



Jessica Marcella
Deputy Assistant Secretary for Population Affairs
Office of Population Affairs
Office of the Assistant Secretary for Health
US Department of Health and Human Services
200 Independence Avenue SW
Washington, DC 20201
VIA ELECTRONIC TRANSMISSION

Attn: Title X Rulemaking

Dear Ms. Marcella:

The Texas Women's Healthcare Coalition (TWHC) and its 87 healthcare, faith, and community-based member organizations are dedicated to improving the health and wellbeing of Texas women, babies, and families by ensuring access to preventive healthcare for all Texas women.

TWHC is writing today in support of the notice of proposed rulemaking (NPRM) "Ensuring Access to Equitable, Affordable, Client-Centered, Quality Family Planning Services," RIN 0937-AA11, revoking the 2019 Title X regulations and repairing the damage caused to the Title X program and its grantees, like Every Body Texas, and the clients served by Title X providers.

The 2019 rule has had a significant negative impact on the public's health. More than 1,200 family planning providers in 34 states left the program¹ and numerous states were left either with no Title X-funded programs or with programs unable to serve the entirety of the service areas they were funded to serve.² Despite assertions that the new regulations would cause new applicants to apply for Title X funding and result in "more clients being served,"³ the previous administration was unable to find new grantees to fill the gaps the regulations created, and large numbers of clients lost access to Title X services. In Texas, the statewide grantee, Every Body Texas, was forced to make changes to its Title X project, including changes to its provider network, to ensure continued compliance with the Title X rule, resulting in loss of access in certain areas of the state and reduced client volume overall.

In addition to supporting finalization of the proposed rule as quickly as possible, TWHC also strongly supports the NPRM's focus on:

- **Promoting health equity.** The requirements that Title X-funded health centers prioritize people with low incomes, and provide care regardless of ability to pay, ensure that the Title X program is well-positioned to advance health equity for the clients it serves. The onerous requirements of the 2019 rule diverted attention and resources from this important work and undermined Title

¹ Forty Title X programs projects across 34 states had service sites withdraw or have withdrawn completely from the Title X program due to the Trump Rule. *State of the Title X Network*, Nat'l Family Planning & Reproductive Health Ass'n (July 2020), <https://www.nationalfamilyplanning.org/file/2020-state-one-pagers-new/Impact-of-the-Title-X-Rule-in-California.pdf>.

² Mia Zolna et al., *Estimating the impact of changes in the Title X network on patient capacity*, Guttmacher Inst., 2 (Feb. 5, 2020), https://www.guttmacher.org/sites/default/files/article_files/estimating_the_impact_of_changes_in_the_title_x_network_on_patient_capacity_2.pdf.

³ Compliance With Statutory Program Integrity Requirements, 84 Fed. Reg. 7,714, 7,723 (Mar. 4, 2019).



X's mission to provide equitable, affordable, client-centered, quality family planning and sexual health services.

- **Increasing access to highly qualified providers.** Tiering and other prohibitions against family planning providers often exclude the very providers that are the most qualified and best-equipped to help Title X clients. Texas's experience with such policies serves as a cautionary tale of the deeply harmful consequences that can result when particular safety net family planning providers are targeted.⁴ HHS should use this rulemaking to ensure that Title X projects do not undermine the program's mission by excluding otherwise qualified providers as subrecipients—and include in its final Title X rule protections that fully enforce the statutory intent of the Title X program.
- **Ensuring confidential care.** Two hallmarks of the Title X program—which are critically important in Texas—are the program's historically strong protections for client confidentiality and its commitment to serving adolescents. Certain groups, including adolescents and young adults, and people at risk of intimate partner violence, have special privacy concerns that require particularly strong confidentiality protection.⁵ The TWHC urges client confidentiality be preserved in order to keep this main tenet fully intact and ensure Title X is available to all individuals in need of family planning services.
- **Upholding evidence-based standards of care.** The 2019 rule undermined Title X's longstanding standard of care in a variety of ways, including drastic changes to pregnancy options counseling. Prior to the 2019 rule, a study of the Texas family planning safety net found that client-centered, non-directive pregnancy options counseling was more common among Title X sub-recipients than state-only funded organizations⁶—so we strongly support the prompt reinstatement of pregnancy diagnosis and nondirective pregnancy counseling as Title X-funded services in Texas.

For 50 years, the Title X family planning program has been a critical underpinning of the public health safety-net infrastructure that serves millions of people with low incomes each year. The Title X Program is a crucial component of the family planning safety net in Texas and providing access to preventive and preconception care. Title X has had an enormously positive impact on Texas families because the

⁴ Kari White, Kristine Hopkins, Abigail Aiken, Amanda Stevenson, Celia Hubert, Daniel Grossman, and Joseph E. Potter, The impact of reproductive health legislation on family planning clinic services in Texas, *American Journal of Public Health* 105(5):851-858 (2015) (finding that after the family planning budget was cut from \$111 million to \$38 million, 82 Texas family planning clinics closed or stopped providing family planning services). See also Joseph E. Potter and Kari White, *Defunding Planned Parenthood was a disaster in Texas. Congress shouldn't do it nationally*, *Washington Post*, February 7, 2017, <https://www.washingtonpost.com/posteverything/wp/2017/02/07/defunding-planned-parenthood-was-a-disaster-in-texas-congress-shouldnt-do-it-nationally>.

