

CAROLYN B. MALONEY  
14TH DISTRICT, NEW YORK

2331 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-3214  
(202) 225-7944

COMMITTEES:  
FINANCIAL SERVICES

GOVERNMENT REFORM

JOINT ECONOMIC COMMITTEE



**Congress of the United States**  
**House of Representatives**  
Washington, DC 20515-3214

DISTRICT OFFICES:  
 1651 THIRD AVENUE  
SUITE 311  
NEW YORK, NY 10128  
(212) 860-0606

28-11 ASTORIA BOULEVARD  
ASTORIA, NY 11102  
(718) 932-1804

WEBSITE: [www.house.gov/maloney](http://www.house.gov/maloney)

June 22, 2006

The Honorable George W. Bush  
President of the United States  
1600 Pennsylvania Avenue, NW  
Washington, D.C. 20500

Dear President Bush:

After a year of waiting, and five letters sent to you by as many as 43 members of Congress, I was pleased to receive your response to inquiries on your position on birth control.

The letter sent on your behalf by John O. Agwunobi, Assistant Secretary for Health, clarifies that you “support the availability of safe and effective products and services to assist responsible adults in making decisions about preventing or delaying conception.” The 98% of sexually active American women who use some form of birth control in their life are glad to hear of your support.

Although you say you support access to birth control for responsible adults, I am concerned that your administration’s seemingly politically-driven policies are impeding access for this very group in number of ways:

1. In January of 2005, the Justice Department distributed the first-ever guidelines for the treatment of sexual assault survivors. The 141-page document provides step-by-step medical treatment guidelines for sexual assault patients, including guidance on sexually transmitted infections, but no information on emergency contraception. News reports published at the time indicated that information about emergency contraception was included in earlier versions of the guidelines, but was subsequently eliminated. Including this information in the guidelines would provide sexual assault survivors access to an important form of birth control that could help prevent unintended pregnancies and avoid abortions.

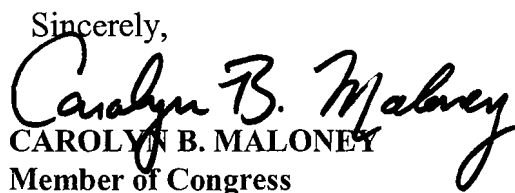
2. Since the Food and Drug Administration (FDA) agreed to review an application to make Plan B available over-the-counter in June 2003, the agency has gone to unprecedented lengths to avoid issuing a decision. Most recently, it denied a petition by 60 family planning and health groups to allow sales of the Plan B contraceptive without a prescription. Your political appointees at FDA have put on hold, indefinitely, the decision on whether to make Plan B available over-the-counter, claiming to fear an increase in teenage sexual activity— despite studies showing that availability of emergency contraception does not result in an increase in teenage pregnancy, sexual activity or sexually transmitted diseases. This unscientific, political decision is preventing responsible adults from accessing this important form of birth control and is having a serious impact on peoples' lives, as documented in a recent *Washington Post* article entitled “*What Happens When There Is No Plan B*” (June 6, 2006) (enclosed).

3. Pharmacists around the country are refusing to fill prescriptions for birth control pills including emergency contraception. As you know, emergency contraception is a time-sensitive drug and works best if taken soon after unprotected sex. By the time a woman contacts a medical provider and obtains a prescription for emergency contraception, she may have only a few hours to obtain and take the drug. By refusing to fill the prescription, pharmacists may prevent women from taking the drug at this crucial time. In addition, 30% of women practicing contraception use the birth control pill. Pharmacists who refuse to fill these prescriptions seriously hinder these women's ability to prevent unintended pregnancy. Your failure to intervene on behalf of American women is troubling and is having serious consequences.

Since you have stated that you support access to birth control, I write to ask that your policies reflect your position. Therefore, I would like to know the following:

- 1) Will you urge the Department of Justice to incorporate information about emergency contraception in the guidelines for the treatment of sexual assault survivors?
- 2) Will you remove political barriers to the scientific process at the FDA and urge the agency to make a decision on the application to sell Plan B over-the-counter?
- 3) Will you intervene on behalf of American women and work to stop pharmacists from preventing access to birth control pills, including emergency contraception?

I thank you in advance for your attention to this matter and look forward to your response to these important questions.

Sincerely,  
  
CAROLYN B. MALONEY  
Member of Congress

## **What Happens When There Is No Plan B?**

By Dana L.

The Washington Post

Sunday, June 4, 2006; B01

The conservative politics of the Bush administration forced me to have an abortion I didn't want. Well, not literally, but let me explain.

I am a 42-year-old happily married mother of two elementary-schoolers. My husband and I both work, and like many couples, we're starved for time together. One Thursday evening this past March, we managed to snag some rare couple time and, in a sudden rush of passion, I failed to insert my diaphragm.

The next morning, after getting my kids off to school, I called my ob/gyn to get a prescription for Plan B, the emergency contraceptive pill that can prevent a pregnancy -- but only if taken within 72 hours of intercourse. As we're both in our forties, my husband and I had considered our family complete, and we weren't planning to have another child, which is why, as a rule, we use contraception. I wanted to make sure that our momentary lapse didn't result in a pregnancy.

The receptionist, however, informed me that my doctor did not prescribe Plan B. No reason given. Neither did my internist. The midwifery practice I had used could prescribe it, but not over the phone, and there were no more open appointments for the day. The weekend -- and the end of the 72-hour window -- was approaching.

But I needed to meet my kids' school bus and, as I was pretty much out of options -- short of soliciting random Virginia doctors out of the phone book -- I figured I'd take my chances and hope for the best. After all, I'm 42. Isn't it likely my eggs are overripe, anyway? I thought so, especially since my best friend from college has been experiencing agonizing infertility problems at this age.

