



# Resolution No. 409 (New York State H) - Opposing Policies and Procedures Compelling Individuals Involved in the Justice System to Seek Specific Medications or Medical Procedures

**ACTION TAKEN BY THE 2017 CONGRESS OF  
DELEGATES: ADOPTED**



**RESOLUTION NO. 409 (New York State H)**

**Opposing Policies and Procedures Compelling Individuals Involved in the Justice System to Seek Specific  
Medications or Medical Procedures**

Introduced by the New York State Chapter

Referred to the Reference Committee on Health of the Public and Science

WHEREAS, The American Academy of Family Physicians (AAFP) recognizes the importance of providing care to vulnerable populations including individuals involved in the justice system<sup>1</sup>, and

WHEREAS, the justice system and drug enforcement policy in the United States disproportionately incarcerates and sentences people of color, and the dictation of treatment for reproductive decision-making or substance abuse treatment can be expected to perpetuate and worsen these systemic injustices<sup>2</sup>, and

WHEREAS, from May to July 2017, Judge Sam Benningfield in Tennessee issued a standing order stating if inmates at the White County Jail undergo a form of long-term contraception for free — a vasectomy for men or a Nexplanon implant (<https://www.nexplanon.com/what-is-nexplanon/>) for women — they can have 30 days removed from their sentences<sup>3</sup>, and

WHEREAS, the American Medical Association has condemned the coerced use of long acting reversible contraception in judicial sentencing or welfare programs had policy stating that “Court-ordered use of long acting contraceptives...raises serious questions about a person’s fundamental right to refuse medical treatment, to be free of

cruel and unusual punishment, and to procreate"<sup>4</sup> and that "Long-acting contraceptives may be medically contraindicated. Assessing the health risks of long-acting contraceptives is substantially outside the purview of courts and legislatures<sup>5</sup>," and

WHEREAS, the pharmaceutical company Alkermes has been marketing its medication Vivitrol directly to judges responsible for sentencing in drug courts in multiple states, thus dictating specific medical treatment that must be carried out by medical providers<sup>6</sup>, and

WHEREAS, this both necessarily links the financial interests of pharmaceutical companies to the legal futures of individuals involved in the justice system and creates coercion by incentivizing a patient's acceptance of a specific medical treatment which may not be medically appropriate, removing the possibility of informed consent, and

WHEREAS, the Substance Abuse and Mental Health Administration recommends multiple options for Medication-Assisted Treatment for Opioid Dependence for use in Adult Drug Courts, each with varying risks and benefits, including methadone, buprenorphine and Naltexone<sup>7</sup>, and

WHEREAS, AAFP President Dr. Meigs, in his opening address at 2016 FMX, said "*I want legislators, bureaucrats, administrators, bean counters and insurance company executives out of my exam room*"<sup>8</sup>," which logically extends to judges, who are not licensed physicians, incentivizing specific medical treatments or therapies which essentially removes this decision from the appropriate realm of the doctor patient relationship, now, therefore, be it

RESOLVED, That the American Academy of Family Physicians advocate against policies and practices of incentivizing individuals involved in the justice system to seek family planning services including sterilization, contraception, and abortion, and be it further

RESOLVED, That the American Academy of Family Physicians advocate against policies and practices incentivizing individuals involved in the justice system to choose one form of Medication-Assisted Treatment over another.

(Received 8/12/17)

**Fiscal Impact: \$16,341** [\\_ \(http://www.aafp.org/content/dam/AAFP/documents/about\\_us/congress/restricted/2017/409-NewYorkH-FiscalImpact.pdf\)](http://www.aafp.org/content/dam/AAFP/documents/about_us/congress/restricted/2017/409-NewYorkH-FiscalImpact.pdf)

## Background

The policies and practices of our nation's complex, multi-tiered justice system are not monolithic. They are set variously by city, county, state and federal precedent, regulation, legislation or judicial preference or ruling.

AAFP's Congress of Delegates in 2016 adopted Resolution 503 "Increase Access to Comprehensive Reproductive Health Care for Incarcerated Women." In April 2016, the AAFP sent a [letter](http://www.aafp.org/content/dam/AAFP/documents/about_us/congress/restricted/2015/ResNo303-ContraceptionLettertoCMS.pdf)

[\\_ \(http://www.aafp.org/content/dam/AAFP/documents/about\\_us/congress/restricted/2015/ResNo303-ContraceptionLettertoCMS.pdf\)](http://www.aafp.org/content/dam/AAFP/documents/about_us/congress/restricted/2015/ResNo303-ContraceptionLettertoCMS.pdf) to Andy Slavitt, then Acting Administrator of the Centers for Medicare & Medicaid Services, to request that CMS review and revise, as necessary, its coverage of contraceptive options to include coverage of all Food and Drug Administration-approved contraceptive options for men and women of reproductive age enrolled in Medicare and Medicaid.

