Nos. 18-1514

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**IN THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT**

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COMMONWEALTH OF MASSACHUSETTS,

*Plaintiff-Appellant*

v.

UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, et al.,

*Defendants-Appellees*

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On Appeal from the United States District Court for the District of Massachusetts
Case No. 1:17-cv-11930-NMG

The Hon. Nathaniel M. Gorton Presiding

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**BRIEF OF AMICI CURIAE THE NATIONAL WOMEN'S LAW CENTER, THE NATIONAL LATINA INSTITUTE FOR REPRODUCTIVE HEALTH, SISTERLOVE, INC., AND THE NATIONAL ASIAN PACIFIC AMERICAN WOMEN'S FORUM IN SUPPORT OF PLAINTIFF-APPELLANT AND IN FAVOR OF REVERSAL**

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*(Amici appreciate the assistance of Nina Serrianne at the National Latina Institute for Reproductive Health for her role in the preparation of this brief)*

# CORPORATE DISCLOSURE STATEMENT

**(Rule 26.1)**

Pursuant to Federal Rules of Appellate Procedure 26.1(a) and 29(a)(4)(A), Amici Curiae make the following corporate disclosure statement:

The National Women's Law Center, the National Latina Institute for Reproductive Health, SisterLove, Inc., and the National Asian Pacific American Women's Forum are non-profit public interest organizations, none of which has corporate parents or stockholders.

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## INTEREST AND IDENTITY OF AMICI CURIAE

Amici the National Women's Law Center, the National Latina Institute for Reproductive Health, SisterLove, Inc., the National Asian Pacific American Women's Forum, and the 55 additional organizations listed in the Appendix, are national and regional organizations committed to obtaining racial justice, economic security, gender equity, civil rights, and reproductive justice for all, which includes ensuring that individuals who may become pregnant have access to full and equal health coverage, including contraceptive coverage without cost-sharing, as guaranteed by the Affordable Care Act ("ACA"). We submit this brief to identify those in Massachusetts who will lose coverage and to demonstrate the harm that will result, particularly to those who face multiple and intersecting forms of discrimination, if the Administration's interim final rules regarding the ACA's contraceptive coverage requirement are implemented.[1]

[1] No counsel for a party authored this brief in whole or in part, and no person other than Amici Curiae and their counsel made a monetary contribution to fund the preparation or submission of this brief. All parties have consented to the filing of this brief.

## INTRODUCTION AND SUMMARY OF ARGUMENT

At stake in this litigation are the health and livelihoods of people in Massachusetts and across the U.S. who will suffer harm under the Administration's two interim final rules regarding the ACA's contraceptive coverage requirement ("IFRs")[2]—particularly Black, Latinx,[3] Asian American and Pacific Islander ("AAPI") women and other people of color, young people, people with limited resources, transgender men and gender non-conforming people, immigrants, people with limited English proficiency, survivors of sexual and interpersonal violence, and others who face multiple and intersecting forms of discrimination.

The ACA's contraceptive coverage requirement obligates employers to provide insurance coverage without cost-sharing for all FDA-approved methods of contraception for women, and related education, counseling, and services.[4,5]

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[2] Religious Exemptions and Accommodations for Coverage of Certain Preventative Services Under the Affordable Care Act, 82 Fed. Reg. 47,792 (Oct. 13, 2017) (hereinafter "Religious Exemptions"); Moral Exemptions and Accommodations for Coverage of Certain Preventative Services Under the Affordable Care Act, 82 Fed. Reg. 47,838 (Oct. 13, 2017) (hereinafter "Moral Exemptions").

[3] The term "Latinx" challenges the gender binary in the Spanish language and embraces gender diversity.

[4] This brief uses the term "women" because the IFRs target women, and the ACA was intended to end discrimination against women. As we discuss, the denial of reproductive health care and related insurance coverage also affects some gender non-conforming people and transgender men.

Congress intended the ACA to reduce gender discrimination in health insurance by ensuring that it covers women's major health needs and that women no longer pay more for health care than men, including by decreasing the cost of contraception.[6] The Departments previously acknowledged this intent, explaining that Congress added the ACA Women's Health Amendment because "women have unique health care needs and burdens . . . includ[ing] contraceptive services," and that the "Departments aim to reduce these disparities by providing women broad access to preventive services, including contraceptive services."[7]

The ACA contraceptive coverage requirement has furthered these aims by eliminating the out-of-pocket cost of contraception and ensuring coverage of the full range of FDA-approved contraceptives and related services. Today, an estimated 62.4 million women are eligible for coverage for the contraceptive

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[5] 42 U.S.C. § 300gg-13(a)(4); Health Res. & Servs. Admin., *Women's Preventive Services Guidelines*, https://www.hrsa.gov/womens-guidelines-2016/index.html (last visited Sept. 11, 2018).

[6] 42 U.S.C. § 300gg-13(a)(4); *see also* 155 Cong. Rec. S12,021, S12,026 (daily ed. Dec. 1, 2009) (statement of Sen. Mikulski) (Women's Health Amendment intended to alleviate "punitive practices of insurance companies that charge women more and give [them] less in a benefit"); 155 Cong. Rec. S12,033, S12,052 (daily ed. Dec. 1, 2009) (statement of Sen. Franken) (Women's Health Amendment intended to incorporate "affordable family planning services" to "enable women and families to make informed decisions about when and how they become parents.").

[7] Group Health Plans and Health Insurance Issuers Relating to Coverage of Preventive Services Under the Patient Protection and Affordable Care Act, 77 Fed. Reg. 8,727, 8,728 (Feb. 15, 2012) [hereinafter "ACA Coverage"].

method that works best for them, irrespective of cost.[8] As a result, use of contraception—especially highly-effective long-acting reversible contraceptives ("LARCs") such as intrauterine devices ("IUDs") and contraceptive implants—has increased.[9]

The IFRs would reverse these gains by establishing a sweeping exemption permitted by neither the text nor the legislative history of the ACA allowing virtually any employer or university to deny insurance coverage for contraception and related services to employees, students, and their dependents. These expansive exemptions would undermine gender equality by reintroducing the very inequities that Congress meant to remedy.

This brief first establishes that Massachusetts has standing to challenge the IFRs because many individuals in Massachusetts are likely to lose contraceptive coverage, particularly people who face multiple and intersecting forms of discrimination. Second, the brief provides data showing that the IFRs will make contraception cost-prohibitive and will create other non-financial barriers to

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[8] Nat'l Women's Law Ctr., *New Data Estimates 62.4 Million Women Have Coverage of Birth Control Without Out-of-Pocket Costs* (2017), https://www.nwlc.org/resources/new-data-estimate-62-4-million-women-have-coverage-of-birth-control-without-out-of-pocket-costs/.

[9] *See* Ashley H. Snyder et al., *The Impact of the Affordable Care Act on Contraceptive Use and Costs among Privately Insured Women*, 28 Women's Health Issues 219, 222 (2018).

contraception for many who lose coverage. Third, the brief discusses the multiple ways the IFRs will harm those who lose contraceptive coverage. The IFRs will: (1) jeopardize health by increasing unintended pregnancies and aggravating medical conditions managed by contraception; (2) undermine individuals' autonomy and control over their lives; and (3) threaten individuals' economic security. As highlighted throughout this brief, the IFRs will particularly harm people of color and others who already face systemic discrimination in Massachusetts and nationwide.

## ARGUMENT

### I. MASSACHUSETTS HAS STANDING BECAUSE MANY OF ITS RESIDENTS, PARTICULARLY THOSE FACING MULTIPLE AND INTERSECTING FORMS OF DISCRIMINATION, ARE LIKELY TO LOSE COVERAGE UNDER THE IFRS.

Article III requires Massachusetts to demonstrate an injury-in-fact that is "concrete and particularized" and "actual or imminent." *Susan B. Anthony List v. Driehaus*, 134 S. Ct. 2334, 2341 (2014) (internal quotation marks omitted). "An allegation of future injury may suffice if . . . there is a substantial risk that the harm will occur." *Id.*; *accord Reddy v. Foster*, 845 F.3d 493, 500 (1st Cir. 2017); *see also City of Los Angeles v. Lyons*, 461 U.S. 95, 105 (1983) (standing to seek injunction depends on whether plaintiff is "likely to suffer future injury" from defendant's conduct). A state has standing when a quasi-sovereign interest is at

stake, such as "the health and well-being—both physical and economic—of its residents in general." *Alfred L. Snapp & Son, Inc. v. Puerto Rico, ex rel., Barez*, 458 U.S. 592, 607 (1982).

The District Court erred in holding that Massachusetts lacked standing to challenge the IFRs. The decision below relies heavily on the court's determination that Massachusetts' contraceptive coverage laws might ameliorate harm to the state's residents. *See Massachusetts v. U.S. Dep't of Health & Human Servs*., 301 F. Supp. 3d 248, 260-62 (D. Mass. 2018). Those laws require state-regulated insurance plans to cover FDA-approved contraceptives without cost-sharing.[10] They do not, however, apply to self-insured plans, which are governed solely by federal law, nor does it apply to university-sponsored student health plans.[11] Massachusetts residents covered by self-insured or student plans therefore will not be protected by the state's contraceptive coverage laws and stand to lose contraceptive coverage under the IFRs.

A substantial portion of Massachusetts' population is at risk. In 2017, one-third of private-sector employers in Massachusetts that offered health insurance—

[10] 2017 Mass. Acts ch. 120.

