

# United States Senate

WASHINGTON, DC 20510

March 18, 2019

Senator Lamar Alexander  
Chairman  
U.S. Senate Committee on Health,  
Education, Labor, and Pensions  
Washington, DC

Senator Patty Murray  
Ranking Member  
U.S. Senate Committee on Health,  
Education, Labor, and Pensions  
Washington, DC

Dear Chairman Alexander and Ranking Member Murray,

We write to request that the Senate Committee on Health, Education, Labor, and Pensions (HELP Committee) hold a hearing to assess the impacts of the Department of Health and Human Services' (Department or HHS) recently released final rule regarding the Title X Family Planning Program (Title X).

The Title X program has historically received bipartisan support.<sup>1</sup> Title X is the only federal program dedicated to providing family planning services to people with low incomes. In 2016, Title X supported nearly 4,000 health centers providing basic primary and preventive health care services—including contraception, Pap tests, breast exams, and STI and HIV testing—to more than 4 million women, men, and young people.<sup>2</sup> Nearly two-thirds (64%) of Title X patients live at or below the federal poverty line,<sup>3</sup> and six out of ten women who receive care at a Title X-funded health center consider it their primary source of care.<sup>4</sup> Title X serves populations that often face systemic barriers to accessing health services: 43% of Title X clients are uninsured, and many identify as racial and ethnic minorities.<sup>5</sup>

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<sup>1</sup> Guttmacher Institute, "Title X: Three Decades of Accomplishment," Rachel Benson Gold, February 1, 2001, <https://www.guttmacher.org/gpr/2001/02/title-x-three-decades-accomplishment>.

<sup>2</sup> Planned Parenthood, "Title X: The Nation's Program for Affordable Birth Control and Reproductive Care," <https://www.plannedparenthoodaction.org/issues/health-care-equity/title-x>.

<sup>3</sup> Kaiser Family Foundation, "Proposed Changes to Title X: Implications for Women and Family Planning Providers," Laurie Sobel, et al., November 21, 2018, <https://www.kff.org/womens-health-policy/issue-brief/proposed-changes-to-title-x-implications-for-women-and-family-planning-providers/>.

<sup>4</sup> Guttmacher Institute, "U.S. Women's Use of Sexual and Reproductive Health Services: Trends, Sources of Care and Factors Associated with Use, 1995-2010," Jennifer Frost, May 2013, [https://www.guttmacher.org/sites/default/files/report\\_pdf/sources-of-care-2013.pdf](https://www.guttmacher.org/sites/default/files/report_pdf/sources-of-care-2013.pdf).

<sup>5</sup> National Family Planning and Reproductive Health Association, "Title X: An Introduction to the Nation's Family Planning Program, November 2017, <https://www.nationalfamilyplanning.org/file/Title-X-101-November-2017-final.pdf>.

On March 4, 2019, HHS published a final rule in the *Federal Register* that, if implemented, would severely restrict the ability of providers at Title X-funded health centers to offer patients high-quality family planning services or for health centers to operate under the program's onerous requirements at all.<sup>6</sup>

First, the final rule prohibits health care providers at Title X-funded health centers from providing patients with comprehensive information about their reproductive health options. It does so by prohibiting providers at Title X-funded health centers from referring patients for abortion services, even if patients specifically request a referral.<sup>7</sup> According to the American Medical Association (AMA), such a restriction violates patients' rights under the Code of Medical Ethics and undermines physicians' professional obligations to provide honest and informed advice.<sup>8</sup> This imposition of a "gag rule" on doctors sets a dangerous precedent, may result in many providers deciding to leave the program, and will reduce Title X patients' access to medically sound family planning services.

Second, the rule loosens the quality requirements that have defined the Title X program since its inception—weakening the standards of care and paving the way for unqualified providers to access Title X funds. Specifically, the rule eliminates the requirement that Title X providers offer "medically approved" family planning methods and makes it easier for providers that refuse to offer all, or even just most, FDA-approved contraceptives to receive Title X grants.

Third, the rule reduces access to care for patients by reshaping the network of Title X providers. The rule establishes a new requirement that facilities receiving Title X funds be physically and financially separate from the facilities that perform abortions, even though Title X funds are already prohibited from being used for abortions. Not only would these excessively burdensome requirements affect the estimated one in 10 Title X-funded health centers that offer abortions using non-Title X funds,<sup>9</sup> but the wide range of services that fall under the administration's construct of prohibited abortion-related activities also stand to impact the Title X provider network as a whole. The physical and financial separation requirement appears to be aimed at and would disproportionately affect Planned Parenthood health centers, which currently serve over 40% of Title X network patients (1.6 million people).

