

The Domestic Gag Rule Undermines the Title X Family Planning Program

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Family planning services are a necessary component of health care for women and families. Access to preventive and reproductive health care allows people to choose if and when to have children and create the stability to have the job, family and future they want. When individuals have the tools and resources to make the decisions that are best for themselves and their families, they are better able to achieve economic security. The Title X (ten) national family planning program plays a critical role in providing these health care services, yet the current administration is severely degrading the program's integrity, as a part of its overall strategy of undermining reproductive health care.

What Is Title X?

For more than 40 years, the Title X program has provided vital preventive health care to millions of people. It is the only federal program dedicated to providing family planning services, and it primarily serves vulnerable populations. The majority of Title X clients are young, low-income and/or women.¹

Title X services include:

- Contraceptive education and counseling;
- Breast and cervical cancer screening;
- Sexually transmitted infection (STI) and human immunodeficiency virus (HIV) testing;
- Referral and prevention education; and
- Pregnancy testing and counseling.²

Why Is Title X Important?

In 2014, 20.2 million women in the United States were in need of publicly funded contraceptive services and supplies.³ Among these women, 15.5 million were either poor or low-income.⁴ The need for publicly funded contraceptive care has risen in recent years. From 2010 to 2014, the number of women in need of publicly funded care increased by five percent.⁵

While Congress has yet to fund Title X at a level sufficient to meet this need, clinics are doing their very best to provide services to all who seek them. More than six million women ultimately receive publicly funded contraceptive services each year,⁶ and more than half of those women (3.4 million) receive these services at a Title X-funded clinic.⁷ More than 60 percent of Title X clients live in poverty⁸ and nearly half of Title X's clients are women of color.⁹

For those who rely on Title X – and particularly for young people – the contraceptive services that these clinics provide are essential. According to the Guttmacher Institute, in one year alone, the Title X program helped prevent more than 820,000 unintended pregnancies.¹⁰ Without Title X, the unintended pregnancy rate in the United States would have been 31 percent higher, with the rate among teenagers 44 percent higher.¹¹

In addition to contraceptive services, Title X centers provide a wide range of important reproductive health care. For example, in 2018, Title X providers performed 651,920 Pap tests, 816,202 breast exams and 6.5 million tests for STIs, including 1.2 million HIV tests and 2.1 million chlamydia tests.¹²

The Title X program provides crucial family planning and preventive care to millions of people across the country, many of whom would not have had access to this health care without such a program in place. Despite Title X's obvious benefits, the current administration is sabotaging the program, endangering the millions of individuals who rely on Title X for their health care needs and potentially ending the Title X program as we know it.

The Domestic Gag Rule

On March 4, 2019, the U.S. Department of Health and Human Services (HHS) released the final version of an anti-abortion policy that completely reshapes the Title X program, with the first enforcement deadline coming up on September 18. This policy, known as the "domestic gag rule," is wreaking havoc on low-income individuals' ability to access vital preventive and reproductive health care.

- **The domestic gag rule prevents providers from giving people clear information about or referrals for abortion care.** The rule bans providers that participate in the program from giving people full information about their health care options, specifically information on where and how to access safe, legal abortion. If a patient explicitly asks to be referred to an abortion provider, the Title X provider would be significantly limited in the information they are allowed to disclose – violating standards of medical ethics and the integrity of the patient-provider relationship by forcing providers to reject patients' needs.¹³

- The domestic gag rule eliminates pregnancy options counseling and mandates that all pregnant patients receive prenatal referrals, no matter their wishes.** The gag rule eliminates a long-standing requirement that Title X providers give neutral, factual information and counseling about all pregnancy options and instead mandates referrals for prenatal care. But not only does it strip the requirement of non-directive counseling on all pregnancy options, the rule also makes it optional for providers to offer any counseling or information about options beyond the mandated prenatal referral.¹⁴ These changes allow and even direct providers to withhold information from patients in violation of medical ethics.
- The domestic gag rule undermines the standard of care.** The gag rule eliminates the phrase “medically approved” from the previous requirement that providers must offer “a broad range of acceptable and effective medically approved family planning methods.”¹⁵ This opens the door to the possibility that future Title X providers could refuse to offer a broad range of FDA-approved contraceptives, instead offering only significantly less effective methods such as natural family planning.¹⁶