[11] 29 U.S.C. §§ 1144(a), (b)(2)(A); *Metro. Life Ins. Co. v. Massachusetts*, 471 U.S. 724, 736-47 (1985); 2017 Mass. Acts ch. 120 (amending only Chapters 32A, 118E, 175, 176A, 176B, and 176G of the Massachusetts General Laws); Mass. Gen. Laws ch. 15A, § 18 (2014) (governing student health plans).

approximately 36,000 employers—self-insured at least one plan.[12] Well over half of all employees enrolled in private-sector-employer health plans in Massachusetts—approximately 770,000 employees—were enrolled in self-insured plans in 2017, and this does not include covered dependents.[13] At least two self-insured employers in Massachusetts with hundreds of employees—Hobby Lobby[14] and Autocam Medical[15]—will certainly take advantage of the expanded exemptions, given that they vociferously litigated against the contraceptive coverage requirement. Thus, there is at least a "substantial risk" that Massachusetts residents will lose contraceptive coverage due to the IFRs, rendering the injury sufficiently imminent for standing purposes. *Susan B. Anthony List*, 134 S. Ct. at 2341. The District Court erred in essentially requiring

[12] NWLC calculations from Agency for Healthcare Research and Quality, Medical Expenditure Panel Survey (MEPS), Tables II.A.1, II.A.2, and II.A.2.a (2017), https://meps.ahrq.gov/data_stats/state_tables.jsp?regionid=18&year=2017 (last visited Sept. 12, 2018).

[13] *Id.* (using MEPS Tables II.B.1, II.B.2, II.B.2.b, and II.B.2.b.(1)).

[14] Hobby Lobby self-insures and has four Massachusetts locations. *See* Hobby Lobby Store Finder, https://www.hobbylobby.com/store-finder (last visited Sept. 12, 2018); *see also* Hobby Lobby Stores, Inc. Medical and Dental Plan Document, Group No.: 14628, Meritain Health (originally effective May 1, 1988); *see also* Joint Appendix 1352 (citing 13,240 Hobby Lobby employees nationwide).

[15] *See Autocam Corp. v. Sebelius*, 730 F.3d 618, 621 (6th Cir. 2013), *judgment vacated* 134 S. Ct. 2901 (2014) (noting Autocam self-insures). Autocam Medical operates a plant in Plymouth, Massachusetts with over 102 employees. *See* Autocam Medical, One Team, https://autocam-medical.com/one-team/#growing (last visited Sept. 21, 2018).

those employers to seek intervention as a prerequisite to Massachusetts' standing. *Massachusetts*, 301 F. Supp. 3d at 261.

These examples are only a small sample of all the people likely to be harmed by the IFRs in Massachusetts and elsewhere. The District Court underestimated how many people are likely to be harmed by the IFRs in Massachusetts and nationwide because it improperly accepted the Departments' faulty assumptions regarding the rules' impact. *See id.* at 259-60. Given the broad reach of the IFRs, it is error to assume that only those entities that filed litigation or requested an accommodation, and a trivial number of similar entities, will take advantage of the expanded exemptions.[16]

By extending the religious exemption to all universities and non-governmental employers, including publicly traded companies, the IFRs greatly expand the number of eligible entities. Moreover, some of the original litigating entities represent multiple, unidentified employers: for example, the Catholic Benefits Association alone represents more than 1,000 employers.[17]

The District Court also underestimated the likely impact of the "moral" exemption, under which any university or non-publicly-traded private entity may

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[16] Religious Exemptions, 82 Fed. Reg. at 47,816, 47,818, 47,820-21; Moral Exemptions, 82 Fed. Reg. at 47,857.

[17] Catholic Benefits Ass'n, https://catholicbenefitsassociation.org/ (last visited Sept. 11, 2018).

claim an exemption for virtually any reason given the vast nature of what could be interpreted as a "moral" objection. *See Pennsylvania v. Trump*, 281 F. Supp. 3d 553, 577 (E.D. Pa. 2017) ("Who determines whether the expressed moral reason is sincere or not or, for that matter, whether it falls within the bounds of morality or is merely a preference choice, is not found within the terms of the Moral Exemption Rule."). The IFRs also do not require objectors to file a statement of the basis for their objection that could permit oversight.

It is also error to assume that employees of objecting entities share their employers' moral or religious objections to contraception.[18] Many women of faith and their dependents who rely on objecting entities for health insurance use contraception and will be impacted by loss of contraceptive coverage. More than 99% of sexually experienced women aged 15-44 have used at least one method of contraception at some point regardless of religious affiliation.[19] 98% of sexually experienced Catholic women have used a method of contraception other than natural family planning; that number is 95% for married Catholic Latinas.[20] Over

[18] Moral Exemptions, 82 Fed. Reg. at 47,849.

[19] Kimberly Daniels et al., Ctrs. For Disease Control & Prevention, *62 Nat'l Health Stats. Reps.: Contraceptive Methods Women Have Ever Used: United States, 1982–2010* 8 (2013), https://www.cdc.gov/nchs/data/nhsr/nhsr062.pdf.

[20] Rachel K. Jones & Joerg Dreweke, Guttmacher Inst., *Countering Conventional Wisdom: New Evidence on Religion and Contraceptive Use* 4 (2011), https://www.guttmacher.org/sites/default/files/report_pdf/religion-and-

70% of Protestant women use a "highly effective contraceptive method" (including sterilization, IUDs, the pill, and other hormonal methods).[21]

Thus, by improperly deferring to the Departments' erroneous assumptions about the impact of the IFRs nationwide, the District Court underestimated the likely harm in Massachusetts. Many Massachusetts residents are likely to lose a vital health benefit under the IFRs, despite the Commonwealth's legislative efforts to close the gap. *Lyons*, 461 U.S. at 105.

Additionally, a substantial number of the Massachusetts residents who are at risk of losing coverage and who will not receive protection under Massachusetts' contraceptive coverage laws are those who can least afford it. Among the 36,000 private-sector employers in Massachusetts that offer self-insured health benefits, over half are in the retail and non-professional services industries, and almost one-third have a predominantly part-time workforce.[22] These workers tend to earn lower wages: retail workers in Massachusetts earn a median annual income of $23,699, and part-time workers earn a median annual income of $9,124, compared

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contraceptive-use.pdf; Catholics for Choice, *The Facts Tell the Story 2014-2015* 5 (2014), http://www.catholicsforchoice.org/wp-content/uploads/2014/12/FactsTelltheStory2014.pdf.

[21] *Id.* at 5.

[22] NWLC calculations from MEPS Tables V.A.2.a., VII.A.1, VII.A.2, VII.A.2.a (2017), https://meps.ahrq.gov/data_stats/state_tables.jsp?regionid=18&year=2017.

to $41,814 for all workers in all industries.[23] Moreover, lower wage workers are disproportionately women of color: while women of color make up only 10% of the total full-time, year-round workforce in Massachusetts, they account for nearly 25% of the full-time, year-round low-wage workforce in the state.[24]

Female retail workers in Massachusetts make a median hourly wage of $15.87.[25] Black female retail workers make even less, $10.71.[26] These earnings equate to a median monthly income of $2,750 for all female retail workers and $1,857 for Black female retail workers.[27] This is less than the approximately $3,200-$3,900 needed for a single person with no children to cover basic monthly expenses such as housing, food, transportation, health care, taxes, and other necessities in Massachusetts.[28] Faced with out-of-pocket expenses for contraception, many female retail workers, particularly women of color, will likely have to forgo contraception or other necessities due to cost.

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[23] NWLC calculations from 2012-2016 American Community Survey (ACS) 5-Year Estimates, using Steven Ruggles et al., Integrated Public Use Microdata Series, available at https://sda.usa.ipums.org.

[24] *Id*.

[25] *Id.* Median hourly wages are for full-time, year-round workers. Calculated by dividing annual median income by 2080 hours.

[26] *Id.*

[27] *Id*. Calculated by dividing annual median income by 12 months.

[28] Economic Policy Institute, *Family Budget Calculator, Monthly Costs*, https://www.epi.org/resources/budget/ (last visited Sept. 21, 2018).

The same holds true for young people, who often have limited resources, large educational debt, and little ability to absorb extra costs. Many young people rely on student health plans, which are not protected by Massachusetts' contraceptive coverage laws;[29] others are dependents in employer-sponsored plans. The ACA allows young adults to remain on their parent or guardian's health plan until age 26. From 2010-2013, 2.3 million dependent young adults—including 52,000 in Massachusetts—gained or maintained coverage under this provision and stand to lose contraceptive coverage under the IFRs if their parents' employers object to it.[30]

The Departments also incorrectly assume that many who lose contraceptive coverage can access contraception through existing government-sponsored programs, such as Title X, Medicaid, and state-run programs.[31] While the IFRs will certainly force thousands more women to seek contraceptive care from these already-strained programs, causing Massachusetts fiscal harm, many who lose ACA coverage will not be able to access such care due to eligibility restrictions and capacity constraints. In addition to income- and category-based eligibility

[29] *See supra* note 11.

[30] U.S. Dep't of Health and Human Servs., Asst. Sec'y for Planning and Education, Compilation of State Data on the Affordable Care Act, https://aspe.hhs.gov/compilation-state-data-affordable-care-act (last visited Sept. 21, 2018).

[31] Religious Exemptions, 82 Fed. Reg. at 47,803.

criteria for these programs,[32] anti-immigrant provisions in Medicaid restrict eligibility for most lawful permanent residents—many of whom are Latinx and AAPI—for five years.[33] For eligible women, Medicaid and Title X do not have the capacity to meet current needs, much less the demand from thousands who lose ACA coverage.[34] There are regions in Massachusetts without reasonable access (one clinic per 1,000 women in need) to a publicly-funded clinic offering the full range of FDA-approved contraceptive methods.[35] The Administration's ongoing attempts to restructure Title X and Medicaid will further burden already-scarce resources.[36]

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[32] *See* 42 U.S.C. § 300a-4(c)(2); 42 C.F.R. §§ 59.2, 59.5(7), (8) (free care at Title X clinics limited to families at 100% federal poverty level [FPL]; subsidized care restricted to 250% FPL); *see also* 42 U.S.C. § 1396a(a)(10)(A)(i)(VIII); Mass. Gen. Laws ch. 118E, § 9A (2014) (limiting MassHealth, *i.e.*, Medicaid, eligibility for childless, non-pregnant adults to 138% FPL).

