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We *are* Title X

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As providers of women's healthcare and sexual and reproductive health (SRH) services, we must stay up to date and vigilant about the ongoing attacks that are eroding access and rights to essential healthcare services. Policy changes at the federal and state levels are threatening the very core of the comprehensive, evidence-based reproductive health and family planning services delivered through the Title X program in the United States. At the same time, severe restriction of abortion services has rendered the procedure virtually inaccessible in many states. The consequences of these trends are particularly dire for individuals who are most vulnerable, including those who are low income, uninsured/underinsured, and/or adolescents. Historically, Title X-funded clinics have also been a key source of training and employment for women's health nurse practitioners (WHNPs). Reducing funding for this program not only threatens our livelihood and the pipeline for preparing future providers of women's healthcare and SRH care but also, in our view, undermines the health of our patients.

In this column, we offer a brief overview of the regulatory changes to the Title X program promulgated by the Trump administration and the implications for patients and healthcare providers (HCPs) as enforcement of this revised *Gag Rule* begins. In addition, we provide information about the legal status of abortion in various parts of the U.S. Given the speed of change in the current policy landscape, we strongly encourage readers to continue to follow these issues by accessing sources that publish the most current information available (*Box*). As providers of SRH care, we must stay informed and, in our opinion, resist this relentless assault on the bodies and rights of people and on the ethical standards and future of our profession.

The Gag Rule

Title X is the only federal program dedicated to providing family planning services for low-income individuals. Title X services include cancer screening, prevention/treatment of sexually transmitted infections, evaluation for infertility, and counseling about and provision of contraception. Recipients of Title X services include men, women, and non-binary/gender-fluid individuals. This vital program supports nearly 4,000 sites and provides care for more than 4 million persons across the U.S. each year.

In March 2019, the Trump administration finalized an overhaul of the existing federal regulations that govern the Title X program. This overhaul, also dubbed the Domestic Gag Rule or the Rule, imposes coercive counseling standards for pregnant patients, prohibits referrals for abortion, and requires unnecessary and stringent requirements for physical and financial separation of Title X-related services from any abortion-related activities.

In particular, the Rule limits the type of counseling that can be provided to pregnant patients and who can deliver it. In a break from past Title X regulations, the Rule no longer requires HCPs to share information about all three pregnancy options: parenting, adoption, and abortion. Rather, it promotes the opposite: It eliminates expectations for nondirective pregnancy options counseling by *prohibiting* HCPs from discussing abortion altogether. As written, the Rule states that HCPs may not "promote, encourage, or advocate for abortions" or engage in "any counseling…as an indirect means of encouraging or promoting abortion as a method of family planning." In our view, the implications of this edict for the patient–provider relationship are profoundly chilling, particularly for communities where histories of reproductive abuse and coercion by the healthcare system and HCPs run deep.

Furthermore, the Rule restricts the delivery of options counseling to physicians and advanced practice providers (physician assistants [PAs], certified nurse-midwives, and NPs), thereby excluding many highly qualified professionals who currently deliver much of the counseling within Title X programs: registered nurses, public health nurses, health educators, and social workers. Many of these individuals have great expertise and familiarity with the vulnerable populations they serve and are particularly well suited for providing

Box. Resources

- National Family Planning & Reproductive Health Association (NFPRHA), NFPRHA v. Azar: The Fight to Save Title X[A]
- NFPRHA, Analysis of 2019 Final Rule on Title X Family Planning Program[B]
- NFPRHA, Comparison of Current Title X Regulations and 2019 Final Rule – With Implementation Dates (March 4, 2019)[C]
- NFPRHA, 5 Things You Need to Know About the Title X Rule (Infographic). July 31, 2019.[D]
- Guttmacher Institute, What the Trump Administration's Final Regulatory Changes Mean for Title X[E]
- Guttmacher Institute, Title X Under Attack—Our Comprehensive Guide[F]
- Guttmacher Institute, State Policy Trends at Mid-Year 2019: States Race to Ban or Protect Abortion[G]
- Guttmacher Institute, Shoring Up Reproductive Autonomy: Title X's Foundational Role[H]
- US News, Illinois to Defy Trump Administration's Abortion Referral 'Gag Rule'[I]

patient-centered, community-based SRH care.

In addition to prohibiting Title X agencies from providing evidence-based options counseling for pregnant individuals and limiting the types of HCPs who can deliver this counseling, the Rule forbids referral to abortion providers, *even if a patient requests it*. Conversely, the Rule requires that *all* pregnant patients be referred for prenatal care, *even if they do not request it*. These requirements conflict with our ethical duty as HCPs to uphold patients' rights to make autonomous, informed decisions about their health and further reveals the depths of what we believe to be the Trump administration's misogynistic agenda.

The Rule also requires any agency that receives Title X funds *and* provides abortion to completely separate the physical and financial operations of these services. Whereas dissociation of abortion financing has been a long-held expectation for Title X fund recipients, the new Rule is far stricter, with added demands related to health records, waiting and examination rooms, clinic exits and entrances, personnel, and other essential components of service delivery. The practical implication of these requirements is the constriction of services throughout entire agencies that provide abortion only at some sites but see patients for a broad range of family planning and SRH services across their network.

In addition, under the Rule, confidentiality and trust between HCPs and patients is deeply threatened by new requirements to include, in the case of adolescent patients, family members—that is, parents or legal guardians—in the decision to seek family planning. This point reveals an underlying distrust in these patients' ability to make their own decisions about whom to involve in this intimate aspect of their health, and disregards the sanctity of the patient–provider relationship. If parents or legal guardians are not involved in adolescent patients' family planning decisions, HCPs are required to document specific reasons why not. Research has demonstrated that some adolescents, including those who are most vulnerable, are more likely to forgo care if parental involvement is required.[1,2] It is reasonable to assume that the Rule will similarly deter adolescents from seeking care.