These changes are incredibly onerous and have forced many high-quality, trusted providers out of the program. 19 national health groups, including the American College of Obstetricians and Gynecologists and American Nurses Association, have put out a statement opposing the gag rule because it disregards expert opinion and evidence-based practices, violates medical ethics and interferes with the patient-provider relationship.¹⁷

The chilling effects of the domestic gag rule are already apparent. As of September 6, 2019, 19 Title X grantees have exited the program, representing 21 percent of all Title X providers, with the assumption that more will continue to pull out as additional provisions of the gag rule go into effect. Planned Parenthood, which previously was the largest Title X provider serving more than 40 percent of all Title X patients, has withdrawn from the program, as have all providers in seven states – Hawaii, Illinois, Maine, Oregon, Utah, Washington and Vermont.¹⁸ In total, Title X patients in at least 33 states and the District of Columbia will be affected by the loss of federal funds.¹⁹ A few states such as Washington and Illinois have vowed to fill the void from the loss of federal Title X funds,²⁰ but if the gag rule is not repealed, this state money could run out, leaving people in those state without access to care, too.

Providers who have rejected Title X funds are already seeing the impact, as are patients. Some clinics are being forced to close while others are cutting staff, decreasing hours and charging for previously free services, all of which are disastrous for the populations these clinics serve.²¹ The already vulnerable populations for which Title X provides care are the most harmed by the gag rule. People will face even longer wait times and

increased health care costs, and providers have noticed that some are even forgoing necessary care for monetary reasons.²²

End the Domestic Gag Rule

Title X clinics are a critical source of care for people in need of affordable, high quality family planning services – particularly low-income women, uninsured women and women of color. The domestic gag rule makes sweeping changes that impact the integrity and structure of the Title X program, drastically decreasing the availability and quality of publicly funded family planning services and undermining providers’ ability to give the best care and information to their patients. This is just another example of the Trump-Pence administration’s anti-woman agenda that seeks to control women and their bodies – and one that has the potential to have devastating implications for access to publicly funded family planning for an entire generation. Policymakers must act quickly to halt the implementation of this rule and restore Title X to its intended purpose: providing essential health care to millions of people in need.

¹ U.S. Department of Health & Human Services, Office of Population Affairs. (2019, August). *Family Planning Annual Report: 2018 National Summary* (p. ES-1). Retrieved 10 September 2019, from <https://www.hhs.gov/opa/sites/default/files/title-x-fpar-2018-national-summary.pdf>

² U.S. Department of Health & Human Services, Office of Population Affairs. (2019, August). *Family Planning Annual Report: 2018 National Summary* (p. ES-1). Retrieved 10 September 2019, from <https://www.hhs.gov/opa/sites/default/files/title-x-fpar-2018-national-summary.pdf> (citing Office of Population Affairs. (2014, April). Program requirements for Title X funded family planning

projects (Version 1.0). Retrieved 10 September 2019, from <https://www.hhs.gov/opa/sites/default/files/ogc-cleared-final-april.pdf>; 42 C.F.R. §§ 59.1–12 (2016)).

³ Frost, J. J., Frohvirth, L., & Zolna, M. R. (2016, September). *Contraceptive Needs and Services, 2014 Update* (p. 8) Guttmacher Institute. Retrieved 10 September 2019, from https://www.guttmacher.org/sites/default/files/report_pdf/contraceptive-needs-and-services-2014_1.pdf. Women were defined as being in need of publicly funded contraceptive services and supplies if “they needed contraceptive services and supplies and were either adult women with a family income under 250% of the federal poverty level or were younger than 20.”

