United States Senate
WASHINGTON, DC 20510-2606

May 17, 2021

VIA Federal eRulemaking Portal

The Honorable Xavier Becerra
Attn: Title X Rulemaking
Office of Population Affairs
Office of the Assistant Secretary for Health
U.S. Department of Health and Human Services
200 Independence Avenue SW
Washington, DC 20201

RE: Comments on Proposed Rule: Ensuring Access to Equitable, Affordable, Client-Centered, Quality Family Planning Services, 86 Fed. Reg. 19812 (April 15, 2021), RIN 0937-AA11

Dear Secretary Becerra:

We the undersigned Senators write to urge the U.S. Department of Health and Human Services (HHS) to withdraw the Proposed Rule: *Ensuring Access to Equitable, Affordable, Client-Centered, Quality Family Planning Services* 86 Fed. Reg. 19812 (April 15, 2021), RIN 0937-AA11 (Proposed Rule). The Proposed Rule would allow Title X funds to support programs where abortion is a method of family planning, contrary to law, and, impose onerous and illegal mandates for Title X projects to counsel and refer for abortion. As Members of Congress, we have a unique Constitutional interest and oversight role in ensuring regulations governing the Title X program comport with the law and Congressional intent.

Abortion is not family planning; it is family destruction. This principle is enshrined in Title X's authorization in section 1008 of the Public Health Service Act. The Proposed Rule defies the law and would siphon tens of millions of taxpayer dollars in Title X funding towards Planned Parenthood and the abortion industry, to the detriment of American taxpayers, the consciences of health care providers, and the lives of unborn children.

I. Background

On March 24, 2019, HHS published a final rule entitled *Compliance With Statutory Program Integrity Requirements*, 84 FR 7714 (Protect Life Rule), which creates a wall of separation between abortion and family planning activities under Title X of the Public Health Service Act. The Protect Life rule requires rigorous physical and financial separation of family planning from abortion, and prohibits the performance of, referral for, or promotion of abortion, in the Title X program. The rule also implements statutory requirements to report sexual abuse and encourage parental involvement for minors.

Like the Reagan Administration's 1988 regulations before it, which were upheld by the Supreme Court in *Rust v. Sullivan* 500 U.S. 173 (1991), the Protect Life Rule has survived key legal

challenges. The rule was upheld by the 9th Circuit en banc[1] and is in effect nationwide, except in the state of Maryland due to a contrary decision by the 4th Circuit en banc.[2]

We note that in its rush to finalize the Proposed Rule, HHS has inappropriately limited the public comment period to 30 days, unlike the Protect Life Rule's 60 day comment period.

II. Legislative History of Section 1008 of the Public Health Service Act

Section 1008 of the Public Health Service Act, under its heading "Prohibition of Abortion", provides that "[n]one of the funds under this title [title X] shall be used be used in programs where abortion is a method of family planning."[3] Section 1008 was adopted as part of the *Family Planning Services and Population Research Act of 1970* that created the Title X family planning program. In addition, since 1996, Congress has enacted a requirement in appropriations that funds provided to Title X projects "shall not be expended for abortions."[4]

Section 1008's broad prohibition on funding for "any program where abortion is a method of family planning" is broader than merely a prohibition on Federal expenditures for abortion. This prohibition encompasses both the provision and promotion of abortion (including referrals) as a method of family planning and requires a complete separation from these activities within the entirety of the program, including physical and financial separation.

The legislative history of section 1008 supports this as the correct interpretation of the law. The Conference Report stated that section 1008 was adopted to make clear that "[i]t is, and has been, the intent of both Houses that the funds authorized under this legislation be used only to support preventive family planning services, population research, infertility services, and other related medical, information and education activities."[5] Section 1008's author Rep. John Dingell (D-MI) also clarified Congressional intent regarding the law in remarks he gave on the House floor:

> With the "prohibition of abortion" amendment—title X, section 1008—the committee members clearly intend that abortion is not to be encouraged or promoted in any way through this legislation. Programs which include abortion as a method of family planning are not eligible for funds allocated through this act.[6]

As Rep. Dingell's remarks make clear, the legislative intent behind section 1008 was to categorically separate out abortion from family planning activities under Title X. The Protect Life rule gave robust effect to Congress' intent, while the Proposed Rule would go precisely contrary to it.

