

Reproductive Rights and Federal Policy: 2010

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Last year, on the 36th anniversary of *Roe v. Wade*, we wrote with high hopes for the new pro-choice president and increased pro-choice representation in Congress. And, indeed, today, on the 37th anniversary of *Roe v. Wade*, we have many victories to celebrate:

- As one of his first acts in office, President Obama rescinded the “Global Gag Rule,” the misguided policy that prohibited federal funds from going to foreign non-governmental organizations that use their own money to advocate for safe and legal abortion care, to perform legal abortions in their own countries, or to counsel and refer women for abortions;
- Congress lifted the DC abortion rider that prohibited the District of Columbia from using local revenue to pay for abortions for low-income women;
- Congress ended funding for abstinence-only-until-marriage programs that jeopardize the health and well-being of young people;
- Congress restored access to affordable birth control for all health care providers that serve low-income women and all college and university health clinics;
- The FDA announced that it will begin to make emergency contraception (also known as the “morning after pill”) available without a prescription to women 17 and older and will evaluate lifting all age restrictions on the drug;
- And finally, Congress increased the U.S.’s investment in family planning both domestically and internationally.

Your voice has been essential to these and the other victories we’ve had thus far in the 111th Congress. And your participation continues to be our best hope for future gains. Join the [ACLU's Action Network](#) to receive periodic updates about what you can do to encourage the administration and Congress to take meaningful action to protect women’s health and rights this legislative session.

Below is a brief discussion of some of the federal policy issues concerning reproductive rights to watch in the coming year:

Protect Women’s Access to Abortion in Health Care Reform

The biggest battle of the past year has been over health care reform. We begin 2010 with a renewed sense of urgency to ensure that abortion coverage is included in health care reform. Late last year, both the [House of Representatives](#) and the [Senate](#) passed health care reform measures that would severely undermine women’s access to abortion care.

- The House bill includes the Stupak-Pitts Amendment, an egregious abortion coverage ban that prohibits anyone who receives a federal subsidy from purchasing a health insurance plan that covers abortion, except in cases where it is lifesaving or the pregnancy results from rape or incest, even if the bulk of the premium is paid for with private dollars. Instead, a woman who wants abortion coverage would have to purchase an abortion rider. This is unacceptable and unworkable.
- The Senate abortion language is equally onerous and unacceptable. It requires anyone purchasing an insurance plan that covers abortion to write two separate checks for their

insurance coverage – one to pay for the cost of the abortion services in the plan and another to cover the rest of the services. Additionally, although it prohibits health plans from discriminating against medical professionals or facilities that are unwilling to provide abortions, the bill has no similar protections for medical professionals and facilities that provide abortion care.

Because Democrats recently lost their filibuster-proof majority in the Senate, there is now significant doubt about enacting health care reform legislation. As members of Congress grapple with how to move forward, we must be vigilant and continue the fight against untenable restrictions on abortion care. Let your members of Congress know that the abortion provisions in the House and Senate-passed bills must stay out of any future health care reform legislation. Please go to our [Action Center](#) and contact your members of Congress now.

Thank Your Members of Congress and President Obama for Ending Funding for Abstinence-Only-Until-Marriage Programs!

In the Fiscal Year 2010 Omnibus Appropriations bill, which was signed into law on December 16, 2009, Congress and President Obama finally eliminated funding for abstinence-only-until-marriage programs! These flawed programs censor critical information that can help young people make healthy decisions about sexuality. Additionally, abstinence-only programs promote gender stereotypes, provide inaccurate information, stigmatize lesbian and gay teens and, in some cases, promote religion in violation of the Constitution. In place of these failed programs, the Omnibus provides \$114 million for the first-ever federal teen pregnancy prevention program through the new Office of Adolescent Health.

Despite this important gain, the fight to stop federal funding of abstinence-only programming continues. A provision currently included in the Senate health care reform bill would revive the Title V abstinence-only program, a \$50 million pot of money earmarked for state-based abstinence-only programs.

[Thank Congress and President Obama for finally ending funding for ineffective abstinence-only programs and urge them to remove the Title V abstinence-only extension from the final health care reform bill.](#)

Support REAL Sex Education

The REAL Act would create a federal funding stream to provide state grants for sex education programs designed to help teens make smart decisions about postponing sex and using contraceptives effectively. Similar provisions also ride on the House and Senate health care reform bills. To stay on top of and advocate for these sex ed proposals, join the [ACLU's Action Network](#).

Protect Women's Health: Repeal Federal Abortion Funding Bans

For more than 30 years, Congress has banned federal funding of virtually all abortions for low-income women. Under the Hyde Amendment, a low-income woman can rely on Medicaid to absorb health care costs associated with carrying a pregnancy to term; however, if she decides to end a pregnancy, with a few rare exceptions, coverage is denied. Federal funding bans also

affect Native Americans, federal employees and their dependents, Peace Corps volunteers, federal prisoners, military personnel and their dependents, and disabled women who rely on Medicare. These bans are discriminatory and jeopardize women's health.

Changing more than 30 years of bad policy will take enormous political will. We need your help to make it happen. Stand up for women's health and stay engaged in this important effort by joining the [ACLU's Action Network](#).

Repeal the Health Care Denial Rule

In the 11th hour of the Bush administration, the Department of Health and Human Services (HHS) finalized a regulation that threatens access to birth control as well as information and counseling about basic health care services, including contraception and abortion. The rule expressly permits a broad range of health care workers and facilities to refuse to provide services, information, and counseling, potentially even in emergency situations. At the same time, it fails to require refusing providers to notify their employers or their patients of their objections to providing care. The rule also threatens the ability of states to enforce their own laws aimed at protecting access to reproductive health care.

Before Bush left office, the ACLU filed a legal challenge to the rule on behalf of the National Family Planning & Reproductive Health Association. Two other similar lawsuits were filed at the same time: one by the state of Connecticut joined by California, Illinois, New Jersey, Oregon, Rhode Island, Massachusetts, and New York; the other by Planned Parenthood Federation of America with Planned Parenthood of Connecticut. These cases are pending.

On March 10, 2009, the Obama administration announced its proposal to rescind the Health Care Denial Regulation, though as of this writing it has not taken final action on that proposal. To stay abreast of our activities and the administration's announcements and to get involved, join the [ACLU's Action Network](#).

Make Sure the Global Gag Rule Remains a Thing of the Past

As we note above, as one of his first acts in office, President Obama issued an executive order rescinding the "Global Gag Rule" and thereby restoring the U.S.'s place as a global leader in women's health. The Global Democracy Promotion Act would make it harder for an anti-choice administration to reinstate this dangerous Rule. Stay engaged in this important effort by joining the [ACLU's Action Network](#).