⁴ Frost, J. J., Frohvirth, L., & Zolna, M. R. (2016, September). *Contraceptive Needs and Services, 2014 Update* (p. 8) Guttmacher Institute. Retrieved 10 September 2019, from https://www.guttmacher.org/sites/default/files/report_pdf/contraceptive-needs-and-services-2014_1.pdf

⁵ Frost, J. J., Frohvirth, L., Zolna, M. R. (2016, September). *Contraceptive Needs and Services, 2014 Update* (p. 8) Guttmacher Institute Publication. Retrieved 10 September 2019, from https://www.guttmacher.org/sites/default/files/report_pdf/contraceptive-needs-and-services-2014_1.pdf

⁶ Frost, J. J., Frohvirth, L. F., Blades, N., Zolna, M.R., Douglas-Hall, A., & Bearak, J. (2017, April). *Publicly Funded Contraceptive Services at U.S. Clinics, 2015* (p. 8, Table 4). Guttmacher Institute. Retrieved 10 September 2019, from https://www.guttmacher.org/sites/default/files/report_pdf/publicly_funded_contraceptive_services_2015_3.pdf

⁷ U.S. Department of Health & Human Services, Office of Population Affairs. (2019, August). *Family planning annual report: 2018 national summary* (p. 9). Retrieved 10 September 2019, from <https://www.hhs.gov/opa/sites/default/files/title-x-fpar-2018-national-summary.pdf>

⁸ U.S. Department of Health & Human Services, Office of Population Affairs. (2019, August). *Family Planning Annual Report: 2018 National Summary* (p. 23). Retrieved 10 September 2019, from <https://www.hhs.gov/opa/sites/default/files/title-x-fpar-2018-national-summary.pdf>

⁹ U.S. Department of Health & Human Services, Office of Population Affairs. (2019, August). *Family Planning Annual Report: 2018 National Summary* (p. 13). Retrieved 10 September 2019, from <https://www.hhs.gov/opa/sites/default/files/title-x-fpar-2018-national-summary.pdf>

¹⁰ Frost, J. J., Frohvirth, L. F., Blades, N., Zolna, M.R., Douglas-Hall, A., & Bearak, J. (2017, April). *Publicly Funded Contraceptive Services at U.S. Clinics, 2015* (p. 10, Table 6). Guttmacher Institute. Retrieved 10 September 2019, from https://www.guttmacher.org/sites/default/files/report_pdf/publicly_funded_contraceptive_services_2015_3.pdf

¹¹ Frost, J. J., Frohvirth, L. F., Blades, N., Zolna, M.R., Douglas-Hall, A., & Bearak, J. (2017, April). *Publicly Funded Contraceptive Services at U.S. Clinics, 2015*. Guttmacher Institute. Retrieved 10 September 2019, from https://www.guttmacher.org/sites/default/files/report_pdf/publicly_funded_contraceptive_services_2015_3.pdf

¹² U.S. Department of Health & Human Services, Office of Population Affairs. (2019, August). *Family Planning Annual Report: 2018 National Summary* (pp. 41, 44, 46, 48). Retrieved 10 September 2019, from <https://www.hhs.gov/opa/sites/default/files/title-x-fpar-2018-national-summary.pdf>

¹³ Compliance With Statutory Program Integrity Requirements, 42 C.F.R. §§59.5, 59.14 (2019).

¹⁴ Compliance With Statutory Program Integrity Requirements, 42 C.F.R. §59.14 (2019).

¹⁵ Compliance With Statutory Program Integrity Requirements, 42 C.F.R. §59.5 (2019).