[33] 8 U.S.C. § 1613(a); 130 Mass. Code Regs. 504.003; 504.006.

[34] Jennifer J. Frost et al., Guttmacher Inst., *Contraceptive Needs and Services, 2014 Update* 12, 30 (2016), https://www.guttmacher.org/sites/default/files/report_pdf/contraceptive-needs-and-services-2014_1.pdf (publicly-funded providers met only 39% of need for publicly-supported contraceptive services in 2014).

[35] Power to Decide, *Publicly Funded Sites Offering All Birth Control Methods By County*, https://powertodecide.org/what-we-do/access/access-birth-control (last visited Sept. 5, 2018).

[36] *See, e.g.*, Jessie Hellmann, *Trump Administration Rescinds Obama Guidance on Defunding Planned Parenthood*, The Hill (Jan. 19, 2018, 11:15 AM), http://thehill.com/policy/healthcare/369723-trump-administration-rescinds-guidance-protecting-planned-parenthoods; *see also* Compliance with Statutory Program Integrity Requirements, HHS-OS-2018-0008, at 113 (proposed May 22,

## II. THE IFRS WILL HARM THOSE WHO LOSE COVERAGE BY REINSTATING PRE-ACA COST AND OTHER BARRIERS TO CONTRACEPTION.

The ACA dramatically reduced out-of-pocket expenditures on contraception, resulting in increased use.[37] The IFRs threaten to reverse these gains. Without coverage, women will again face financial, logistical, informational, and administrative barriers that make it more difficult to use the most appropriate contraceptive method. These changes will particularly impact women of color, young people, transgender and gender non-conforming people, and others who face stark health disparities due to systemic barriers to contraceptive and other reproductive health care.

### A. The IFRs Will Make Contraception Cost-Prohibitive for Many People.

The Departments claim that contraception is "relatively low cost,"[38] but without insurance coverage, contraception is not low cost. Prior to the ACA, women spent between 30% and 44% of their total out-of-pocket health costs just

2018) (to be codified at 42 C.F.R. Part 59). This proposed rule would redefine "low-income family" for Title X eligibility to include women who lose contraceptive coverage because of an employer's objection. This redefinition illegally defies the plain meaning and purpose of Title X, and in any event the proposed rule does nothing to ensure Title X providers actually have the capacity to meet the needs of these additional women.

[37] *E.g.*, Snyder, *supra* note 9, at 222.

[38] Religious Exemptions, 82 Fed. Reg. at 47,816.

on contraception.[39] A 2009 study found oral contraception (the pill) costs, on average, $2,630 over five years, and other very effective methods such as injectables, transdermal patches, and the vaginal ring, cost women between $2,300 and $2,800 over a five-year period.[40] Today, women can be expected to spend $850 annually on oral contraception and attendant care.[41] LARCs—among the most effective contraceptives—carry the highest up-front costs: IUDs can cost up to $1300 up front,[42] in addition to costs of ongoing care.

Cost is a major determinant of whether people obtain needed health care, particularly for individuals with lower incomes.[43] Studies confirm that "[e]ven small increments in cost sharing have been shown to reduce the use of preventive

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[39] Nora V. Becker & Daniel Polsky, *Women Saw Large Decrease in Out-Of-Pocket Spending for Contraceptives After ACA Mandate Removed Cost Sharing*, 34 Health Affairs 1204, 1208 (2015).

[40] James Trussell et al., *Erratum to "Cost Effectiveness of Contraceptives in the United States" [Contraception 79 (2009) 5-14]*, 80 Contraception 229 (2009).

[41] Jamila Taylor & Nikita Mhatre, *Contraceptive Coverage Under the Affordable Care Act*, Ctr. for Am. Progress (Oct. 6, 2017, 5:09 PM), https://www.americanprogress.org/issues/women/news/2017/10/06/440492/contraceptive-coverage-affordable-care-act/.

[42] Erin Armstrong et al., *Intrauterine Devices and Implants: A Guide to Reimbursement* 5 (Regents of U.C. et al. 2d ed. 2015), https://www.nationalfamilyplanning.org/file/documents----reports/LARC_Report_2014_R5_forWeb.pdf; *IUD*, Planned Parenthood https://www.plannedparenthood.org/learn/birth-control/iud (last visited Sept. 21, 2018).

[43] Adam Sonfield, *The Case for Insurance Coverage of Contraceptive Services and Supplies Without Cost-Sharing*, 14 Guttmacher Pol'y Rev. 7, 10 (2011).

services."[44] When finances are strained, women cease using contraception, skip pills, delay filling prescriptions, or purchase fewer packs at once.[45] Cost is also a major determinant of contraceptive use by young people: before the ACA, 55% of young women reported experiencing a time when they could not afford contraception consistently.[46]

Cost also impacts the choice of contraceptive method. People often use methods that are medically inappropriate or less effective because they cannot afford more appropriate or effective methods with higher out-of-pocket costs.[47]

The ACA contraceptive coverage requirement has yielded enormous cost-

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[44] *See* Inst. of Medicine, *Clinical Preventive Services for Women: Closing the Gaps* 109 (2011) [hereinafter "IOM Rep."].

[45] Guttmacher Inst., *A Real-Time Look at the Impact of the Recession on Women's Family Planning and Pregnancy Decisions* 5 (2009), https://www.guttmacher.org/sites/default/files/report_pdf/recessionfp_1.pdf.

[46] Zenen Jaimes et al., Generation Progress & Advocates for Youth, *Protecting Birth Control Coverage for Young People* 1 (2015), http://www.advocatesforyouth.org/storage/advfy/documents/Factsheets/protecting%20birth%20control%20coverage%20factsheet-2-18-15.pdf.

[47] Debbie Postlethwaite et al., *A Comparison of Contraceptive Procurement Pre- and Post-Benefit Change*, 76 Contraception 360, 360, 363 (2007) (finding decrease in out-of-pocket costs of contraception increased use of more effective methods); Guttmacher Inst., *Insurance Coverage of Contraception*, (Dec. 2016), https://www.guttmacher.org/evidence-you-can-use/insurance-coverage-contraception.

savings.[48] Today, an estimated 62.4 million women[49]—three-fourths of insured reproductive-age women using contraception—have coverage for the full range of FDA-approved contraceptive methods with zero out-of-pocket costs.[50] This has corresponded with an increase in use,[51] particularly of the most effective forms of contraception. For example, the rate of new LARC insertions increased, suggesting "that the removal of the cost barrier to IUDs and implants has increased their rate of adoption after the ACA."[52] The IFRs will reverse these critical gains.

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[48] Snyder, *supra* note 9, at 222; *see also* Bearek et al., *Changes in Out-Of-Pocket Costs for Hormonal IUDs after Implementation of the Affordable Care Act: An Analysis of Insurance Benefit Inquiries*, 93 Contraception 139, 141 (2016) (cost of hormonal IUDs fell to $0 for most insured women following ACA).

[49] Nat'l Women's Law Ctr., *supra* note 8.

[50] Snyder, *supra* note 9, at 221; *see also* Caroline Rosenzweig et al., Kaiser Family Found., *Women's Sexual and Reproductive Health Services: Key Findings from the 2017 Kaiser Women's Health Survey* 3 (2018), http://files.kff.org/attachment/Issue-Brief-Womens-Sexual-and-Reproductive-Health-Services-Key-Findings-from-the-2017-Kaiser-Womens-Health-Survey.

[51] Express Scripts, *2015 Drug Trends Report* 118 (2016), http://lab.express-scripts.com/lab/drug-trend-report/~/media/e2c9d19240e94fcf893b706e13068750.ashx (reporting that contraceptive use increased 17.2% from 2014-15); Express Scripts, *2016 Drug Trends Report* 24 (2017), http://lab.express-scripts.com/lab/drug-trend-report/~/media/29f13dee4e7842d6881b7e034fc0916a.ashx (reporting 3.0% overall increase in contraceptive use from 2015-16, and 137.6% increase in specialty contraceptives, including LARCs).

[52] Snyder, *supra* note 9, at 222.

### B. The IFRs Will Create Logistical, Administrative, and Informational Barriers to Contraception.

The IFRs will also impose other barriers to contraception, including logistical, informational, and administrative burdens in navigating the health care system without employer- or university-sponsored contraceptive coverage.

Navigating the health care system is complicated, requiring many resources, such as free time, regular and unlimited phone and internet access, privacy, transportation, language comprehension, and ability to read and respond to complex paperwork. It is, therefore, particularly difficult for individuals with limited English proficiency and for people in low-wage jobs—disproportionately women of color—who often work long, unpredictable hours without scheduling flexibility and who lack reliable access to transportation.[53]

Many who lose coverage will be forced by cost constraints to navigate switching away from providers they trust and who know their medical histories. This interruption in continuity of care poses particular challenges for people of color, people with limited English proficiency, and LGBTQ people, who already face multiple barriers to obtaining reproductive health services, including language barriers, a lack of cultural competency among providers, providers' limited

[53] Nat'l Women's Law Ctr., *Collateral Damage: Scheduling Challenges for Workers in Low-Wage Jobs and Their Consequences* 1-3 (2017), https://nwlc-ciw49tixgw5lbab.stackpathdns.com/wp-content/uploads/2017/04/Collateral-Damage.pdf.

geographic availability, and implicit bias and discrimination.[54] Having to switch from a trusted provider is particularly consequential for transgender and gender non-conforming people, who report pervasive provider discrimination and refusals to provide care, cultural insensitivity, and ignorance of transgender-related care.[55]

## III. THE IFRS WILL HARM THE HEALTH, AUTONOMY, AND ECONOMIC SECURITY OF THOSE WHO LOSE CONTRACEPTIVE COVERAGE.

### A. The IFRs Will Harm the Health of Individuals and Families.

By reinstating cost and other barriers to contraception, the IFRs will harm the health of individuals and families, particularly those already suffering negative health outcomes for which access to contraception is critical. Contraception is a vital component of preventive health care: it combats unintended pregnancy and its attendant health consequences, avoids exacerbating medical conditions for which pregnancy is contraindicated, and offers standalone health benefits unrelated to pregnancy.

