—even before *Roe v. Wade*—and advocates continue to face grave challenges and attacks from anti-choice activists who refuse vital advances in women’s health. These attacks have taken many forms and resulted in negative outcomes at all levels of government. AAUW stands with the Obama administration, congressional leadership, and pro-choice advocates nationwide in contending with a wide array of obstacles.

- **Contend with new health care law restrictions.** AAUW has long believed that politicians should not insert themselves into the decision-making process when it comes to reproductive health care, which is a basic element of women’s health care overall. During health care reform negotiations, an attempt was made to significantly undermine women’s reproductive health services. AAUW played a key role in a coalition effort that kept the so-called Stupak amendment—a provision that would have effectively banned insurance companies from providing insurance coverage of abortion, even for women who paid with their own private money for such care—out of the final legislation.²⁹ However, the new law does require insurance companies providing abortion coverage to collect two separate payments from each enrollee: one for the portion of the premium covering abortion care, and one for the remainder of the premium.³⁰ This requirement is needless and burdensome, unnecessarily stigmatizing reproductive health care, and it may reduce overall abortion coverage among private health insurance plans.³¹ Further, individual states may decide to exclude abortion coverage in their health insurance exchanges, and indeed many states have already done so. Going forward, AAUW will continue to work with our coalition allies to monitor and address this issue.
- **Ensure other legislative attacks are defeated.** Anti-choice members of Congress have consistently attempted to roll back women’s reproductive rights. One example is trying to mandate parental consent for minors receiving contraceptive services at clinics funded by Title X of the Public Health Service Act. Parental consent laws cause many vulnerable teens to delay or avoid seeking preventive health care services and counseling; minors who do not involve their parents often choose this route in fear of abuse, punishment, or their parents’ disappointment.³² Policymakers must ensure confidential access to family planning, abortion, and other health care services for young people who are unable or afraid to speak to a parent about these issues. Both parental consent and parental notification requirements can jeopardize the health and general well-being of the minor.³³

AAUW believes that parental involvement in minors’ reproductive health care decisions is optimal and beneficial under the right circumstances; however, specific laws mandating parental involvement are counterproductive because they make the mistake of assuming that government can mandate healthy family communication where it does not already exist. The failure to guarantee confidentiality and safety often deters young people from seeking timely services and care, which can result in sexually transmitted

infections, unwanted pregnancies, and higher-risk abortions.³⁴ AAUW believes that minors in all states should have unrestricted, confidential access to all health care services, including abortion.

In addition, anti-choice lawmakers have attempted to elevate the status of a fetus under federal law. One example is by proposing legislation to allow states to extend health care coverage to a fetus. Elevating the legal status of a fetus under federal law would undermine the foundation of a woman's right to choose as set forth in *Roe v. Wade*, which holds that a fetus is not a person within the meaning of the 14th Amendment. AAUW will fight these proposals.

- **Fight court cases and ballot initiatives that seek to weaken protections.** Reproductive rights cases continue to come before courts of all levels. Anti-choice advocates are actively seeking out cases to hopefully send all of the way to the U.S. Supreme Court. For example, in 2006, the South Dakota state legislature enacted a law banning all abortions, an act explicitly designed to challenge the *Roe* decision.³⁵ Instead of filing a lawsuit, however, opponents of the South Dakota law gathered petition signatures to place the measure on the general election statewide ballot. While the ballot measure failed in November 2006,³⁶ if the law had not been overturned it is likely it would have been challenged in court. A similar ballot measure was again defeated in November 2008.³⁷ This is just one limited example that proves the importance of the courts—especially the Supreme Court—and ballot initiatives in addition to the legislative process.

Access to abortion is consistently weakened through banning specific procedures and denying coverage to certain women—two actions at odds with providing the best health care for all women. For example, in November 2003, President George W. Bush signed the Partial Birth Abortion Ban Act of 2003. While three federal district courts and three appellate courts found the law to be unconstitutional because it lacked an exception for the woman's health, the Supreme Court upheld the law in *Gonzales v. Carhart* (2007) reversing the precedent set just a few years earlier in *Stenberg v. Carhart* (2000).³⁸ The *Gonzalez* case thus marked the first time the U.S. Supreme Court has approved a restriction on abortion access without any health exception.

In addition to failing to protect the health needs of women by banning specific procedures, two restrictions were enacted in 2000 that ban abortion coverage for federal employees and women in the military. Federal employees now lack the same abortion coverage in health insurance available to employees in the private sector and military women and their dependents are prevented from receiving an abortion in military hospitals overseas, even if they pay with their own money. In 2010, AAUW supported efforts to overturn the ban on privately funded abortions for military women, but the provision was defeated in the Senate.³⁹

Women must be free to enter any line of work without fear of being penalized or their right to health care jeopardized simply because of their sex; it is a simple matter of fairness that

impacts women's economic security. Female military and federal employees are denied comprehensive reproductive health services, restrictions that discriminate against women and women only. AAUW opposes any inequity in health care services caused *only* by an individual's career choice or their sex.

Resources for Advocates

It is AAUW advocates across the country who speak their minds on issues important to them that truly advance AAUW's mission. Stay informed with updates about reproductive rights, international family planning assistance, and other issues by subscribing to AAUW's Action Network. Make your voice heard in Washington and at home by using AAUW's Two-Minute Activist to urge your members of Congress to support legislation that improves women's access to complete reproductive health services. Write a letter to the editor of your local paper to educate and motivate other members of your community. Attend town hall meetings for [your members of Congress](#), or set up a meeting with your elected official's district office near you to discuss these policies. AAUW members can also subscribe to *Washington Update*, our free, weekly e-bulletin that offers an insider's view on the latest policy news, resources for advocates, and programming ideas. For details on these and other actions you can take, visit www.aauw.org/takeaction. For more information, read AAUW's related position paper on abstinence-only education. You can find this and other resources on our website at www.aauw.org.

Conclusion

AAUW believes that improved pregnancy prevention programs, new technologies, and access to complete reproductive health services enhance women's reproductive choices, which leads to improvements in women's health care in the United States and around the world. The Obama administration and pro-choice members of Congress have produced important gains for reproductive health and freedom, but many challenges remain. AAUW's advocacy of a woman's right to safe, accessible, and comprehensive reproductive health care will remain an integral part of its efforts to gain equity and justice for all women.

For more information, call 202/785-7793 or e-mail VoterEd@aauw.org.

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