

the regulatory mechanism that Congress put in place to protect this assumed governmental interest. As even the dissent recognizes, contraceptive coverage is mentioned nowhere in §300gg–13(a)(4), and no language in the statute itself even hints that Congress intended that contraception should or must be covered. See *post*, at 4–5 (citing legislative history and *amicus* briefs). Thus, contrary to the dissent’s protestations, it was Congress, not the Departments, that declined to expressly require contraceptive coverage in the ACA itself. See 83 Fed. Reg. 57540. And, it was Congress’ deliberate choice to issue an extraordinarily “broad general directiv[e]” to HRSA to craft the Guidelines, without any qualifications as to the substance of the Guidelines or whether exemptions were permissible. *Mistretta v. United States*, 488 U. S. 361, 372 (1989). Thus, it is Congress, not the Departments, that has failed to provide the protection for contraceptive coverage that the dissent seeks.<sup>8</sup>

No party has pressed a constitutional challenge to the breadth of the delegation involved here. Cf. *Gundy v. United States*, 588 U. S. \_\_\_ (2019). The only question we face today is what the plain language of the statute authorizes. And the plain language of the statute clearly allows the Departments to create the preventive care standards as well as the religious and moral exemptions.<sup>9</sup>

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<sup>8</sup>HRSA has altered its Guidelines multiple times since 2011, always proceeding without notice and comment. See 82 Fed. Reg. 47813–47814; 83 Fed. Reg. 8487; 85 Fed. Reg. 722–723 (2020). Accordingly, if HRSA chose to exercise that discretion to remove contraception coverage from the next iteration of its Guidelines, it would arguably nullify the contraceptive mandate altogether without proceeding through notice and comment. The combination of the agency practice of proceeding without notice and comment and HRSA’s discretion to alter the Guidelines, though not necessary for our analysis, provides yet another indication of Congress’ failure to provide strong protections for contraceptive coverage.

<sup>9</sup>The dissent does not attempt to argue that the self-certification accommodation can coexist with its interpretation of the ACA. As for the