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[54] *See* Am. Coll. of Obstetricians & Gynecologists, *Committee Opinion No. 649: Racial & Ethnic Disparities in Obstetrics & Gynecology* 3 (2015), https://www.acog.org/-/media/Committee-Opinions/Committee-on-Health-Care-for-Underserved-Women/co649.pdf?dmc=1&ts=20180521T1849308146; Sandy E. James et al., Nat'l Ctr. for Transgender Equality, *The Report of the 2015 U.S. Transgender Survey* 96-99 (2015), https://www.transequality.org/sites/default/files/docs/USTS-Full-Report-FINAL.PDF.

[55] James, *supra* note 54, at 96-99.

Notwithstanding the significant overall decrease in out-of-pocket expenditures on contraception under the ACA, racial and ethnic disparities in access to contraception persist, including access to the most effective methods. Black, Latina, and AAPI women are less likely to use prescription contraception than their white peers due to structural barriers, such as geographically inaccessible providers and inflexible work schedules.[56] Insurance coverage for contraception is an important factor in reducing this disparity in contraceptive use.[57] The IFRs will exacerbate existing disparities by inhibiting access to such coverage.

### 1. *The IFRs Place More People at Risk for Unintended Pregnancy and Associated Health Risks.*

By inhibiting access to contraception, the IFRs will increase the risk of unintended pregnancy, which, due to systemic barriers, is already higher for women of color and young people (including LGBTQ youth).[58] Unintended

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[56] Stacey McMorrow, Urban Inst., *Racial and Ethnic Disparities in Use of Prescription Contraception: The Role of Insurance Coverage* (forthcoming), https://academyhealth.confex.com/academyhealth/2017arm/meetingapp.cgi/Paper/17939; Jo Jones et al., Ctrs. For Disease Control & Prevention, *Nat'l Health Statistics Reps.: Current Contraceptive Use in the United States 2006-2010, and Changes in Patterns of Use Since 1995* 5, 8 (2012), https://www.cdc.gov/nchs/data/nhsr/nhsr060.pdf; Christine Dehlendorf et al., *Disparities in Family Planning*, 202 Am. J. Obstet. Gynecol. 214, 216 (2010).

[57] McMorrow, *supra* note 56; Dehlendorf, *supra* note 56, at 216.

[58] IOM Rep., *supra* note 44, at 103-04; Lawrence B. Finer & Mia R. Zolna, *Shifts in Intended and Unintended Pregnancies in the United States, 2001–2008*, 104 Am. J. Pub. Health S43, S47 (2014); Kashif Syed, Advocates for Youth, *Ensuring Young People's Access to Preventive Services in the Affordable Care Act* 2 (2014),

pregnancy can have serious health consequences for individuals and their families. People with unplanned pregnancies are more likely to delay prenatal care, leaving potential health complications unaddressed and increasing the risk of infant mortality, birth defects, low birth weight, and preterm birth.[59] Women with unintended pregnancies are also at higher risk for maternal morbidity and mortality, maternal depression, and physical violence during pregnancy.[60] The U.S. has a higher maternal mortality rate than any other high-income country, especially for Black women.[61] By creating additional barriers to contraception and

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http://www.advocatesforyouth.org/storage/advfy/documents/Preventive%20Services%20in%20the%20ACA-11-24-14.pdf; Lisa L. Lindley & Katrina M. Walsemann, *Sexual Orientation and Risk of Pregnancy Among New York City High-School Students*, 105 Am. J. Pub. Health 1379, 1383 (2015).

[59] IOM Rep., *supra* note 44, at 103; *see also* Cassandra Logan et al., Nat'l Campaign to Prevent Teen & Unplanned Pregnancy, Child Trends, Inc., *The Consequences of Unintended Childbearing: A White Paper* 3-5 (2007), https://pdfs.semanticscholar.org/b353/b02ae6cad716a7f64ca48b3edae63544c03e.pdf.

[60] IOM Rep., *supra* note 44, at 103; Amy O. Tsui et al., *Family Planning and the Burden of Unintended Pregnancies*, 32 Epidemiologic Rev. 152, 165 (2010); Office of Disease Prevention & Health Promotion, *HealthyPeople 2020: Family Planning*, HealthyPeople.gov, https://www.healthypeople.gov/2020/topics-objectives/topic/family-planning (last visited Sept. 11, 2018).

[61] Black Mamas Matter Alliance, *Black Mamas Matter Toolkit Advancing the Right to Safe and Respectful Maternal Health Care* 21 (2018), https://www.reproductiverights.org/sites/crr.civicactions.net/files/documents/USPA_BMMA_Toolkit_Booklet-Final-Update_Web-Pages.pdf; Renee Montagne & Nina Martin, *Focus On Infants During Childbirth Leaves U.S. Moms In Danger*, Nat'l Pub. Radio (May 12, 2017, 5:00 AM), https://www.npr.org/2017/05/12/527806002/focus-on-infants-during-childbirth-

preconception care, the IFRs threaten to increase rates of unintended pregnancy and related health risks.

The Departments claim that availability of contraceptive coverage without cost-sharing does not decrease the incidence of unintended pregnancy.[62] On the contrary, as the post-ACA research corroborates, lowering the cost of contraception leads to increased use,[63] resulting in fewer unintended pregnancies.[64] Denying contraceptive coverage was found to have resulted in 33 more pregnancies per 1000 women, and "insurance coverage was significantly associated with women's choice of contraceptive method."[65]

The Departments also incorrectly assert that harm to women will be mitigated because some employers and universities with objections may voluntarily choose to cover some methods.[66] But allowing employers or

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leaves-u-s-moms-in-danger; Guttmacher Inst., *Publicly Funded Family Planning Services in the United States* 1 (2016), https://www.guttmacher.org/sites/default/files/factsheet/fb_contraceptive_serv_0.pdf.

[62] Religious Exemptions, 82 Fed. Reg. at 47,804-05.

[63] *See supra* notes 48-52 and accompanying text.

[64] Jeffrey F. Peipert et al., *Preventing Unintended Pregnancies by Providing No-Cost Contraception*, 120 Obstetrics & Gynecology 1291, 1291 (2012).

[65] W. Canestaro et al., *Implications of Employer Coverage of Contraception: Cost-Effectiveness Analysis of Contraception Coverage Under an Employer Mandate*, 95 Contraception 77, 83, 85 (2017).

[66] *See* Religious Exemptions, 82 Fed. Reg. at 47,801, 47,817, 47,823.

universities to pick and choose covered methods—rather than allowing the users themselves to choose—undermines people's ability to consistently use the contraceptive that is most appropriate for them, increasing the risk of unintended pregnancy. 41% of unintended pregnancies in the U.S. are caused by inconsistent or incorrect contraceptive use and 54% are due to non-use.[67] People are more likely to use contraception consistently and correctly when they are able to choose the method that suits their needs.[68]

### 2. *The IFRs Will Undermine Health Benefits from Contraception.*

Contraception allows women to delay pregnancy when it is contraindicated and offers several standalone benefits unrelated to pregnancy. Although most women aged 18-44 who use contraception do so to prevent pregnancy (59%), 13% use it solely to manage a medical condition, and 22% use it for both purposes.[69]

Contraception is necessary to control medical conditions that are complicated by pregnancy, including diabetes, obesity, pulmonary hypertension,

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[67] Adam Sonfield et al., Guttmacher Inst., *Moving Forward: Family Planning in the Era of Health Reform* 8 (2014).

[68] Jennifer J. Frost & Jacqueline E. Darroch, *Factors Associated with Contraceptive Choice and Inconsistent Method Use, United States, 2004*, 40 Persps. on Sexual & Reprod. Health 94, 99, 101-03 (2008).

[69] Rosenzweig, *supra* note 50, at 3.

and cyanotic heart disease.[70] In addition, contraception treats menstrual disorders, reduces menstrual pain, reduces the risks of certain cancers, such as endometrial and ovarian cancer, and helps protect against pelvic inflammatory disease.[71]

By reinstating cost barriers to some or all contraceptive methods, the IFRs will aggravate medical conditions and undermine necessary health benefits.

### B. The IFRs Will Undermine Individuals' Autonomy and Control Over Their Reproductive and Personal Lives.

The Supreme Court has recognized that "[t]he ability of women to participate equally in the economic and social life of the Nation has been facilitated by their ability to control their reproductive lives." *Planned Parenthood of Southeastern Pa. v. Casey*, 505 U.S. 833, 856 (1992); *see also Griswold v. Connecticut*, 381 U.S. 479, 485-86 (1965). Women also report that the ability to plan their lives is a main reason for their use of contraception.[72]

Contraception and the freedom it affords are particularly important for communities with histories of subjection to the control of others in their sexual and reproductive lives. During slavery, when Black women were the legal chattel of

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[70] IOM Rep., *supra* note 44, at 103-04.

[71] *Id.* at 107.

[72] Jennifer J. Frost & Laura Duberstein Lindberg, *Reasons for Using Contraception: Perspectives of US Women Seeking Care at Specialized Family Planning Clinics*, 87 Contraception 465, 467, 470 (2013).

their masters, they had no ability to resist unwanted sex or childbearing.[73] Slavery gave way to twentieth century policies and practices that encouraged and coerced women of color, individuals with disabilities, and so-called "sexual deviants," to refrain from reproduction; these policies culminated in forced sterilizations without informed consent.[74] Affordable access to the full range of contraceptive options empowers individuals to exercise control over their reproductive futures.

Contraception is also critical to the autonomy of transgender men and gender non-conforming individuals. Contraception permits these individuals to align their gender identity with their physiology by enabling them to prevent pregnancy and control menstruation.[75] Transgender men already have higher incidence of

[73] Deborah Gray White, *Ar'n't I a Woman?: Female Slaves in the Plantation South* 68 (W.W. Norton & Co. ed., 1999).