The Rule has several additional harmful implications for HCPs, healthcare delivery systems, and most important, persons in need of SRH care. For more detailed information, readers are referred to websites of the National Family Planning and Reproductive Health Association[J] (NFPRHA) and the Guttmacher Institute[K], as well as more specific resources in the *Box*.

The response

State attorneys general, healthcare service agencies, and many professional organizations have mounted swift and strong responses to the Rule through legal opposition and, more recently, through a refusal to accept funds altogether. In March 2019, Attorney General Bob Ferguson of Washington State and the NFPRHA filed separate motions requesting a preliminary injunction to prevent the final (Title X) Rule from going into effect. In April, the 9th District Court granted a complete preliminary injunction, thereby blocking enforcement of the Rule across the entire country until the court could further consider its legality. Following this motion, a second nationwide injunction was secured by a coalition composed of the Attorney General of Oregon, the American Medical Association, the Planned Parenthood Federation, and 19 other states. In addition, the attorneys general of California and Maryland secured injunctions blocking enforcement of the Rule in their states. On June 20, 2019, a panel of the U.S. Court of Appeals for the 9th District Circuit granted requests by the Department of Justice to halt (and potentially postpone indefinitely) the three preliminary injunctions described above.

Current status of the Rule

On July 15, 2019, the department of Health and Human Services announced that it would begin enforcing the Rule, including that by August 19, 2019, all Title X fund recipients would need to submit written assurance that they do not provide abortions or include abortion as a method of family planning. In response, Planned Parenthood and the Maine Family Planning Association immediately announced that they would stop accepting funds from Title X to support services in any of their clinics. The governor of Illinois declared that the state will refuse federal Title X

funds and use its own Department of Public Health dollars to support the state's 28 family planning clinics. The States of Massachusetts and Maryland both enacted temporary measures to opt out of Title X, and the governors of New York, Hawaii, Oregon, and Washington threatened to end their participation. Other responses to enforcement of the Rule are forthcoming as agencies and states figure out how to continue to provide vital SRH services in the face of these unethical and onerous requirements. WHNPs and other readers of this journal are strongly encouraged to follow this emerging situation and support efforts to continue the delivery of comprehensive SRH services in their local communities and states, as well as nationwide.

Abortion legislation

Paralleling the release and legal responses to the Rule, the first half of 2019 has been a time of sharp escalation in legislative efforts to restrict abortion across the country. Between January and late May, 378 abortion restrictions were introduced into state legislatures, 40% of which were bans of some kind.[3] At midpoint in the year, a total of 26 abortion bans have been enacted across 12 states.[4]

Although the general trend of introducing and passing restrictive abortion laws at the state level is not new, these bans signal a major shift in strategy by anti-abortion forces. Rather than continuing to chip away at abortion rights and access at the state level, they are intended to lead to a legal challenge to the existing constitutional right to abortion.

Despite the seemingly relentless onslaught of anti-choice legislation, there have been some successes in proactive legislation to secure abortion rights and access in some parts of the country. These successes include six states that have moved to expand or codify laws to protect abortion rights: New York, Illinois, Rhode Island, Vermont, Maine, and Nevada.[4] Of particular interest to members of NPWH, in June of this year, Maine passed legislation that allows advanced practice registered nurses and PAs to perform abortions.[5]

Raising our voices

As providers of SRH care, we must rise to new levels of engagement during these trying times. We must stay informed and join professional and reproductive rights/justice/health organizations in supporting efforts to protect and expand SRH care, justice, and rights. As providers of SRH care, we have an intimate understanding of how critical these services are to the patients and the communities we serve. We must speak and act against these restrictive abortion laws and regressive changes to Title X! The time is now.

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3. Nash E. Unprecedented Wave of Abortion Bans is an Urgent Call to Action. Policy Analysis, Guttmacher Institute. May 2019. guttmacher.org/article/2019/05/unprecedented-wave-abortion-bans-urgent-call-action
4. Nash E, Mohammed L, Capello O, et al. State Policy Trends at Mid-Year 2019: States Race to Ban or Protect Abortion. July 1, 2019. guttmacher.org/article/2019/07/state-policy-trends-mid-year-2019-states-race-ban-or-protect-abortion
5. Maine State Legislature. LD 1261: An Act To Authorize Certain Health Care Professionals To Perform Abortions. 2019. mainelegislature.org/legis/bills/bills_129th/billtexts/HP092201.asp

Web resources

A. nationalfamilyplanning.org/pages/issues/title-x-cases
B. nationalfamilyplanning.org/file/2019-Title-X-Final-Rule----Detailed-Analysis---3.4.2019-FINAL.pdf
C. nationalfamilyplanning.org/file/Comparison-of-Current-Title-X-Rules-with-Final-Rule----With-Implementation-Dates----FINAL-3.4.19.pdf
D. nationalfamilyplanning.org/file/5-things.pdf?fbclid=IwAR1VbailM_-I1WZc0lXWPC6SYEKXJOn1azsYOxFkEhd-NyKUu5TpubxP2MxE&erid=2134185&trid=60501ef8-260e-4a97-ad07-13261e8dffe1
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G. guttmacher.org/article/2019/07/state-policy-trends-mid-year-2019-states-race-ban-or-protect-abortion
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I. usnews.com/news/top-news/articles/2019-07-18/illinois-to-defy-trump-administrations-abortion-referral-gag-rule
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