¹⁶ National Family Planning & Reproductive Health Association. (2019, March). *Analysis of 2019 Final Rule on Title X Family Planning Program*. Retrieved 10 September 2019, from <https://www.nationalfamilyplanning.org/file/2019-Title-X-Final-Rule----Detailed-Analysis---3.4.2019-FINAL.pdf>

¹⁷ American College of Obstetricians and Gynecologists, American Academy of Pediatrics, American College of Nurse-Midwives, American College of Osteopathic Obstetricians and Gynecologists, American College of Physicians, American Nurses Association, ... Society of Gynecologic Oncology. (2019, February 26). *The final Title X regulation disregards expert opinion and evidence-based practices* [Position statement]. Retrieved 10 September 2019, from <https://www.acog.org/About-ACOG/News-Room/Statements/2019/Final-Title-X-Regulation-Disregards-Expert-Opinion-and-Evidence-Based-Practices?IsMobileSet=false>; Also see Gordon, M. (2019, September 9). Doctors Say Federal Rules on Discussing Abortions Inhibit Relationships With Patients. *NPR*. Retrieved 10 September 2019, from https://www.npr.org/sections/health-shots/2019/09/09/756103421/doctors-say-federal-rules-on-discussing-abortions-inhibit-relationships-with-pat?utm_campaign=KHN%3A%20First%20Edition&utm_source=hs_email&utm_medium=email&utm_content=76585088&_hsenc=p2ANqtz-9YDAnf6-8_1Ju7psypdoMjk3LeuVH5HcA7WGKIMUIFjY0fZZIqW1_Dy1f8lEkRL6VVOiIVPLKod-oiHN6VrZUNN3iuhr3jDTqkwVN6B-JYwFrvPQ&_hsmi=76585088

¹⁸ Power to Decide. (2019, September). *Impacts of the Domestic Gag Rule* (p. 1). Retrieved 10 September 2019, from <https://powertodecide.org/system/files/resources/primary-download/Impacts%20of%20the%20Domestic%20Gag%20Rule.pdf>

¹⁹ Kaiser Family Foundation. (2019, September 6). *The Status of Participation in the Title X Family Planning Program*. Retrieved 10 September 2019, from <https://www.kff.org/interactive/the-status-of-participation-in-the-title-x-federal-family-planning-program/>

²⁰ Carter, D. (2019, August 16). These States Are Protecting Family Planning Clinics Under Trump's Domestic 'Gag Rule.' *Rewire.News*. Retrieved 10 September 2019, from <https://rewire.news/article/2019/08/16/these-states-are-protecting-family-planning-clinics-under-trumps-domestic-gag-rule/>

²¹ Ollstein, A. M., & Rouben, R. (2019, September 1). Family Planning Clinics Watch Their Safety Nets Vanish. *Politico*. Retrieved 10 September 2019, from <https://www.politico.com/story/2019/09/01/family-planning-trump-abortion-1479239>; Sherman, C. (2019, September 10). 'I Am Honestly Scared to Death': Small Abortion Clinics Are Fighting for Survival Over Trump's New Abortion Rules. *VICE*. Retrieved 10 September 2019, from https://www.vice.com/en_us/article/43k37d/i-am-honestly-scared-to-death-small-abortion-clinics-are-fighting-for-survival-over-trumps-new-abortion-rules

²² Cha, A. E., & Regan, S. (2019, August 24). Patients Face Higher Fees and Longer Waits After Planned Parenthood Quits Federal Program. *Washington Post*. Retrieved 10 September 2019, from https://beta.washingtonpost.com/business/2019/08/24/patients-face-higher-fees-longer-waits-after-planned-parenthood-quits-federal-program/?_hsmc=p2ANqtz-_SP8P8WQ-VfHrxFAWiPOeUScLTF_hZ6H2Rq03b2HQwEWPafjU-X95SxVWv0NRhvK6mxklITx3su6oKTiPXglkWfN1hbblz3GrdDx2IYd36DofWQ00&_hsmi=76064494&utm_campaign=KHN%3A%20First%20Edition&utm_content=76064494&utm_medium=email&utm_source=hs_email

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