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[1] *California v. Azar*, 950 F.3d 1067 (9th Cir. 2020).
[2] *Mayor of Baltimore v. Azar*, 973 F.3d 258 (4th Cir. 2020).
[3] *Family Planning Services and Population Research Act of 1970*, Pub. L. 91–572, §6(c), Dec. 24, 1970, 84 Stat. 1508.
[4] *Consolidated Appropriations Act, 2021*, Public Law 116-260, Div. H, 134 Stat 1182, 1570.
[5] H.R. Conf. Rep. No. 91-1667, 8 (Dec. 3, 1970), 42 U.S.C. 300a-6.
[6] 116 Cong. Rec. 37375 (Nov. 16, 1970) https://www.govinfo.gov/content/pkg/GPO-CRECB-1970-pt28/pdf/GPO-CRECB-1970-pt28-1-2.pdf.

III. The Proposed Rule would eliminate requirements for physical and financial separation from abortion and thereby allow Title X funds to support abortion as a method of family planning, contrary to law

The Proposed Rule would eliminate requirements for Title X projects to maintain a physical and financial separation of family planning from abortion. This would allow Title X projects to co-locate with abortion centers, even utilizing the same waiting rooms, staff, and facilities. The Proposed Rule would blur the line between abortion and family planning in Federally-funded programs, and open up the door to subsidizing abortion, contrary to law.

The Proposed Rule allows for the comingling of Federal taxpayer funds for family planning with funds used for abortions. This violates abortion funding restrictions enacted by Congress and applicable to the Title X program, including section 1008, the Hyde Amendment, and Title X-specific appropriations provisions. While it is appropriate that the Proposed Rule stipulates that Title X projects must "not provide abortion as a method of family planning",[7] this is woefully inadequate to ensure compliance with section 1008, which is not limited in its plain text to prohibiting the provision of abortion alone.

Opening up the Title X program to integrate with the businesses of abortion centers would create public confusion and allow Federal support for abortion as a method of family planning. Since money is fungible, under the Proposed Rule, Title X funds may be used to facilitate overhead and the development and use of infrastructure that the abortion center could also use for abortion activities that are plainly prohibited by the law. In so doing, the Proposed Rule would also dilute resources available for the preconception family planning activities, as intended by Congress.

In litigation over the Protect Life Rule, one abortion provider, Maine Family Planning made arguments which demonstrate that the physical separation requirements are necessary to prevent Title X funds from subsidizing abortion. Specifically, Maine Family Planning contended in court that the Protect Life Rule constitutes an undue burden on the right to a previability abortion under *Casey*. In other words, they argued that "conditioning participation in the Title X program on the operation of family planning projects that do not share space with abortion providers", would result in the closing of Maine family planning's abortion clinics, whose abortion network was dependent on Title X funds. Judge Lance Walker observed that "[t]he irony of the argument, of course, is that it substantiates [the Protect Rule]'s concern that the Title X program is subsidizing abortion."[8]

On the issue of fungibility, HHS even goes so far as to suggest that the Protect Life Rule is unlawful because "courts have long since held that government cannot restrict access to funds for one activity simply because it may 'free up' funds for another activity."[9] HHS cites a 1983 9th circuit case[10] (which is no longer good law since the *Casey* decision in 1992) and a First

[7] 86 FR 19830.
[8] *Family Planning Ass'n v. U.S. Dep't of Health & Human Servs*., No. 1:19-cv-00100-LEW, 17-18 (D. Me. Jun. 9, 2020).
[9] 86 FR 19816.
[10] Planned Parenthood of Cent. & N. Arizona v. Arizona, 718 F.2d 938, 945 (9th Cir 1983).