[74] Carole Joffe & Willie J. Parker, *Race, Reproductive Politics and Reproductive Health Care in the Contemporary United States*, 86 Contraception 1, 1 (2012); *see also* Proud Heritage: People, Issues, and Documents of the LGBT Experience, Vol. 2 205 (Chuck Stewart, ed. 2015); Elena R. Gutiérrez, *Fertile Matters: the Politics of Mexican-Origin Women's Reproduction* 35-54 (2008); *Buck v. Bell*, 274 U.S. 200, 205 (1927) (upholding law permitting coerced sterilization of "mentally defective" people).

[75] Juno Obedin-Maliver & Harvey J. Makadon, *Transgender Men and Pregnancy*, 9 Obstetric Med. 4, 6 (2015).

depression, anxiety, and suicide,[76] and for some, pregnancy and menstruation can increase experiences of gender dysphoria—the distress resulting from one's physical body not aligning with one's sense of self.[77]

Finally, contraception is vital for survivors of rape and interpersonal violence.[78] Access to emergency contraception without cost-sharing empowers sexual assault survivors to prevent unwanted pregnancy, and is particularly critical for students given the high rate of sexual assault on college campuses.[79] The shot and LARCs enable women to prevent pregnancy with reduced risk of detection by or interference from partners.[80] Without these options, pregnancy can entrench a

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[76] SL Budge et al., *Anxiety and Depression in Transgender Individuals: The Roles of Transition Status, Loss, Social Support, and Coping*, 81 J. Consult Clin. Psych. 545 (2013); Fatima Saleem & Syed W. Rizvi, *Transgender Associations and Possible Etiology: A Literature Review*, 9 Cureus 1, 2 (2017) ("Forty-one % of [transgender individuals in the U.S.] reported attempting suicide as compared to 1.6% of the general population.").

[77] Obedin-Maliver & Makadon, *supra* note 75, at 6; Saleem & Rizvi, *supra* note 76 at 1.

[78] Am. Coll. of Obstetricians & Gynecologists, *Committee Opinion No. 554, Reproductive and Sexual Coercion* 2-3 (2013), https://www.acog.org/-/media/Committee-Opinions/Committee-on-Health-Care-for-Underserved-Women/co554.pdf?dmc=1&ts=20180521T2206346190 [hereinafter "ACOG No. 554"].

[79] Nat'l Women's Law Ctr., *Sexual Harassment & Assault in Schools*, https://nwlc.org/issue/sexual-harassment-assault-in-schools/ (last visited Sept. 11, 2018).

[80] ACOG No. 554, *supra* note 78, at 2-3.

woman in an abusive relationship, endangering the woman, her pregnancy, and her children. Abusive partners often engage in "reproductive coercion" behaviors to promote unwanted pregnancy, including interfering with contraception or abortion.[81] By impeding their access to necessary contraceptive methods, the IFRs harm women's ability to resist such coercion.[82]

### C. The IFRs Undermine Individuals' Economic Security.

The IFRs will thwart people's ability to plan, delay, space, and limit pregnancies as is best for them, thereby undermining their ability to participate equally in society and further their educational and career goals.

#### 1. *Access to Contraception Provides Life-Long Economic Benefits to Women, Families, and Society.*

Access to contraception has life-long economic benefits: it enables people who can become pregnant to complete high school and attain higher levels of education, improves their earnings and labor force participation, and secures their economic independence.[83] The availability of the oral contraceptive pill alone is

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[81] *Id.* at 1-2; Elizabeth Miller et al., *Reproductive Coercion: Connecting the Dots Between Partner Violence and Unintended Pregnancy*, 81 Contraception 457, 457–58 (2010).

[82] ACOG No. 554, *supra* note 78, at 2-3.

[83] Adam Sonfield et al., Guttmacher Inst., *The Social and Economic Benefits of Women's Ability to Determine Whether and When to Have Children* 7-8 (2013), https://www.guttmacher.org/sites/default/files/report_pdf/social-economic-benefits.pdf.

associated with roughly one-third of the total wage gains for women born from the mid-1940s to early 1950s.[84] Access to oral contraceptives has improved women's educational attainment,[85] which in turn has caused large increases in women's participation in law, medicine, and other professions.[86] While wage disparities persist, contraception has helped advance gender equality by reducing the gap.[87]

The Departments are well aware of these significant benefits. In previously-issued rules, they explained that before the ACA, disparities in health coverage "place[d] women in the workforce at a disadvantage compared to their male co-workers," that "[r]esearchers have shown that access to contraception improves the social and economic status of women," and that the contraceptive coverage requirement "furthers the goal of eliminating this disparity by allowing women to achieve equal status as healthy and productive members of the job force."[88]

By inhibiting access to contraception, the IFRs will threaten the economic security and advancement of individuals, families, and society.

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[84] Martha J. Bailey et al., *The Opt-in Revolution? Contraception and the Gender Gap in* Wages, 4 Am. Econ. J. Appl. Econ. 225, 241 (2012), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3684076/.

[85] Heinrich H. Hock, *The Pill and the College Attainment of American Women and Men* 19 (Fla. St. Univ., Working Paper 2007).

[86] Claudia Goldin & Lawrence F. Katz, *The Power of the Pill: Oral Contraceptives and Women's Career and Marriage Decisions*, 110 J. Pol. Econ. 730, 749 (2002).

[87] Sonfield, *supra* note 83, at 14.

[88] ACA Coverage, 77 Fed. Reg. at 8,725, 8,728.

### 2. *The IFRs Will Exacerbate Economic and Social Disparities by Impeding Access to Contraception.*

The IFRs will most jeopardize the economic security of those facing systemic barriers to economic advancement, forcing women with limited means who do not qualify for public aid into an impossible situation: they will have less ability to absorb the cost of an unintended pregnancy, but will be most at risk for it due to greater difficulty affording contraception.

Unplanned pregnancy can entrench economic hardship: unplanned births reduce labor force participation by as much as 25%.[89] The ability to avoid unplanned pregnancy is especially important for women in low-wage jobs, who are less likely to have parental leave or predictable and flexible work schedules.[90] Moreover, many women in low-wage jobs who become pregnant are denied pregnancy accommodations and face workplace discrimination; some are forced to quit, are fired, or are pushed into unpaid leave.[91] Nearly 70% of those holding jobs that pay less than $10 per hour are women, and a disproportionate number of

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[89] Ana Nuevo Chiquero, *The Labor Force Effects of Unplanned Childbearing*, (Boston Univ., Job Market Paper Nov. 2010), http://www.unavarra.es/digitalAssets/141/141311_100000Paper_Ana_Nuevo_Chiquero.pdf.

[90] Nat'l Women's Law Ctr., *supra* note 53, at 1, 4.

[91] Nat'l Women's Law Ctr., *It Shouldn't Be a Heavy Lift: Fair Treatment for Pregnant Workers* 1 (2016), https://nwlc-ciw49tixgw5lbab.stackpathdns.com/wp-content/uploads/2015/08/pregnant_workers.pdf.

women in low-wage jobs are women of color.[92] Women of color also experience greater wage disparities than white women: among full-time workers, Latina women make only 54¢ for every dollar paid to white men; that number is 57¢ for Native American women, 63¢ for Black women, and NAPAWF census-based calculations show that number is as low as 38¢ and 44¢ for AAPI women in some ethnic subgroups.[93]

## CONCLUSION

Massachusetts residents, particularly those facing multiple and intersecting forms of discrimination, will suffer significant harm if the Commonwealth is not permitted to defend their rights and well-being. Accordingly, the lower court's decision that Massachusetts lacks standing was legal error, and Amici urge the Court to reverse it.

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[92] Jasmine Tucker & Kayla Patrick, Nat'l Women's Law Ctr., *Women in Low-Wage Jobs May Not Be Who You Expect* 1 (2017), https://nwlc-ciw49tixgw5lbab.stackpathdns.com/wp-content/uploads/2017/08/Women-in-Low-Wage-Jobs-May-Not-Be-Who-You-Expect.pdf.

[93] Nat'l Women's Law Ctr., *FAQs About the Wage Gap* (2017), https://nwlc-ciw49tixgw5lbab.stackpathdns.com/wp-content/uploads/2017/09/FAQ-About-the-Wage-Gap-2017.pdf; U.S. Census Bureau, *2015 ACS 1-Year Estimates: Table S0201, Selected Population Profile in the United States,* https://factfinder.census.gov/bkmk/table/1.0/en/ACS/15_1YR/S0201//popgroup~031 (last visited Sept. 11, 2018).

Respectfully Submitted,

Date: September 24, 2018

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# CERTIFICATE OF COMPLIANCE

I, Jeffrey Blumenfeld, certify that pursuant to Federal Rules of Appellate Procedure 29(a)(4)(G), 29(a)(5), 32(a)(7)(B), and 32(g)(1), and First Circuit Rule 32(g), the forgoing Brief of Amici Curiae in Support of Plaintiff-Appellant and in Favor of Reversal is 6,500 words, excluding the portions exempted by Fed. R. App. P. 32(f), if applicable. The brief's type size and type face comply with Fed. R. App. P. 32(a)(5) and (6) in that it is proportionately spaced and has a typeface of 14 points.

Date: September 24, 2018 By: s/ Naomi D. Barrowclough

# APPENDIX A:

## STATEMENTS OF INTEREST OF *AMICI CURIAE*

**Advocates for Youth** partners with youth leaders, adult allies, and youth-serving organizations to advocate for policies and champion programs that recognize young people's rights to honest sexual health services; and the resources and opportunities necessary to create sexual health equity for all youth. Young people have the right to lead healthy lives, which includes access to the resources and tools necessary to make healthy decisions about their lives. The Affordable Care Act increased access to contraception for young people and Advocates for Youth seeks to ensure that young people continue to have access to the wide range of reproductive and sexual health care services they need.

