







Section 136.55 states as follows:

§ 136.55 DRUGS AND DEVICES AND TERMINATION OF ECTOPIC PREGNANCIES.

Federal funds are available for drugs or devices to prevent implantation of the fertilized ovum, and for medical procedures necessary for the termination of an ectopic pregnancy.

There are licit treatments for ectopic pregnancy. Such treatments do not constitute an abortion and therefore are not subject to Hyde limitations. Because such treatments are available for ectopic pregnancy, federal funds may not be used for interventions for such pregnancies that constitute a direct abortion. In addition, section 136.55 states that federal funds may be used for drugs or devices to prevent implantation of a fertilized ovum. That language, in our view, is appropriately rescinded on policy grounds because its inclusion permits funding for the taking of an innocent human life. For the above reasons, section 136.55 should be revised to read as follows:

§ 136.55 DRUGS AND DEVICES AND TREATMENT FOR ECTOPIC PREGNANCIES.

Federal funds are available for medical treatments for an ectopic pregnancy.

Section 136.56 requires retention for three years of the certification records required by section 136.54. Section 136.56 furthers the important interest of ensuring access to records that relate to, thereby ensuring compliance with, conditions prescribed by Congress for use of federal funds for abortion. Therefore, if section 136.54 is retained in some form, then section 136.56 should likewise be retained, not rescinded.

Section 136.57 ensures the confidentiality of records required under this Part. Its rescission would compromise the confidentiality of those records. Section 136.57 should therefore be retained, not rescinded, as long as other regulations are left in place that require the creation or maintenance of records under this Part.

### Conclusion

We urge IHS to take the following steps:

- Retain section 136.54 in its current form.***
- Revise section 136.55 as indicated above.***
- Retain the other regulations in their current form.***

If IHS decides, however, to permit the funding of abortions in cases of rape and incest, then section 136.54 should be revised to track the statute (i.e., 25 U.S.C. § 1676).

In any event, IHS should require compliance with (a) the reporting requirements put into place by the Clinton administration and (b) state and other laws that prohibit abortion or place conditions on the performance of an abortion, including laws that require parental involvement. *See* note 4 *supra*. These conditions should be written into the regulations.

Respectfully submitted,

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