Amendment case which expressly left *Rust*'s holding untouched.[11] HHS also failed to mention a more recent decision in 2019 by the 6th Circuit upholding Ohio's ban on funding for abortion providers:

> Private organizations do not have a constitutional right to obtain governmental funding to support their activities. . . . The Supreme Court has never identified a freestanding right to perform abortions. To the contrary, it has indicated that there is no such thing. . . . In the absence of a constitutional right to perform abortions, the plaintiffs have no basis to bring an unconstitutional-conditions claim.[12]

Regarding financial separation, the Proposed Rule is overly vague and fails to explain what standards for financial separation from abortion will replace those of the Protect Life Rule, which required "separate, accurate, accounting records" and "more than mere bookkeeping separation".[13]

IV. The Proposed Rule would financially reward Planned Parenthood and the abortion industry

Planned Parenthood Federation of America (PPFA) is the nation's single largest provider of abortions, with affiliates performing more than 300,000 abortions per year – more than a third of the nation's abortions.[14] Before the Protect Life rule took effect in 2019, Planned Parenthood affiliates reported expenditures of around $60 million each year in Title X funds, totaling over $170 million between 2013 through 2015.[15] When the Protect Life rule went into effect, PPFA prioritized its abortion agenda over family planning, and chose to withdraw nearly all its affiliates from the program, rather than comply with the rule.[16] Other abortion businesses like Maine Family Planning followed suit.[17]

Contrary to HHS' suggestions, Planned Parenthood is not entitled to Title X funds. The preamble to the Proposed Rule states in footnote 54 that because Planned Parenthood fundraised significant sums of money off of the 2019 rule, having the taxpayers provide those funds instead of Planned Parenthood donors would create "efficiency [that] would represent a cost savings attributable to the Proposed Rule."[18] The Proposed Rule's implied presumption that Planned Parenthood is entitled to taxpayer funding is deeply concerning. Moreover, the footnote raises questions about the impartiality and fairness of the agency in evaluating competing grant

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[11] *Agency for Int'l Dev. v. Alliance for Open Soc'y Int'l*, Inc., 570 U.S. 205, 220 (2013).
[12] Planned Parenthood of Greater Ohio. v. Hodges, No. 16-4027 (6th Cir. 2019).
[13] 42 CFR § 59.15.
[14] "The Real Planned Parenthood: Leading the Culture of Death 2021 Edition", https://downloads.frc.org/EF/EF20A19.pdf.
[15] Government Accountability Office. "Health Care Funding: Federal Obligations to and Expenditures by Selected Organizations Involved in Health-Related Activities, Fiscal Years 2013-2015." March 6, 2018. https://www.gao.gov/products/gao-18-204r.
[16] https://www.plannedparenthood.org/about-us/newsroom/press-releases/trump-administration-gag-rule-forces-planned-parenthood-out-of-title-x-national-program-for-birth-control-2.
[17] https://mainefamilyplanning.org/title-x/its-official-were-out/.
[18] 86 FR 19826.

proposals in any subsequent Funding Opportunity Announcements for the Title X program for recipients who are not politically favored by the administration.

V. The Proposed Rule's abortion referral and counseling mandates are unlawful and violate Federal conscience laws

While even permitting abortion referrals in the Title X program would violate section 1008, the Proposed Rule goes a step further and seeks to mandate abortion counseling and referrals. Specifically, the Proposed Rule would impose an obligation for Title X clinics to "[o]ffer pregnant clients the opportunity to be provided information and counseling regarding . . . [p]regnancy termination."[19] If the pregnant woman requests this information and counseling about abortion, the Title X project *must* provide "neutral, factual information and nondirective counseling" on abortion "and referral upon request."[20]

The Protect Life Rule, by contrast, prohibits abortion referrals, while permitting, but not requiring, nondirective counseling about abortion. The Proposed Rule would eliminate the prohibitions for a Title X project to "promote, refer for, or support abortion as a method of family planning".[21] The Proposed Rule also removes the requirement for any abortion counseling, if offered, to be provided by physicians and advance practice providers. In the preamble to the Proposed Rule, HHS even admits it considers referrals for abortion as "family planning related services", which is precisely contrary to plain text of section 1008.[22] The Proposed Rule's inclusion of pregnancy counseling within the definition of "family planning services" also evinces that the rule's abortion counseling mandate also violates section 1008.

