



December 1, 2023

Submitted electronically

The Honorable Xavier Becerra
Secretary
U.S. Department of Health and Human Services
330 C Street, SW
Washington, DC 20201

**Re: Public comment regarding the notice of proposed rulemaking entitled
“Unaccompanied Children Program Foundational Rule”**

RIN: 0970-AC93

Dear Secretary Becerra,

Family Research Council (FRC) is a nonprofit research and educational organization dedicated to articulating and advancing a family-centered philosophy of public life. Our vision is a prevailing culture in which all human life is valued, families flourish, and religious liberty thrives. We respectfully submit the following comment regarding the notice of proposed rulemaking issued by the Office of Refugee Resettlement (ORR) and the Administration for Children and Families (ACF) in the U.S. Department of Health and Human Services (the “Department”) entitled “Unaccompanied Children Program Foundational Rule.”

This rule ought not to be finalized as it 1) places vulnerable minors in even greater jeopardy, 2) infringes upon the conscience protections of ORR employees, and 3) forces American taxpayers to pay for abortion, which many recognize is the killing of an innocent unborn child.

Proposed 45 CFR § 410.1103(a) states:

ORR shall place each unaccompanied child in the least restrictive setting that is in the best interest of the child and appropriate to the unaccompanied child’s age and individualized needs, provided that such setting is consistent with the interest ... in protecting the unaccompanied child’s well-being and that of others.

Proposed § 410.1307(a) states:

ORR shall ensure that all unaccompanied children in ORR custody will be provided with routine medical and dental care; access to medical services requiring heightened ORR involvement, consistent with paragraph (c) of this section; family planning services; and emergency healthcare services.

Proposed § 410.1307 states:

ORR will continue to facilitate access to medical services requiring heightened ORR involvement, including access to abortions[.]

This proposed rule change assumes that abortion is a form of health care and that it is in the best interest of a minor. Notably, both assumptions fail to acknowledge the physical and mental health danger abortion poses to girls.

An abortion kills an innocent unborn child. For an unaccompanied minor to have truly informed consent, she must understand what an abortion does. Furthermore, she must be aware of the risks that an abortion poses to her health.

During a surgical abortion, a misdirected cervical dilator or instrumental perforation of the uterus may cause hemorrhage or damage to adjacent organs, leading to a catastrophic series of events. A dilation and evacuation (D&E) abortion procedure is particularly dangerous, as the late-term unborn child must be extracted in a piecemeal fashion, necessitating many blind passages with sharp instruments.¹

According to the CDC, the majority of abortions (56 percent) are no longer surgical and instead use abortion drugs. However, this does not mean these abortions are safe. In fact, the risk of complications using the abortion drug mifepristone is *four times greater* than that of surgical abortions. In at least one in 20 abortions using an abortion drug, women require surgical completion due to hemorrhage, failed abortion, or retained fetal body parts.² Furthermore, mifepristone is known to suppress the immune system, raising the risk of infection. As a result, many of the deaths reported after the use of mifepristone occurred due to infection from a common soil organism, *Clostridium sordellii*.³

A successful abortion takes the life of an unborn child, and the physical risks to the mother are significant. Still, those are not the only risks abortion poses to an unaccompanied minor.

A new meta-analysis studied the prevalence of post-abortion depression worldwide. This analysis included 15 papers with a total of 18,207 research participants out of a total of 657 articles. The study found that 34.5 percent of women—one in three—experience post-abortion depression.⁴ Although this number is an average, it is likely even higher for a child traveling alone in a foreign country.

The rule change assumes that an ORR representative previously unknown to the unaccompanied minor will develop a strong enough relationship to properly determine if that child understands the consequences, physical risks, and mental risks of having an abortion. The rule also assumes some unknown person will step in to help the unaccompanied minor navigate life after an abortion.

Additionally, under the proposed rule, the ORR representative, who previously had no relationship with the unaccompanied minor, will determine if this unaccompanied minor is a victim of human trafficking who is being forced to have an abortion.

The Congressional Research Service estimates that 75-80 percent of unaccompanied children arriving in the United States are victims of human trafficking. Instead of assisting these children, if the proposed rule is enacted, ORR will be complicit in covering up the evidence of human trafficking.