⁵ Pamela J. Burke et al., *Sexual and Reproductive Health Care: A Position Paper of the Society for Adolescent Health and Medicine*, 54 *J. ADOLESCENT HEALTH* 491, 491-496, (2014), https://www.adolescenthealth.org/SAHM_Main/media/Advocacy/Positions/Apr-14-Sexual-Repro-Health.pdf; Diane M. Reddy, Raymond Fleming, & Carolyn Swain, *Effect of Mandatory Parental Notification on Adolescent Girls' Use of Sexual Health Care Services*, 288 *J. AM. MED. ASS'N* 710, 710-714 (2002); Rachel K. Jones et al., *Adolescents' Reports of Parental Knowledge of Adolescents' Use of Sexual Health Services and Their Reactions to Mandated Parental Notification for Prescription Contraception*, 293 *J. AM. MED. ASS'N* 340, 340-348; Liza Fuentes, Meghan Ingerick, Rachel Jones, & Laura Lindberg, *Adolescents' and Young Adults' Reports of Barriers to Confidential Health Care and Receipt of Contraceptive Services*, 62 *J. ADOLESCENT HEALTH* 36, 36-43; *National Consensus Guidelines on Identifying and Responding to Domestic Violence Victimization in Health Care Settings*, Family Violence Prevention Fund (2004), <http://www.futureswithoutviolence.org/userfiles/file/HealthCare/consensus.pdf>.

⁶ Kari White, Katelin Adams, and Kristine Hopkins, *Counseling and referrals for women with unplanned pregnancies at publicly funded family planning organizations in Texas*, *Contraception* 99(1) 48-51 (2019).



requirements governing these funds have emphasized high-quality, science-based, client-centered care, helping people to plan their families and their lives.

The Texas Women's Healthcare Coalition appreciates the opportunity to comment on the NPRM, "Ensuring Access to Equitable, Affordable, Client-Centered, Quality Family Planning Services." If you require additional information about the issues raised in these comments, please contact me at edelgado@texaswhc.org or 210-535-6991.

Sincerely,

Evelyn Delgado Chair, Texas Women's Healthcare Coalition



Texas Women's Healthcare Coalition

PROMOTING ACCESS TO PREVENTIVE
HEALTHCARE FOR ALL TEXAS WOMEN

Texas Women's Healthcare Coalition Steering Committee Members

Texas Medical Association
District XI (Texas) American College of Obstetricians and Gynecologists
Texas Academy of Family Physicians
Texas Association of Community Health Centers
Methodist Healthcare Ministries
Teaching Hospitals of Texas
Every Body Texas
Texans Care for Children
Every Texan
Chair - Healthy Futures of Texas

Texas Women's Healthcare Coalition General Members

- Access Esperanza Clinics Inc.
- Amistad Community Health Center
- Austin Advanced Practice Nurses
- Austin Physicians for Social Responsibility
- AWHONN Texas
- Brazos Valley Community Action Agency, Inc.
- Brazos Valley Nurse Practitioner Association
- Cactus Health
- Cardea
- Center for Community Health, UNTHSC
- Centering Healthcare Institute
- Central Texas Nurse Practitioners
- Children's Hospital Association of Texas
- Circle Up United Methodist Women
- Coalition for Nurses in Advanced Practice
- Coastal Bend Advanced Practice Nurses
- Coastal Bend Wellness Foundation
- Community Healthcare Center
- Consortium of Texas Certified Nurse Midwives
- Department of Pediatrics and Women's Health, UNTHSC
- El Buen Samaritano
- El Centro de Corazón
- El Paso Area Advanced Practice Nurse Association
- Food Bank of the Rio Grande Valley
- Fort Worth Region Nurse Practitioners
- Haven Health
- Hill Country Advanced Practice Nurses & Physicians Assistants Association
- Houston Area Chapter of NAPNAP
- Houston Area Nurse Practitioners
- Improving Maternal Health
- Latina Institute for Reproductive Justice Texas
- League of Women Voters of Texas
- Legacy Community Health Services
- Lone Star Family Health Center
- March of Dimes – Texas
- Mental Health America of Greater Houston
- National Association of Nurse Practitioners in Women's Health
- National Council of Jewish Women—Texas State Policy Advocacy Network
- North Harris Montgomery Advanced Practice Nurse Society
- North Texas Alliance to Reduce Teen Pregnancy
- North Texas Nurse Practitioners
- Nurse-Family Partnership
- Panhandle Nurse Practitioner Association
- Pasadena Health Center
- People's Community Clinic
- Port Arthur Housing Authority
- Pregnancy and Postpartum Health Alliance of Texas SALVERE
- San Antonio Metropolitan Health District
- San Antonio Nurses in Advanced Practice
- Schneider Communications
- South Plains Nurse Practitioner Association
- South Texas Family Planning & Health Corp.
- Southeast Texas Nurse Practitioner Associates
- Special Health Resources
- St. David's Foundation
- Susan Wolfe and Associates, LLC
- Texas Association of Community Health Plans
- Texas Association of Obstetricians and Gynecologists
- Texas Campaign to Prevent Teen Pregnancy
- Texas Council on Family Violence
- Texas Health Institute
- Texas Hospital Association
- Texas Medical Association Alliance
- Texas Nurse Practitioners
- Texas Nurses Association
- Texas Oral Health Coalition
- Texas Pediatric Society
- Texas Unitarian Universalist Justice Ministry
- Texas Women's Foundation
- The Contraceptive Initiative
- The SAFE Alliance
- The Women's Fund for Health Education and Resiliency
- University Health System
- Valley AIDS Council
- Women's & Men's Health Services of the Coastal Bend, Inc.
- Young Invincibles