Weeks later, the two drugstore pregnancy tests I took told a different story. Positive. I couldn't believe it.

I'm still in good health, but unlike the last time I was pregnant, nearly a decade ago, I'm now taking three medications. One of them, for high cholesterol, is in the Food and Drug Administration's Pregnancy Category X -- meaning it's a drug you shouldn't take if you're expecting or even planning to get pregnant. I worried because the odds of having a high-risk pregnancy or a baby born with serious health issues rise significantly after age 40. And I thought of the emotional upheavals that an unplanned pregnancy would cause

our family. My husband and I are involved in all aspects of our children's lives, but even so, we feel we don't get enough time to spend with them as it is.

I felt sick. Although I've always been in favor of abortion rights, this was a choice I had hoped never to have to make myself. When I realized the seriousness of my predicament, I became angry. I knew that Plan B, which could have prevented it, was supposed to have been available over the counter by now. But I also remembered hearing that conservative politics have held up its approval.

My anger propelled me to get to the bottom of the story. It turns out that in December 2003, an FDA advisory committee, whose suggestions the agency usually follows, recommended that the drug be made available over the counter, or without a prescription. Nonetheless, in May 2004, the FDA top brass overruled the advisory panel and gave the thumbs-down to over-the-counter sales of Plan B, requesting more data on how girls younger than 16 could use it safely without a doctor's supervision.

Apparently, one of the concerns is that ready availability of Plan B could lead teenage girls to have premarital sex. Yet this concern -- valid or not -- wound up penalizing an over-the-hill married woman for having sex with her husband. Talk about the law of unintended consequences.

By late August 2005, the slow action over Plan B led the director of the FDA's Office on Women's Health to resign her post. The agency's delay on the drug, she wrote in an e-mail to her colleagues, "runs contrary to my core commitment to improving and advancing women's health." As recently as April 7, Steven Galson, director of the FDA's Center for Drug Evaluation and Research, said that the agency still needed time to work on the issue.

Unfortunately, time was the one thing I didn't have.

Meanwhile, I hadn't even been able to get Plan B with a prescription that Friday, because in Virginia, health-care practitioners apparently are allowed to refuse to prescribe any drug that goes against their beliefs. Although I had heard of pharmacists refusing to fill prescriptions for birth control on religious grounds, I was dumbfounded to find that doctors could do the same thing.

Moreover, they aren't even required to tell the patient why they won't provide the drug. Nor do they have to provide a list of alternative sources. I had asked the ob-gyn's receptionist if politics was the reason the doctor wouldn't prescribe Plan B for me. She refused to answer or offer any reason, no matter how much I pressed her. By the time I got on the phone with my internist's office and found that he would not fill a Plan B prescription either, I figured it was a waste of time to fight with the office staff. To this day, I don't know why my doctors wouldn't prescribe Plan B -- whether it was because of

moral opposition to contraception or out of fear of political protesters or just because they preferred not to go there.

In any event, they were also partly responsible for why I was stuck that Friday, and why I was ultimately forced to confront the decision to terminate my third pregnancy.

After making the decision with my husband, I was plunged into an even murkier world -- that of finding an abortion provider. If information on Plan B was hard to come by, and practitioners were evasive on emergency contraception, trying to get information on how to abort a pregnancy in 2006 is an even more Byzantine experience.

On the Internet, most of what I found was political in nature or otherwise unhelpful: pictures of what your baby looks like in the womb from week one, and so on.

Calling doctors, I felt like a pariah when I asked whether they provided termination services. Finally, I decided to check the Planned Parenthood Web site to see whether its clinics performed abortions. They did, but I learned that if I had the abortion in Virginia, the procedure would take two days because of a mandatory 24-hour waiting period, which requires that you go in first for a day of counseling and then wait a day to think things over before returning to have the abortion. Because of work and the children, I couldn't afford two days off, so I opted to have the procedure done on a Saturday in downtown D.C. while my husband took the kids to the Smithsonian.

The hidden world of abortion services soon became even more subterranean. I called Planned Parenthood two days in advance to confirm the appointment. The receptionist politely informed me that the organization never confirms appointments, for "security reasons," and that I would have to just show up.

I arrived shortly before 10 a.m. in a bleak downpour, trusting that someone had recorded my appointment. I shuffled to the front door through a phalanx of umbrellaed protesters, who chanted loudly about Jesus and chided me not to go into that house of abortion.

All the while, I was thinking that if religion hadn't been allowed to seep into American politics the way it has, I wouldn't even be there. This all could have been stopped way before this baby was conceived if they had just let me have that damn pill.

After passing through the metal detector inside the building, I entered the Planned Parenthood waiting room; it was like the waiting room for a budget airline -- crammed full of people, of all races, and getting busier by the moment. I was by far the oldest person there (other than one girl's mom). The wait seemed endless. No one looked happy. We were told that the lone doctor was stuck in Cherry Blossom Parade traffic.

He finally arrived, an hour and a half late.

The procedure itself took about five minutes. I finally walked out of the building at 4:30, 6 1/2 hours after I had arrived.

It was a decision I am sorry I had to make. It was awful, painful, sickening. But I feel that this administration gave me practically no choice but to have an unwanted abortion because the way it has politicized religion made it well-nigh impossible for me to get emergency contraception that would have prevented the pregnancy in the first place.

And to think that, all these years after Roe v. Wade became the law of the land, this is what our children have to look forward to as they approach their reproductive years.

*Dana L. is a lawyer and writer living in Virginia. Out of concern for her family's privacy, she requested that her last name not be published.*