A survey conducted on victims of human trafficking found that more than half of respondents reported having at least one abortion.⁵ One victim of sex trafficking shared her story: “I was raped at 11 years old. I started being trafficked as a young teen. Our traffickers made us get abortions....”⁶ The proposed rule would aid human traffickers in erasing the evidence of their crimes while further harming their victims.

In addition to the negative impact the proposed rule would have on unaccompanied minors, the proposed rule also infringes upon the conscience rights of individuals employed by ORR. Having the power to act in accordance with one’s conscience allows a person to live a life of integrity—choosing to do what is good and avoid what is evil. Protecting true freedom requires that a person be allowed to live in accordance with their conscience.

The proposed rule forces all employees of ORR to be complicit in abortion. Consequently, those working for ORR who believe abortion takes an innocent unborn child’s life will be forced to either violate their consciences or no longer be employed. Not only is this a violation of a person’s conscience rights, but it will also lead to ORR only employing individuals who do not recognize the dignity of every human person, regardless of how small or vulnerable that person is. This is a great disservice to unaccompanied minors.

Finally, the proposed rule forces Americans with a conscientious objection to abortion because it takes an unborn child’s life to pay for it. Since 1976, the Hyde Amendment, which prohibits using taxpayer dollars to pay for abortion, has maintained widespread bipartisan support. A 2020 Marist poll found that 60 percent of Americans, including 37 percent of people who identify themselves as pro-choice, oppose taxpayer funding of abortion.⁷ If enacted, the proposed rule would use taxpayer dollars to facilitate abortions that could not take place without ORR’s funds. This is a violation of Hyde and an improper use of taxpayer dollars.

The Unaccompanied Children Program Foundational Rule places unaccompanied minors at grave risk, infringes upon the conscience rights of ORR employees, and violates the Hyde Amendment. This rule ought not to be enacted.

Respectfully submitted,

/s/ Mary Szoch, M.Ed.
Director of the Center for Human Dignity

Family Research Council
801 G Street, NW
Washington, DC 20001

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- ¹ “ACOG Practice Bulletin No. 135: Second-trimester abortion,” *Obstetrics & Gynecology* 121, no. 6 (2013): 1394-1406, accessed April 27, 2021, <https://doi.org/10.1097/01.aog.0000431056.79334.cc>.
- ² Maarit Niinimäki et al., “Immediate complications after medical compared with surgical termination of pregnancy,” *Obstetrics & Gynecology* 114, no. 4 (2009): 795, <https://doi.org/10.1097/aog.0b013e3181b5ccf9>.
- ³ Ralph Miech, “Disruption of the innate system by mifepristone and lethal toxin of *Clostridium sordellii*,” *Journal of Organ Dysfunction* 4, no. 2 (2009): 122-26, <https://doi.org/10.1080/17471060701200402>.
- ⁴ Natnael Atnafu Gebeyehu et al., “Global prevalence of post-abortion depression: systematic review and Meta-analysis,” *BMC Psychiatry* 23, no. 786 (2023), <https://doi.org/10.1186/s12888-023-05278-7>.
- ⁵ Laura J. Lederer and Christopher A. Wetzel, “The Health Consequences of Sex Trafficking and Their Implications for Identifying Victims in Healthcare Facilities,” *Annals of Health Law* 23 (2014): 73, <https://www.icmec.org/wp-content/uploads/2015/10/Health-Consequences-of-Sex-Trafficking-and-Implications-for-Identifying-Victims-Lederer.pdf>.
- ⁶ Brenna Lewis, “Survivors of Sex Trafficking Beg Illinois to Pass THIS Abortion Law,” Students for Life of America, May 3, 2021, <https://studentsforlife.org/2021/05/03/survivors-of-sex-trafficking-beg-illinois-to-pass-this-abortion-law/>.
- ⁷ Knights of Columbus, “Americans’ Opinions on Abortion,” press release, January 22, 2020, <http://www.kofc.org/en/newsroom/polls/americans-opinions-abortion.html>.