**The Afiya Center** is a non-profit organization dedicated to serving Black women of color. We believe that Black women should have access to everything they need to respond appropriately to their reproductive health choices. As a Reproductive Justice organization, we believe all women should have the right to have a child, not have a child, and raise the children they have in safe environments free from state sanctioned violence. The IFRs are state sanctioned violence that would force women to endure hardships that do not support the right to the families of their choice. We must say no to this kind of interference.

**Americans United for Separation of Church and State** is a national,

nonsectarian public-interest organization that is committed to ensuring religious freedom and protecting fundamental rights, including reproductive rights, for all Americans by safeguarding the constitutional principle of church–state separation. Americans United has long supported legal exemptions that reasonably accommodate religious practice, but we oppose religious exemptions that unduly harm third parties or favor a religious practice not actually burdened by the government. Accordingly, Americans United regularly represents parties or acts as an *amicus curiae* in cases addressing the Affordable Care Act's contraceptive-coverage requirement.

Since 1914 **American Sexual Health Association** has worked to prevent the adverse outcomes of poor sexual health in the United States. We believe strongly that women should have access to health care coverage that includes contraceptive care. This guarantee, under the ACA is essential to ensure that people have control over their reproductive health. Sexual and reproductive health are part of overall health and well-being, and inextricably linked to a broad range of other economic and social factors. We seek to ensure that women have access to essential reproductive services.

**Asian Americans Advancing Justice-AAJC (Advancing Justice-AAJC)** is a national nonprofit organization working to advance and protect civil and human rights for Asian Americans and to build and promote a fair and equitable

society for all. Advancing Justice-AAJC is one of the nation's leading experts on issues of importance to the Asian American community, including immigrants' rights. Advancing Justice-AAJC works to promote justice and bring national and local constituencies together through community outreach, public policy advocacy, and litigation.

**The Asian & Pacific Islander American Health Forum (APIAHF)** influences policy, mobilizes communities, and strengthens programs and organizations to improve the health of over 20 million Asian Americans, Native Hawaiians, and Pacific Islanders (AAs and NHPIs). APIAHF has supported and defended the Affordable Care Act's access provisions in two amicus briefs before the U.S. Supreme Court. Access to contraception is critical to the health and economic security of AA and NHPI women who experience a number of barriers to good health, including inability to afford health care and quality coverage, language and immigration barriers.

**Black Mamas Matter Alliance (BMMA)** is a Black women-led cross-sectoral alliance. BMMA centers Black mamas to advocate, drive research, build power, and shift culture for Black maternal health, rights, and justice. BMMA envisions a world where Black mamas have the rights, respect, and resources to thrive before, during, and after pregnancy. As an alliance, BMMA aims to (1) change policy by introducing and advancing policy grounded in the human rights

framework that addresses Black maternal health inequity and improves Black maternal health outcomes; (2) cultivate research by leveraging the talent and knowledge that exists in Black communities and cultivate innovative research methods to inform the policy agenda to improve Black maternal health; (3) advance care for Black mamas: explore, introduce, and enhance holistic and comprehensive approaches to Black mamas' care; and (4) shift culture by redirecting and reframing the conversation on Black maternal health and amplify the voices of Black mamas. To advance health equity and economic security, BMMA believes women should have affordable access to the full range of contraceptive options and the autonomy to choose which method is best.

**Black Women Birthing Justice** is a collective of African-American, African, Caribbean and multiracial women who are committed to transforming birthing experiences for Black women and transfolks. Our vision is that that every pregnant person should have an empowering birthing experience, free of unnecessary medical interventions. We aim to enhance Black women's faith in their strength and resilience, and empower them to make healthy choices and to stand up for the pregnancy and birth experience they envision. We believe that access to contraception is vital to reproductive justice. Part of our mission is to advocate for the right of low-income women and women on welfare to make healthy and non-coerced decisions about when and whether to get pregnant. We

are signing on to this amicus brief because we believe that all women deserve accessible, no cost contraceptive coverage as outlined in the Affordable Care Act.

The **Black Women's Health Imperative (BWHI)** is a national organization dedicated solely to improving the health and wellness of our nation's 21 million Black women and girls - physically, emotionally and financially. For 35 years, BWHI has advanced and promoted Black women's health through evidence-based programs and initiatives, policy and advocacy, and research translation. Our policy and advocacy team evaluates and develops national and state policies to address issues most critical to Black women's health, especially regarding breast and cervical cancers, diabetes, HIV/AIDS, intimate partner violence, sexual assault, maternal health and reproductive justice. BWHI works to ensure that Black women have access to quality, affordable health care, which includes access to all forms of contraceptives. Access to the full range of contraceptive methods, some of which alleviate gynecological conditions, is critical to the health and well-being of Black women, and BWHI participates as amicus in cases that may impact Black women's reproductive health.

The **Black Women's Roundtable (BWR)** is an intergenerational civic engagement network of the National Coalition on Black Civic Participation. BWR comprises a diverse group of Black women civic leaders of international, national, regional and state-based organizations and institutions. Together, BWR's members

represent the issues and concerns of millions of Americans and families who live across the United States and around the world. At the forefront of championing just and equitable public policy on behalf of Black women, BWR promotes their health and wellness, economic security, education and global empowerment as key elements for success. These issues are interconnected and BWR supports health policies that deliver quality health care for all, strengthen the safety net for our most vulnerable communities, and address disparities in access to care. Our HealthCARE is a Human Right #NotAPrivilege Campaign seeks to protect and expand Medicaid, Medicare and the Affordable Care Act (ACA) along with ensuring access to contraceptives as set forth in the ACA.

**California Black Women's Health Project**, a 24-year-old statewide non-profit organization, is the only 501(c)(3) non-profit organization solely dedicated to improving the health of California's Black women and girls through advocacy, education, policy, and outreach. We are committed to advocating for policies and practices that promote and improve physical, spiritual, mental and emotional well-being of the 1.2 million Black women and girls in California. We believe a healthier future is possible when women are empowered to make choices in an environment where equal access and health justice are community priorities.

The **Center on Reproductive Rights and Justice at UC Berkeley** seeks to realize reproductive rights and advance reproductive justice by bolstering law and

policy advocacy efforts, furthering scholarship, and influencing academic and public discourse. Our work is guided by the belief that all people deserve the social, economic, political, and legal conditions necessary to make genuine decisions about reproduction.

**Chicago Foundation for Women** is committed to basic rights and equal opportunities for women and girls. The foundation focuses on the key issues of economic security, health access and freedom from violence. We believe that gender equity cannot be achieved without access to comprehensive health coverage including contraceptives. Without comprehensive reproductive health coverage women and girls are limited in their ability to achieve economic equity. We therefore seek to ensure that women receive the full benefits of access to no cost coverage as intended by the Affordable Care act, hence participating as amicus in cases that affect this right.

The **Clearinghouse on Women's Issues (CWI)** is a non-profit organization established in 1974 for the purpose of disseminating information on national and international issues of interest to women. The mission of CWI is to address economic, health, educational, social, political and legal issues facing women and girls. We sign on to this amicus brief in support of continuing the injunction on the implementation of the proposed rules that provides exemptions to the provision of contraception required under the Affordable Care Act.

Latinas continue to face disparities in access to contraception and other critical reproductive healthcare. The **Colorado Organization for Latina Opportunity and Reproductive Rights (COLOR)** believes that we need to do more to close the gaps and ensure that people have the services they need to manage their health and plan their families.

The **Desiree Alliance** positions ourselves in the belief that reproductive access and care must be made available to all those who seek such services. Far too long government has regulated reproductive rights/health/justice over those who seek preventative care of their bodies. Religious freedom under the guise of applicable law should never be deterrent in providing services that renders choice over legal regulation. Third party gateways should never interfere with healthcare options, and must not be allowed to withhold any healthcare choices decided by consenting and informed persons regardless of religious belief, gender, race, identity, and citizenship status.

Founded in 1974, **Equal Rights Advocates (ERA)** is a national non-profit legal advocacy organization dedicated to protecting and expanding economic and educational access and opportunities for women and girls. In concert with our commitment to securing gender equity in the workplace and in schools, ERA seeks to preserve women's right to reproductive choice and protect women's access to health care, including safe, legal contraception and abortion. In addition to

litigating cases on behalf of workers and students and providing free legal advice and counseling to hundreds of women each year, ERA has participated in numerous amicus briefs in this Court in cases affecting this right.

**EverThrive Illinois (EverThrive IL)** works to improve the health of women, children, and families over the lifespan by centering the values of health equity, diverse voices, and strong partnerships. EverThrive IL focuses on health issues of key importance to women, children, and their families including child and adolescent health, immunizations, maternal and infant mortality, and health reform. Because access to safe and voluntary contraception is a human right as declared by the United Nations, can improve the quality of life for people and their families, and is central to alleviating gender-based violence, EverThrive IL is committed to upholding and advocating for the ACA contraceptive-coverage requirement.

**Gender Justice** is a nonprofit legal and policy advocacy organization based in the Midwest that is committed to the eradication of gender barriers through impact litigation, policy advocacy, and education. As part of its litigation program, Gender Justice represents individuals and provides legal advocacy as amicus curiae in cases involving issues of gender discrimination. Gender Justice has an interest in ensuring that the contraceptive coverage provisions of the Affordable Care Act are implemented to eliminate gender gaps in access to health care.

**Ibis Reproductive Health** is an international nonprofit organization with a

mission to improve women's reproductive autonomy, choices, and health worldwide. Our core activity is clinical and social science research on issues receiving inadequate attention in other research settings and where gaps in the evidence exist. Our agenda is driven by women's priorities and focuses on increasing access to safe abortion, expanding contraceptive access and choices, and integrating HIV and comprehensive sexual and reproductive health services. We partner with advocates and other stakeholders who use our research to improve policies and delivery of services in countries around the world.