Besides violating section 1008, the abortion counseling and referral mandates run afoul of Federal conscience laws, specifically, the Church Amendments,[23] Coats-Snowe,[24] and the Weldon Amendment. The Weldon Amendment states, among other things, that a "Federal agency or program" may not receive any funds under the Labor/HHS appropriations bill, if the agency or program "subjects any institutional or individual health care entity to discrimination on the basis that the health care entity does not . . . refer for abortions."[25] This covers "an individual physician or other health care professional . . . or any other kind of health care facility, organization."[26] We agree with HHS' previous statement that "the plain text of the Weldon Amendment prohibits discrimination against protected individuals and entities for being unwilling to take certain actions or to provide certain support in relation to abortion without requiring a specifically religious or moral motive for that decision or position."[27] Hence, any abortion referral mandate, even without regard to a religious or moral objection, is on its face a violation of the plain text of the Weldon Amendment. Additionally, the Church Amendments

[19] 86 FR 19830.
[20] Ibid.
[21] 42 CFR § 59.14(a).
[22] 86 FR 19818.
[23] 42 U.S.C. § 300a-7.
[24] 42 U.S.C. § 238n.
[25] Consolidated Appropriations Act, 2021, Public Law 116-260, Div. H, sec. 507(d).
[26] Ibid.
[27] 83 FR 3890.

preclude the imposition of any abortion counseling or referral mandate where it would be contrary to the provider's "religious beliefs or moral convictions".[28]

HHS even acknowledges the incongruity between Federal conscience laws and the proposed abortion referral mandate in the preamble to the Proposed Rule: "Under these statutes [the Church and Weldon Amendments], objecting providers or Title X grantees are not required to counsel or refer for abortions."[29] However, any form of exemption under these statutes for the abortion counseling or referral mandates is completely absent from the regulatory text, which provides for no exceptions.

HHS has an obligation to ensure that its proposed regulatory mandates comport with laws enacted by Congress. Moreover, the absence of the statutory exemptions provided by the Weldon, Coats-Snowe, and Church Amendments in the regulation will create confusion and deter grantees that object to abortion from applying for funds. During HHS' review of the Proposed Rule, the Conscience and Religious Freedom Division within the Office for Civil Rights at HHS, in particular, should be consulted to ensure compliance with all applicable Federal conscience laws.

VI. The Proposed Rule weakens sexual abuse reporting and screening requirements and those related to encouraging involvement for minors, and counseling for minors on how to resist sexual coercion

The Proposed Rule weakens the Title X sexual abuse reporting requirements, requirements to encourage parental involvement, and other protections for minors, in ways that open up the door to misconduct by Planned Parenthood and the abortion industry.

Since 1981, Congress has required Title X projects "[t]o the extent practicable . . . shall encourage family participation".[30] Since 1997, Congress has enacted an appropriations provision requiring that any Title X provider "encourages family participation in the decision of minors to seek family planning services and that it provides counseling to minors on how to resist attempts to coerce minors into engaging in sexual activities"[31]. Since 1998, Congress has also enacted an appropriations provision that requires that Title X family planning providers comply with "any State law requiring notification or the reporting of child abuse, child molestation, sexual abuse, rape or incest."[32]

While the Proposed Rule retains some provisions regarding sexual abuse from the Protect Life Rule, it eliminates several important minimum requirements. These include protocols to counsel minors on resisting sexual coercion, to provide "preliminary screening of any minor who presents with a sexually transmitted disease (STD), pregnancy, or any suspicion of abuse, in order to rule out victimization" and detailed recordkeeping requirements, including to indicate the age of minor clients, the age of the minor's sexual partners, and what notifications of

[28] 42 U.S.C. 300a-7(d).
[29] 86 FR 19817.
[30] Section 1001(a) of the Public Health Service Act, as amended by Pub. L. 97–35, §931(b)(1), Aug. 13, 1981.
[31] Consolidated Appropriations Act, 2021, Public Law 116-260, Div. H, sec. 207, 134 Stat. 1182, 1590.
[32] Ibid., sec. 208.

authorities are made under state law.[33] The Proposed Rule also eliminates the requirement for providers to document what specific actions were taken to encourage family participation.[34] HHS provided no reason for eliminating these critical safeguards.