The inability to pay for the cost of raising children has been a reason courts have ordered coercive or compulsory sterilization. In June 2014, a [Virginia judge ruled](http://insider.foxnews.com/2014/06/24/va-man-required-get-vasectomy-part-plea-deal) [\\_ \(http://insider.foxnews.com/2014/06/24/va-man-required-get-vasectomy-part-plea-deal\)](http://insider.foxnews.com/2014/06/24/va-man-required-get-vasectomy-part-plea-deal) that a man on probation for child endangerment must be able to pay for his seven children before having more children; the man agreed to get a vasectomy as part of his plea deal. In 2013, an [Ohio judge ordered](http://newsfeed.time.com/2013/01/28/judge-orders-man-owing-96k-in-child-support-to-stop-having-kids/) [\\_ \(http://newsfeed.time.com/2013/01/28/judge-orders-man-owing-96k-in-child-support-to-stop-having-kids/\)](http://newsfeed.time.com/2013/01/28/judge-orders-man-owing-96k-in-child-support-to-stop-having-kids/) a man owing nearly \$100,000 in

unpaid child support to "make all reasonable efforts to avoid impregnating a woman" as a condition of his probation. Kevin Maillard wrote ([http://web.law.columbia.edu/sites/default/files/microsites/gender-sexuality/maillard\\_draft\\_0.pdf](http://web.law.columbia.edu/sites/default/files/microsites/gender-sexuality/maillard_draft_0.pdf)) that conditioning the right to reproduction on meeting child support obligations amounts to "constructive sterilization" for men unlikely to make the payments.

148 female prisoners in two California institutions were sterilized between 2006 and 2010 in a supposedly voluntary program, but it was determined (<https://www.rt.com/usa/167660-california-illegal-sterilization-women/>) that the prisoners did not give consent to the procedures. In September 2014, California enacted Bill SB 1135 ([https://leginfo.ca.gov/faces/billNavClient.xhtml?bill\\_id=201320140SB1135](https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB1135)) that bans sterilization in correctional facilities, unless the procedure shall be required in a medical emergency to preserve inmate life.

The Federal Bureau of Prisons' Health Services Division is responsible for medical, dental, and mental health (psychiatric) services provided to Federal inmates in Bureau facilities, including health care delivery, infectious disease management, and medical designations. The BOP has over 3,000 health care positions, including approximately 750 Public Health Service Commissioned Officers detailed from the Department of Health and Human Services. These health care providers have been supporting the medical mission of the BOP since 1930. Health Services departments at all eligible BOP institutions are accredited by the Joint Commission.

The AAFP Strategic Plan contains four Strategic Objectives:

- Payment Reform
- Practice Transformation
- Workforce
- Clinical Expertise

## **Current Policy**

### **Incarceration and Health: A Family Medicine Perspective (Position Paper)**

(<http://www.aafp.org/about/policies/all/incarcerationandhealth.html>)

## **Prior Congress Action**

### **Resolution No. 503 from the 2016 COD (Adopted):**

RESOLVED, That the American Academy of Family Physicians advocate that comprehensive and appropriate health care be provided to incarcerated women in federal detention facilities including but not limited to reproductive health.

### **Please see Pages 353-364 in the 2016 Transactions**

([http://www.aafp.org/content/dam/AAFP/documents/about\\_us/congress/restricted/2016/CODTransactions2016.pdf](http://www.aafp.org/content/dam/AAFP/documents/about_us/congress/restricted/2016/CODTransactions2016.pdf)) **for details.**

**Please see Resolution No. 503** (<http://www.aafp.org/about/governance/congress-delegates/2016/resolutions/newyork-a.mem.html>) **on the AAFP website for follow-up details.**

## **Prior Board Action**

None

## **References:**

1. <http://www.aafp.org/about/policies/all/incarcerationandhealth.html>  
(<http://www.aafp.org/about/policies/all/incarcerationandhealth.html>)
2. <https://www.bjs.gov/content/pub/pdf/dofp12.pdf> (<https://www.bjs.gov/content/pub/pdf/dofp12.pdf>)

3. Source: <http://www.aclu-tn.org/aclu-tn-statement-on-white-county-sterilization-program/> (<http://www.aclu-tn.org/aclu-tn-statement-on-white-county-sterilization-program/>)
4. <http://www.tandfonline.com/doi/pdf/10.1080/20508549.1995.11878325>  
(<http://www.tandfonline.com/doi/pdf/10.1080/20508549.1995.11878325>)
5. <https://policysearch.ama-assn.org/policyfinder/detail/contraception?uri=%2FAMADoc%2FHOD.xml-0-5220.xml>  
(<https://policysearch.ama-assn.org/policyfinder/detail/contraception?uri=%2FAMADoc%2FHOD.xml-0-5220.xml>)
6. <http://www.npr.org/sections/health-shots/2017/08/03/540029500/to-grow-market-share-a-drugmaker-pitches-its-product-to-judges> (<http://www.npr.org/sections/health-shots/2017/08/03/540029500/to-grow-market-share-a-drugmaker-pitches-its-product-to-judges>)
7. <https://store.samhsa.gov/product/Adult-Drug-Courts-and-Medication-Assisted-Treatment-for-Opioid-Dependence/SMA14-4852> (<https://store.samhsa.gov/product/Adult-Drug-Courts-and-Medication-Assisted-Treatment-for-Opioid-Dependence/SMA14-4852>)
8. <http://www.aafp.org/news/2016-congress-fmx/20160922fmxopening.htm> (<http://www.aafp.org/news/2016-congress-fmx/20160922fmxopening.html>)



ADD TO FAVORITES

---

## Resolution No. 409 (New York State H) - Opposing Policies and Procedures Compelling Individuals Involved in the Justice System to Seek Specific Medications or Medical Procedures – Congress of Delegates

<http://www.aafp.org/about/governance/congress-delegates/2017/resolutions2/newyork-h.mem.html>



Copyright © 2017 American Academy of Family Physicians. All rights reserved.

11400 Tomahawk Creek Parkway • Leawood, KS 66211-2680

800.274.2237 • 913.906.6000 • Fax: 913.906.6075 • [aafp@aafp.org](mailto:aafp@aafp.org)

---