**In Our Own Voice: National Black Women's Reproductive Justice Agenda** is a national/state partnership with eight Black women's Reproductive Justice organizations: Black Women for Wellness (CA), Black Women's Health Imperative (DC), New Voices for Reproductive Justice (PA, OH), SisterLove, Inc. (GA), SisterReach (TN), SPARK Reproductive Justice NOW (GA), The Afiya Center (TX), and Women With A Vision (LA). At In Our Own Voice, we believe every woman should have the right to make informed decisions about her fertility and to plan her family without coercion by either her doctor or her government. She should be able to choose her contraceptive method based on her own living conditions and circumstances. Women deserve the human right to make decisions about our bodies, our families, and our communities in all areas of our lives.

**Jobs With Justice** is dedicated to expanding the ability for men and women

to come together to improve their workplaces, their communities and their lives. By leading strategic campaigns, changing the conversation, and mobilizing labor, community, student, and faith voices at the national and local levels with our network of coalitions, we create innovative solutions to the challenges faced by working people today. We sign on to this brief as the government should not further limit the economic and healthcare needs of women.

The **Maine Women's Lobby** advocates for the well-being of Maine women and girls, with a focus on freedom from violence, freedom from discrimination, access to health care, including reproductive health care, and economic security. The ability to control her reproduction is essential to a woman's well-being.

**NARAL Pro-Choice America** is a national advocacy organization, dedicated since 1969 to supporting and protecting, as a fundamental right and value, a woman's freedom to make personal decisions regarding the full range of reproductive choices through education, organizing, and influencing public policy. NARAL Pro-Choice America works to guarantee every woman the right to make personal decisions regarding the full range of reproductive choices. Ensuring that people can get affordable birth control and have the ability to decide whether, when, and with whom to start or expand their family is crucial to that mission.

**NARAL Pro-Choice Oregon** is the leading grassroots pro-choice advocacy organization in Oregon. NARAL Pro-Choice Oregon develops and sustains a

constituency that uses the political process to guarantee every person who can become pregnant the right to make personal decisions regarding the full range of reproductive choices, including preventing unintended pregnancy, bearing healthy children, and choosing legal abortion. Because access to contraception is integral to reproductive healthcare and the ability of individuals to decide whether and when to become a parent, NARAL Pro-Choice Oregon seeks to ensure that women receive full benefits of no-cost contraceptive coverage as intended by the Affordable Care Act.

**The National Advocates for Pregnant Women (NAPW)** is a non-profit organization working to defend and advance the constitutional and human rights of pregnant women and people with the capacity for pregnancy. NAPW provides legal representation and support in cases throughout the United States, and advocates for policies that protect the health and welfare of pregnant and parenting women and their families.

The **National Asian Pacific American Women's Forum (NAPAWF)** is the only national, multi-issue Asian American and Pacific Islander ("AAPI") women's organization in the country. NAPAWF's mission is to build a movement to advance social justice and human rights for AAPI women, girls, and transgender and gender non-conforming people. NAPAWF approaches all of its work through a reproductive justice framework that seeks for all members of the AAPI

community to have the economic, social, and political power to make their own decisions regarding their bodies, families, and communities. Its work includes advocating for the reproductive health care needs of AAPI women and ensuring AAPI women's access to reproductive health care services. Legal and institutional barriers to reproductive health care disproportionately impact women of color, low-income women, and other marginalized groups. Without legal protection to ensure meaningful, affordable access to basic reproductive health care, including contraception, many AAPI women are left without the crucial health and family planning services that they need to be able to make their own decisions regarding their bodies, families, and communities. Consequently, NAPAWF has a significant interest in ensuring that all people, regardless of their economic circumstances, immigration status, race, gender, sexual orientation, or other social factors, have affordable access to safe and effective contraception.

The **National Black Justice Coalition (NBJC)** is a civil rights organization dedicated to the empowerment of Black lesbian, gay, bisexual, transgender, queer and same gender loving people, including people living with HIV/AIDS. Because access to contraception is of tremendous significance to all women's health, equality, and economic security, NBJC seeks to ensure that women receive the full benefits of seamless access to no-cost contraceptive coverage as intended by the Affordable Care Act, and has participated as amicus in numerous cases that affect

this right.

**The National Center for Law and Economic Justice** advances the cause of economic justice for low-income families, individuals, and communities. We have worked with low-income communities fighting the systemic causes of poverty for more than 50 years. In our work, we often combat injustice and fundamental unfairness in government programs, including those that provide access to health care.

The **National Center for Transgender Equality** is a national social justice organization working for life-saving change for the over 1.5 million transgender Americans and their families. NCTE has seen the harmful impact that discrimination in health care settings has on transgender people and their loved ones, including discrimination based on religious or moral disapproval of who transgender people are, how they live their lives, and their reproductive choices. Discrimination against transgender people in health care—whether it is being turned away from a doctor's office, being denied access to or coverage of basic care, or being mistreated and degraded simply because of one's transgender status—is widespread and creates significant barriers to care, including contraceptive care. NCTE works to ensure that transgender people and other vulnerable communities are protected from discrimination in health care and other settings and have autonomy over their bodies and health care needs.

Founded in 1899, the **National Consumers League (NCL)** is America's pioneering non-profit consumer advocacy organization. For nearly 120 years, NCL has worked to ensure consumers' access to quality, affordable healthcare. As part of our mission, NCL advocated for passage of the Women's Preventive Services provisions of the Affordable Care Act, including coverage of contraception with no cost-sharing. NCL is committed to ensuring that access to no-cost contraceptive coverage – a necessary component of basic health care for women – is protected.

**The National Institute for Reproductive Health (NIRH)** is a non-profit advocacy organization working to build a society in which everyone has the freedom and ability to control their reproductive and sexual lives. NIRH promotes its mission by galvanizing public support for access to reproductive health care, including abortion and contraception, and supporting public policy that ensures that women have timely, affordable access to the full range of reproductive health care in their communities.

**The National Latina Institute for Reproductive Health (NLIRH)** is the only national reproductive justice organization dedicated to advance health, dignity, and justice for 28 million Latinas, their families, and communities in the United States. Through leadership development, community mobilization, policy advocacy, and strategic communications, NLIRH works to ensure that all Latinas

are informed about the full range of options for safe and effective forms of contraception and family planning. NLIRH believes that affordable access to quality contraception and family planning is essential to ensuring that all people, regardless of age or gender identity, can shape their lives and futures.

Since 1973, the **National LGBTQ Task Force** has worked to build power, take action, and create change to achieve freedom and justice for (LGBTQ) people and their families. As a progressive social justice organization, the Task Force works toward a society that values and respects the diversity of human expression and identity and achieves equity for all.

**The National Network to End Domestic Violence (NNEDV**) is a not-for-profit organization incorporated in the District of Columbia in 1994 to end domestic violence. As a network of the 56 state and territorial domestic violence and dual domestic violence and sexual assault coalitions and their over 2,000 member programs, NNEDV serves as the national voice of millions of women, children and men victimized by domestic violence, and their advocates. NNEDV was instrumental in promoting Congressional enactment and implementation of the Violence Against Women Acts. NNEDV works with federal, state and local policy makers and domestic violence advocates throughout the nation to identify and promote policies and best practices to advance victim safety. NNEDV is deeply concerned about the connection between domestic violence and

reproductive coercion, understanding that abusers will try to maintain power and control over their victim's reproductive health. Access to birth control can provide a victim autonomy and safety.

The **National Organization for Women Foundation (NOW Foundation)** is a 501(c)(3) organization devoted to furthering women's rights through education and litigation. Created in 1986, NOW Foundation is affiliated with the National Organization for Women, the largest feminist grassroots activist organization in the United States, with hundreds of thousands of members and contributing supporters in hundreds of chapters in all 50 states and the District of Columbia. Since its inception, NOW Foundation's goals have included advocating for improved access to the full range of reproductive health care for all women, including free access to all types of contraception.

**The National Partnership for Women & Families (National Partnership),** formerly the Women's Legal Defense Fund, is a national advocacy organization that develops and promotes policies to help women achieve equal opportunity, quality health care, and economic security for themselves and their families. Since its founding in 1971, the National Partnership has worked to advance women's health, reproductive rights, and equal employment opportunities through several means, including by challenging discriminatory policies in the courts.

**The National Women's Health Network ("NWHN")** improves the health of all women by influencing public policy and providing health information to support decision-making by individual consumers. Founded in 1975 to give women a greater voice within the health care system, NWHN aspires to create systems guided by social justice that reflect the needs of women in all their diversities. NWHN is committed to ensuring that women have self-determination in all aspects of their reproductive and sexual health and establishing universal access to health care. NWHN is a membership-based organization supported by thousands of individuals and organizations nationwide.

The **National Women's Law Center (the Center)** is a non-profit legal advocacy organization dedicated to the advancement and protection of women's legal rights and opportunities since its founding in 1972. The Center focuses on issues of key importance to women and their families, including economic security, employment, education, health, and reproductive rights, with special attention to the needs of low-income women and those who face multiple and intersecting forms of discrimination. Because access to contraception is of tremendous significance to women's health, equality, and economic security, the Center seeks to ensure that women receive the full benefits of seamless access to contraceptive coverage without cost-sharing as intended by the Affordable Care Act, and has participated as amicus in numerous cases that affect this right.

**New Voices for Reproductive Justice** is a Human Rights and Reproductive Justice advocacy organization with a mission to build a social change movement dedicated to the full health and well-being of Black women, femmes, and girls in Pennsylvania and Ohio. New Voices defines Reproductive Justice as the human right of all people to have full agency over their bodies, gender identity and expression, sexuality, work, reproduction and the ability to form families. Since 2004, the organization has served over 75,000 women of color and LGBTQIA+ people of color through community organizing, grassroots activism, civic engagement, youth mentorship, leadership development, culture change, public policy advocacy, and political education. In November of 2017, New Voices was instrumental in passing a Will of Council in the City of Pittsburgh calling on state and federal officials to ensure equitable access to a full range of reproductive health services, including contraception. This call to action exemplifies crucial recognition of the fact that unhindered access to comprehensive reproductive healthcare is fundamental to the health and well-being of our families and communities. New Voices stands in staunch opposition to discriminatory laws, policies, rules, and actions that deny people access to contraception. These barriers disproportionately harm women of color, gender nonconforming people and low-income women. All people should have access to a full range of reproductive health care, including contraceptive coverage through health insurance, free from

outside interference.