There are numerous documented cases where Planned Parenthood has turned a blind eye to suspected sexual abuse, including of minors.[35] Planned Parenthood affiliates have repeatedly performed abortions on children as young as 12 or 13 years old, and returned them to their abusers, rather than reporting these suspicious incidents to authorities.

With the Proposed Rule facilitating Planned Parenthood's re-entry into the Title X program, the Protect Life Rule's requirements on sexual abuse reporting and screening, and encouraging parental involvement, should be retained in their entirety to ensure minors and vulnerable women are not exploited by the abortion industry.

VII. The Proposed Rule eliminates abortion lobbying restrictions

Since 1996, Congress has enacted an appropriations provision prohibiting Title X funds from being "expended for any activity (including the publication or distribution of literature) that in any way tends to promote public support or opposition to any legislative proposal or candidate for public office."[36] Pursuant to this provision and section 1008, the Protect Life rule prohibits the use of Title X project funds from being used to lobby for pro-abortion legislation, litigate to promote abortion, provide speakers or educators who promote abortion, pay dues to State associates that primarily lobby for abortion, or develop or disseminate pro-abortion materials.[37]

The Proposed Rule's elimination of these abortion lobbying restrictions, without even providing justification, is concerning and raises questions of HHS' commitment to enforcing the law so that Title X program funds are not abused for pro-abortion politicking. The potential abuse of taxpayer funds in this manner is particularly of concern due to Planned Parenthood's intense organizational focus on political activities to promote abortion, rather than providing health care. It is additionally concerning because, as the administration revealed in footnote 54 of the Proposed Rule, creating "efficiency" and "cost savings" for this single, politically-active organization appears to be a key motivating factor in changing the rule.[38]

VIII. The Proposed Rule eliminates transparency for subrecipients, threatening program-integrity

The Protect Life Rule established important transparency requirements with respect to subrecipients, to ensure the legal and ethical use of Title X funds. Eliminating the requirements for Title X grant applicants to provide information back to HHS regarding the activities of subrecipients, and oversight thereof, creates significant program vulnerabilities and undermines

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[33] 42 CFR § 59.17(b)(1).
[34] 42 CFR § 59.5(a)(14).
[35] https://www.liveaction.org/wp-content/uploads/2018/05/Planned%20Parenthood%20Sexual%20Abuse%20Report%202018.pdf.
[36] Consolidated Appropriations Act, 2021, Public Law 116-260, Div. H, 134 Stat 1182, 1570.
[37] 42 CFR § 59.16(a)(2).
[38] 86 FR 19826.

Congressional oversight, including, but not limited to, the potential misuse of Title X funds to support abortion activities.

Moreover, the Proposed Rule's preamble wrongfully dismisses concerns about misuse of taxpayer dollars, despite numerous cases previously cited by HHS where audits of Medicaid and Title X providers exposed practices of overbilling or misuse of funds, including by Planned Parenthood.[39]

IX. States and other grantees may exclude abortion providers as subrecipients under the Title X program

In the notice of proposed rulemaking, HHS also seeks comment on "ways in which it can ensure that Title X projects do not undermine the program's mission by excluding otherwise qualified providers as subrecipients".[40] This is plainly directed at the 16 states that restrict Title X family planning funds received by the state from flowing to the abortion industry.[41] To the contrary, far from "undermining" the Title X program's mission, such states are furthering the mission of the Title X program, and ensuring its integrity, by prioritizing comprehensive health care providers like community health centers that offer individuals both family planning and primary health care on-site seamlessly, without abortion. The Proposed Rule itself recognizes the importance for Title X projects to have "physical proximity", in addition to providing referrals and linkages, to comprehensive health care providers "in order to promote access to services and provide a seamless continuum of care."[42] Not only do comprehensive health centers offer more seamless care, but they are more geographically diverse, outnumbering Planned Parenthood centers by at least 20 to 1.[43] Planned Parenthood's health care services, moreover, have sharply declined over the past decade, including cancer screening and prevention programs, breast exams, and prenatal services.[44]

