State attorneys general warn VA about abortion rule

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WASHINGTON (BP)—An alliance of 15 attorneys general have warned Secretary Denis McDonough they will "act decisively" if the Department of Veterans Affairs uses a new rule to violate their states' restrictions on abortion.

Led by Mississippi Attorney General Lynn Fitch, the coalition wrote McDonough Nov. 17 to object to a V.A. interim final rule that provides abortions in certain cases for military veterans and family members.

The attorneys general told the secretary they will not permit him to use the rule, which was issued by the V.A. in September, "to erect a regime of elective abortions that defy state laws."

The Southern Baptist Ethics & Religious Liberty Commission filed public comments Oct. 11 that called for the V.A. to revoke the rule, which explicitly lifts a 30-year-old restriction on abortions by the department.

The ERLC said the interim final rule forces taxpayers to fund the taking of preborn human lives, disregards a congressional ban on abortions by the V.A. and violates the religious freedom of health-care workers.

"These state attorneys general are right to push back on this unconstitutional move from the Biden administration that circumvents pro-life state laws," ERLC Policy Manager Hannah Daniel told Baptist Press.

"As the ERLC's October public comments argued, this [interim final rule] is antithetical to our nation's principles and forces pro-life Americans to fund the horrific practice of abortion," she said by email. "It is our continued

hope that this rule will be repealed or stopped in the courts."

The interim final rule permits the V.A. to provide abortions in its medical benefits package under specific conditions, as well as abortion counseling, for pregnant veterans and V.A. beneficiaries. Under the rule, the V.A. will perform abortions when the life or health of the mother is threatened and when the pregnancy is the result of rape or incest.

The rule's guidelines, however, can be interpreted to grant a right to abortion that is more extensive than it appears at first glance, opponents assert.

Thirteen states have "total/near total limits on abortion" in effect as of Nov. 16, Susan B. Anthony Pro-life America reported. In addition, Florida has a ban in effect on abortion beginning at 15 weeks' gestation. "Total/near total" restrictions on abortion in nine states await a final ruling in the courts, according to the report.

With the exception of Nebraska, the 15 attorneys general who wrote McDonough represent states that already have enacted some form of abortion prohibition.

In their letter, Fitch and the attorneys general described the new V.A. rule as "unlawful" and "deeply flawed." The interim final rule "rests on a claim of legal authority that the VA does not have and it purports to override duly enacted state laws on matters within traditional state authority," the letter said.

The attorneys general asserted:

- The V.A. lacks authority to provide abortions because the 1992 Veterans Health Care Act does not authorize abortions and the department's assertion a 1996 law "effectively overtook" the earlier

law is without merit.

- The interim final rule "would not simply displace the many state laws regulating and restricting abortion" even if the V.A. has the authority it alleges.
- They "will be watching closely the VA's use of this rule and we will be ready to act if the VA defies the law." The attorneys general also emphasized the rule must be administered in a way that is consistent with a health-care worker's right to refuse to participate in an abortion on the basis of "conscience or religious belief."

Joining Fitch on the letter were Mark Brnovich of Arizona, Leslie Rutledge of Arkansas, Ashley Moody of Florida, Christopher Carr of Georgia, Todd Rokita of Indiana, Daniel Cameron of Kentucky, Douglas Peterson of Nebraska, Drew Wrigley of North Dakota, Dave Yost of Ohio, Alan Wilson of South Carolina, Jonathan Skrmetti of Tennessee, Ken Paxton of Texas, Sean Reyes of Utah and Patrick Morrisey of West Virginia.

According to the interim final rule, decisions regarding what constitutes endangerment of life and health will be made case by case through consultation between a V.A. medical professional and a woman. The V.A. will accept a report by a veteran or beneficiary as satisfactory proof of rape or incest, the department said.

The rule's language regarding the "health" of the mother is open to a potentially expansive understanding, opponents asserted. In the past, "health" has been interpreted to include not only physical well-being but such factors as the emotional and psychological condition of the mother.