**Nurses for Sexual and Reproductive Health** provides students, nurses and midwives with education and resources to become skilled care providers and social change agents in sexual and reproductive health and justice. As providers, we know healthcare coverage is essential to our patients' ability to access safe and compassionate care. We also know that contraception is a part of sexual and reproductive care, which we assert is vital to the health and well-being of our patients.

The **Oklahoma Coalition for Reproductive Justice** is a coalition of organizations and individuals promoting reproductive justice in Oklahoma through education, empowerment, and advocacy. We believe that reproductive justice includes the right to have or not to have a child and respect for families in all their forms. It supports access to sexual education, contraception, abortion care and pregnancy care as well as to the resources needed to raise children in safe and healthy circumstances, with good schools and healthcare and other elements necessary for bright futures. It encompasses respect for women, their partners, and families, for sexuality and for gender differences. It respects human rights and the separation of church and state.

**People For the American Way Foundation (PFAWF)** is a nonpartisan civic organization established to promote and protect civil and constitutional rights,

including religious liberty and reproductive choice. Founded in 1981 by a group of civic, educational, and religious leaders, PFAWF now has hundreds of thousands of members nationwide. Over its history, PFAWF has conducted extensive education, outreach, litigation, and other activities to promote these values. PFAWF strongly supports the principle of the Free Exercise Clause of the First Amendment as a shield for the free exercise of religion, protecting individuals of all faiths. PFAWF is concerned, however, about efforts, such as with the Administration's interim final rules in this case, to transform this important shield into a sword to unduly harm others. This is particularly problematic when the effort is to obtain exemptions based on religion or moral beliefs that harm women's ability to obtain crucial reproductive health care coverage, as in this case.

**Population Connection** is a grassroots non-profit organization committed to ensuring that every woman and family has access to the full range of contraceptive methods as a preventive service as intended by the Affordable Care Act.

**Raising Women's Voices for the Health Care We Need ("RWV")** is a national initiative working to ensure that the health care needs of women and families are addressed as the Affordable Care Act is implemented. It has a diverse network of thirty grassroots health advocacy organizations in twenty-nine states. RWV has a special mission of engaging women who are not often invited into health policy discussions: women of color, low-income women, immigrant

women, young women, and members of the lesbian, gay, bisexual, transgender, and queer community.

The **Reproductive Health Access Project** is a national nonprofit organization dedicated to training and supporting clinicians to make reproductive health care accessible to everyone, everywhere in the United States. We focus on three key areas: abortion, contraception, and management of early pregnancy loss. Our work focuses on integrating full-spectrum reproductive health care in primary care settings and we are guided by the belief that everyone should be able to access basic health care, including contraceptive care, from their primary care clinician.

The **Sargent Shriver National Center on Poverty Law** (Shriver Center) has a vision of a nation free from poverty with justice, equity and opportunity for all. The Shriver Center provides national leadership to promote justice and improve the lives and opportunities of people with low income, by advancing laws and policies, through litigation and policy advocacy, to achieve justice for our clients. The Shriver Center is committed to the health and economic security and advancement of women and recognizes the importance of access to contraception to achieve those ends. The Shriver Center seeks to ensure that women receive the full benefits of seamless access to no-cost contraceptive coverage as intended by the Affordable Care Act.

**The Sexuality Information and Education Council of the United States**

**(SIECUS)**, founded in 1964, is a non-profit policy and advocacy organization that envisions an equitable nation where all people receive comprehensive sexuality education and quality sexual and reproductive health services affirming their identities, thereby ensuring their lifelong health and well-being. SIECUS advocates for the rights of all people to the full spectrum of sexual and reproductive health services as well as accurate information and comprehensive sexuality education. SIECUS maintains that as a fundamental component of reproductive health services, affordable access to contraception—as intended by the Affordable Care Act and regardless of age, race, size, gender, gender identity and expression, class, sexual orientation, and ability—is central to maintaining sexual and reproductive freedom for all people.

Founded in July 1989, **SisterLove, Inc.** is an HIV/AIDS and reproductive justice nonprofit service organization focusing on women, particularly women of African descent. SisterLove's mission is to eradicate the adverse impact of HIV/AIDS and other sexual and reproductive oppressions upon all women, their families, and their communities in the United States and worldwide through education, prevention, support, and human rights advocacy. To realize this mission, SisterLove engages in advocacy, reproductive health education, and prevention. SisterLove seeks to educate and empower youth and women of color to influence the laws and policies that disparately impact them.

**SisterReach**, founded October 2011, is a Memphis, TN based grassroots 501(c)(3) non-profit supporting the reproductive autonomy of women and teens of color, poor and rural women, LGBT+ and gender non-conforming people and their families through the framework of Reproductive Justice. Our mission is to empower our base to lead healthy lives, raise healthy families and live in healthy communities. We provide comprehensive reproductive and sexual health education to marginalized women, teens and gender non-conforming people, and advocate on the local, state and national levels for public policies which support the reproductive health and rights of all women and youth.

Women of color do not need additional obstacles to obtaining the care we need to take care of ourselves and our families. We trust Black women to make our own decisions. **SisterSong: National Women of Color Reproductive Justice Collective** will speak out about any attempts to push important services out of reach.

**SPARK Reproductive Justice Now!** believes that access to birth control is essential to the economic security of all families and it is an important part of comprehensive reproductive healthcare.

**UltraViolet** is a powerful and rapidly growing community of people mobilized to fight sexism and create a more inclusive world that accurately represents all women, from politics and government to media and pop culture. We

work on a range of issues—reproductive rights, healthcare, economic security, violence, and racial justice—and we center the voices of all women, especially women of color, immigrants, and LGBTQ women. UltraViolet exists to create a cost for sexism and to achieve full equity for all women through culture and policy change. We fight attacks against women and work toward a proactive vision of what equality looks like for women. We demand accountability from individuals, the media, and institutions that perpetuate sexist narratives or seek to limit the rights, safety, and economic security of women.

**URGE: Unite for Reproductive & Gender Equity (URGE)** is a non-profit grassroots advocacy organization that works to mobilize young people through a reproductive justice framework. URGE builds infrastructure through campus chapters and city activist networks, where we invite individuals to discover their own power and transform it into action. URGE members educate their communities and advocate for local, state, and national policies around issues of reproductive justice and sexual health.

The **Women's Institute for Freedom of the Press** is a non-profit media democracy organization dedicated to the advancement and protection of women's rights and voices since its founding in 1972. WIFP focuses on issues of importance to women and all those who do not have full rights. Without control over their health and well-being, women cannot fully participate in democracy. Women need

access to no-cost contraceptive coverage as intended by the Affordable Care Act and therefore WIFP supports this amicus brief.

The **Women's Media Center** is an inclusive and feminist organization that works to raise the visibility, viability and decision-making power of women and girls in media to ensure that their stories get told and their voices are heard. The Women's Media Center believes that access to contraception is of utmost importance to women including for their economic security, employment, health and education, and especially to women of color, women who live in rural areas and women on low incomes. The Women's Media Center strongly opposes any legislation, rules or policies that prevent women from accessing contraception and believes that all people should be able to access a full range of reproductive health care, including contraception through insurance, without interference.

**Women With A Vision, Inc. (WWAV)** is a community-based non-profit, founded in 1989 by a grassroots collective of African-American women in response to the spread of HIV/AIDS in communities of color. Created by and for women of color, WWAV is a social justice non-profit that addresses issues faced by women within our community and region. Major areas of focus include Sex Worker Rights, Drug Policy Reform, HIV Positive Women's Advocacy, and Reproductive Justice outreach. We envision an environment in which there is no war against women's bodies, in which women have spaces to come together and

share their stories, in which women are empowered to make decisions concerning their own bodies and lives, and in which women have the necessary support to realize their hopes, dreams, and full potential. As such, we know that when women do not have bodily autonomy, including access to safe birth control methods, they face many barriers and obstacles to reaching their full potential. We believe that their bodies are their own and should be supported by policy, healthy communities, and social services that support bettering their lived experiences.

The **Women's Rights and Empowerment Network** (WREN) is a nonpartisan nonprofit organization whose mission is to build a movement to advance the health, economic well-being, and rights of South Carolina's women, girls and their families. WREN recognizes that the health and education of women and children is crucial in order to ensure statewide prosperity. We advocate for policies that address the barriers that families, predominantly women and mothers, face when accessing the rights and resources needed to make healthy and well informed decisions. Access to contraception is of tremendous significance to women's health, equality, and economic security. WREN seeks to ensure that women receive the full benefits of seamless access to no-cost contraceptive coverage as intended by the Affordable Care Act, and has advocated for this at the state and national level.

**WV FREE** is a non-profit health, rights, and justice organization dedicated

to the elevation of all West Virginians through the promotion of dignity and autonomy of women and families since its founding in 1989. WV FREE focuses on issues of key importance to women and their families, including economic security, employment, education, health, and reproductive rights, with special attention to the needs of rural women, women of color, and low-income women. Because access to contraception is of tremendous significance to women's health, equality, and economic security, WV FREE seeks to ensure that women receive the full benefits of seamless access to no-cost contraceptive coverage as intended by the Affordable Care Act.

**CERTIFICATE OF SERVICE**

I hereby certify that on September 24, 2018, I electronically filed the within Brief of Amici Curiae The National Women's Law Center, The National Latina Institute For Reproductive Health, Sisterlove, Inc., and The National Asian Pacific American Women's Forum In Support Of Plaintiff-Appellant and in favor of Reversal with the Clerk of the Court for the United States Court of Appeals for the First Circuit by using the appellate CM/ECF system.

I certify that all participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

Date: September 24, 2018 By: s/ Naomi D. Barrowclough