To deny States and other grantees the freedom to choose subrecipients risks as they see fit could cut off Title X funding for entire states and undermine the mission of the program in such locations. The preamble to the Proposed Rule even admits that "seven states (CO, DE, KY, ND, NM, NV, TX) experienced a meaningful increase in the number of Title X clinics after the 2019 regulatory change" (the Protect Life Rule).[45] Of these states whose government-sponsored Title X projects flourished under the Protect Life Rule, the states of Kentucky and Texas, also have laws in place that deprioritize and prohibit, respectively, abortion providers from serving as Title X subrecipients.[46] Accordingly, we are concerned that the Proposed Rule will cause concrete

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[39] 83 FR 25509 See also: Foster, C.G., Profit. No Matter What, 2017 Report on Publicly Available Audits of Planned Parenthood Affiliates and State Family Planning Programs, Charlotte Lozier Institute Special Report Series 3 (Jan. 4, 2017), https://lozierinstitute.org/profit-no-matter-what.

[40] 86 FR 19817.

[41] Arizona, Nebraska, Kansas, Oklahoma, Texas, Arkansas, Louisiana, Wisconsin, Mississippi, Michigan, Indiana, Ohio, Kentucky, Tennessee, South Carolina, and Florida https://frc.org/prolifemaps.

[42] 86 FR 19831.

[43] https://lozierinstitute.org/fact-sheet-reallocating-planned-parenthoods-federal-funding-to-comprehensive-health-centers/.

[44] https://downloads.frc.org/EF/EF20A19.pdf.

[45] 86 FR 19816.

[46] Ky. Rev. Stat. Ann. § 311.715 ; Tex. Gov't Code Ann. § 2272.003.

harm to the Title X program and, in fact, disrupt the health care arrangements for thousands of women in such states, as well as in rural areas, who obtain services that are uniquely provided to them by current Title X recipients. We request that HHS provide analysis of the impact of the Proposed Rule on these states and on rural areas.

HHS' request for comment is also concerning insofar as it suggests an attempt to evade a 2017 law enacted by Congress under the Congressional Review Act that permanently overturned a 2016 regulation that sought to prohibit states from excluding abortion providers as Title X subrecipients.[47] That rule stated: "No recipient making subawards for the provision of services as part of its Title X project may prohibit an entity from participating for reasons other than its ability to provide Title X services."[48] Due to the 2016 rule's legislative disapproval under the Congressional Review Act, HHS is barred from re-issuing the nullified rule in "substantially the same form" or issuing "a new rule that is substantially the same" as the nullified rule, unless specifically authorized to do so by Congress.[49] This law forecloses any effort by HHS to restrict the freedom of states to exclude or de-prioritize abortion providers in choosing subrecipients under Title X.

X. The Proposed Rule's definitions deviate from Congressional intent for the Title X program

Several definitions of the Proposed Rule deviate significantly from Title X's statutory intent and lack justification. For example, the Proposed Rule eliminates "choosing not to have sex"[50] from definition of family planning, and makes no mention of abstinence as a method of family planning. The Proposed Rule's ambiguous requirement that family planning methods be "medically approved"[51] (an undefined term which does not occur in the statute),[52] moreover, could cause confusion and call into question whether abstinence-based methods are even allowed. The Proposed Rule also removes from that definition "preconception counseling, education, and general reproductive and fertility health care."[53] Education for individuals who seek family planning services is fundamental to ensuring successful health outcomes, including for mothers and infants. Ignoring that fact to start with what appears to be a "contraceptives first" approach is misguided at best. Moreover, despite section 1008 and clear Congressional intent for the Title X program to exclusively focus on preconception family planning activities, the Proposed Rule eliminates the exclusion from the definition of family planning for

[47] *Joint resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of the final rule submitted by Secretary of Health and Human Services relating to compliance with title X requirements by project recipients in selecting subrecipients*, Public Law 115-23 (Apr. 13, 2017), 131 Stat. 89.
[48] Compliance with Title X Requirements by Project Recipients in Selecting Subrecipients, 81 Fed. Reg. 91852, (December 19, 2016).
[49] 5 U.S.C. 801(b)(2).
[50] 42 CFR § 59.2.
[51] 86 FR 19829.
[52] The statute requires Title X projects to offer a "broad range of acceptable and effective family planning methods and services." (Section 1001(a) of the Public Health Service Act).
[53] Ibid.

"postconception care (including obstetric or prenatal care) or abortion as a method of family planning."[54]

Beyond the definition of family planning, the Proposed Rule includes an unnecessary definition of "inclusivity" that begins by rightly ensuring that all people are fully included, but goes on formalize protections to certain categories of people that simultaneously deviates from statutorily-protected classes and excludes individuals with protected characteristics. This definition is essentially repeated in the instructions for composition of the advisory committee, which insinuates the prioritization of certain populations over others, which does not align with the scope of the statute.

The Proposed Rule also eliminates from the definition of "low income family" provisions for women who have health insurance coverage from an employer that does not provide contraceptives based on the employer's religious or moral objection to instead receive contraceptive services under Title X. HHS provided no explanation for this change or analysis of its impact. We are concerned that this change may indicate disregard for the importance of providing religious or moral exemptions from HHS' contraceptive mandate, or worse, foreshadow a regulatory effort to eliminate those protections.[55]

The Proposed Rule opaquely defines "health equity" as a new criterion for awarding Title X funds, despite the lack of statutory support or Congressional authorization for that priority. While the Title X statute expressly prioritizes low-income families, the definition of "health equity" would introduce a different priority for the program. The lack of clarity in the definition, moreover, would cause confusion for applicants and, worse, open the door to political considerations and give government bureaucrats more power to pick winners and losers in grantmaking process. Further, this definition is reinforced with a similarly indistinct definition of "quality health care", a term that itself occurs nowhere else in the regulation.

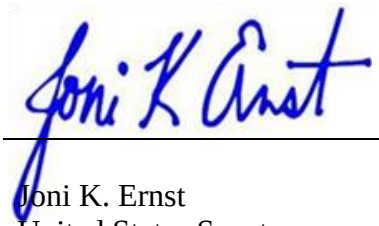
Finally, the definition of "client-centered care", which states that "client values guide all clinical decisions", inappropriately fails to take into account the religious or moral values and professional medical judgments of health care providers.[56]

XI. Conclusion

The Proposed Rule would allow Title X funds to support programs where abortion is a method of family planning, contrary to law, and impose onerous and illegal mandates for Title X projects to counsel and refer for abortion. The Proposed Rule would eliminate critical safeguards for Title X's program integrity and undermine protections for minors and victims of sexual abuse. Finally, the purpose and effect of the Proposed Rule would be to direct taxpayer dollars to enrich Planned Parenthood and the abortion industry. HHS should promptly withdraw this unnecessary, unlawful, and deeply misguided regulation

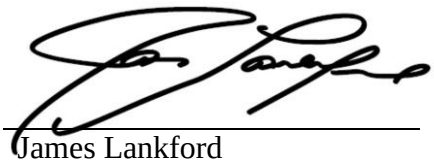
[54] Ibid.
[55] 45 CFR § 147.132, 147.133.
[56] 86 FR 19818.

Sincerely,



Joni K. Ernst
United States Senator

Steve Daines
United States Senator



James Lankford
United States Senator

Roger Marshall, M.D.
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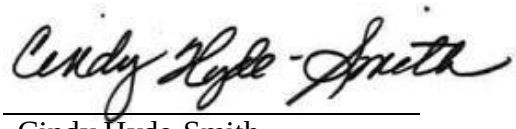
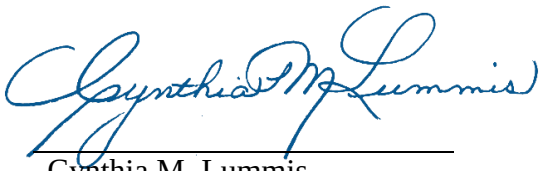
Thom Tillis
United States Senator

Lindsey O. Graham
United States Senator



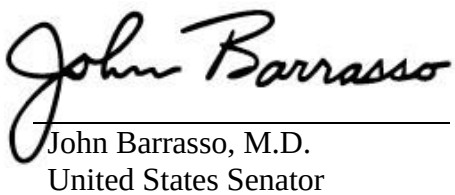
Cindy Hyde-Smith
United States Senator



Cynthia M. Lummis
United States Senator

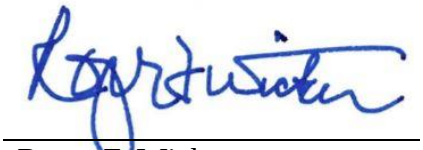
Ron Johnson
United States Senator

Kevin Cramer
United States Senator



John Barrasso, M.D.
United States Senator

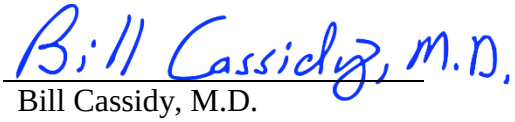
Bill Hagerty
United States Senator



Roger F. Wicker
United States Senator

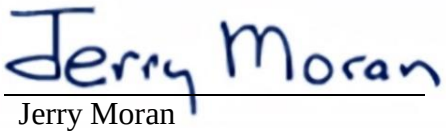
Mike Crapo
United States Senator

John Hoeven
United States Senator



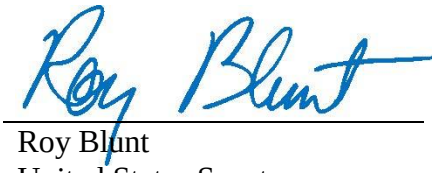
Bill Cassidy, M.D.
United States Senator

M. Michael Rounds
United States Senator



Jerry Moran
United States Senator

Deb Fischer
United States Senator

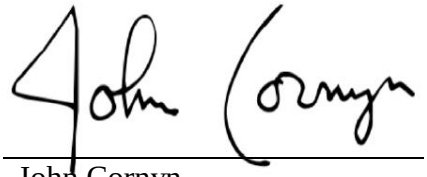


Roy Blunt
United States Senator

Marsha Blackburn
United States Senator

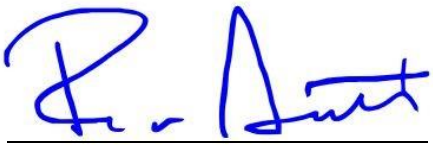
John Boozman
United States Senator

Ben Sasse
United States Senator



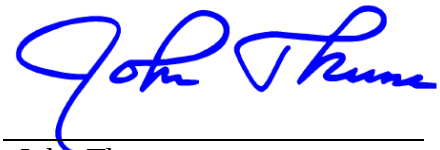
John Cornyn
United States Senator

Ted Cruz
United States Senator



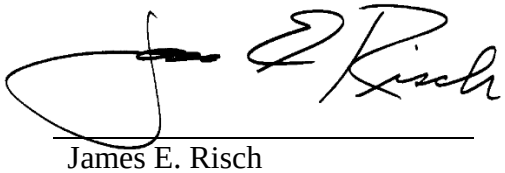
Rick Scott
United States Senator

Josh Hawley
United States Senator



John Thune
United States Senator

Tom Cotton
United States Senator



James E. Risch
United States Senator

Todd Young
United States Senator

Mike Braun
United States Senator

Marco Rubio
United States Senator

James M. Inhofe
United States Senator