The effects of this requirement would be devastating nationwide and in our home states. In 2015, Planned Parenthood health centers served 88% of Title X clients in Connecticut,<sup>10</sup> 79% of Title X clients in Wisconsin,<sup>11</sup> 71% of Title X clients in Minnesota,<sup>12</sup> 47% of Title X clients in New

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<sup>6</sup> Federal Register, "Compliance with Statutory Program Integrity Requirements," March 4, 2019, <https://www.federalregister.gov/documents/2019/03/04/2019-03461/compliance-with-statutory-program-integrity-requirements>.

<sup>7</sup> National Family Planning and Reproductive Health Association, "Summary of the 2019 Draft Title X Family Planning Program Final Rule," February 2019, [https://www.nationalfamilyplanning.org/file/Top-Line-Summary\\_February-2019\\_FINAL.pdf](https://www.nationalfamilyplanning.org/file/Top-Line-Summary_February-2019_FINAL.pdf).

<sup>8</sup> American Medical Association, "What you need to know about the Title X rule," March 5, 2019, <https://www.ama-assn.org/delivering-care/patient-support-advocacy/what-you-need-know-about-title-x-rule>.

<sup>9</sup> Guttmacher Institute, "Publicly Funded Contraceptive Services at U.S. Clinics, 2015," Jenifer J. Frost, et al., April 2017, <https://www.guttmacher.org/report/publicly-funded-contraceptive-services-us-clinics-2015>.

<sup>10</sup> U.S. Senate Health, Education, Labor, and Pensions Committee, "Title X in Connecticut," Democratic Staff, May 24, 2018, <https://www.help.senate.gov/imo/media/doc/Title%20X%20in%20Connecticut.pdf>.


<sup>11</sup> Id., "Title X in Wisconsin," <https://www.help.senate.gov/imo/media/doc/Title%20X%20in%20Wisconsin.pdf>.

Hampshire,<sup>13</sup> 5% of Title X clients in Virginia,<sup>14</sup> and every Title X client in Vermont.<sup>15</sup> In Pennsylvania, Planned Parenthood served 65,280 Title X clients in 2015.<sup>16</sup> And in Massachusetts, Planned Parenthood served 27% of the state's Title X clients, despite only operating 8% of Title X-funded health centers.<sup>17</sup> If Planned Parenthood facilities were eliminated from Title X eligibility, the remaining types of Title X-funded sites would have to increase their client caseload substantially, including by 757% in Connecticut,<sup>18</sup> 367% in Wisconsin,<sup>19</sup> 243% in Minnesota,<sup>20</sup> 87% in New Hampshire,<sup>21</sup> 63% in Pennsylvania,<sup>22</sup> 5% in Virginia,<sup>23</sup> and 36% in Massachusetts.<sup>24</sup> Community health centers and other Title X providers have said they absolutely could not meet this increased demand, leaving patients without these vital health services.<sup>25</sup>

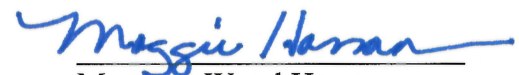
We urge you to hold a hearing so we can fulfill our responsibility to scrutinize the policy with the due diligence it deserves. This letter touches on just a few of the many concerns we have with the new rule. The Committee should hear from patients, providers, entities receiving Title X funds, and state and local health departments, so we can directly assess the impact this final rule will have on people with low incomes' ability to access high-quality family planning services.

Thank you for your consideration of this important request. We are committed to ensuring that the Title X program provides access to family planning and preventive health services to women and men across the country.

Sincerely,



Elizabeth Warren  
United States Senator



Margaret Wood Hassan  
United States Senator

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<sup>12</sup> Id., "Title X in Minnesota," <https://www.help.senate.gov/imo/media/doc/Title%20X%20in%20Minnesota.pdf>.

<sup>13</sup> Id., "Title X in New Hampshire,"

<https://www.help.senate.gov/imo/media/doc/Title%20X%20in%20New%20Hampshire.pdf>.

<sup>14</sup> Id., "Title X in Virginia," <https://www.help.senate.gov/imo/media/doc/Title%20X%20in%20Virginia.pdf>.

<sup>15</sup> Id., "Title X in Vermont," <https://www.help.senate.gov/imo/media/doc/Title%20X%20in%20Vermont.pdf>.

<sup>16</sup> Id., "Title X in Pennsylvania,"

<https://www.help.senate.gov/imo/media/doc/Title%20X%20in%20Pennsylvania.pdf>.

<sup>17</sup> Id., "Title X in Massachusetts,"

<https://www.help.senate.gov/imo/media/doc/Title%20X%20in%20Massachusetts.pdf>.

<sup>18</sup> Id., "Title X in Connecticut," <https://www.help.senate.gov/imo/media/doc/Title%20X%20in%20Connecticut.pdf>.

<sup>19</sup> Id., "Title X in Wisconsin," <https://www.help.senate.gov/imo/media/doc/Title%20X%20in%20Wisconsin.pdf>.

<sup>20</sup> Id., "Title X in Minnesota," <https://www.help.senate.gov/imo/media/doc/Title%20X%20in%20Minnesota.pdf>.

<sup>21</sup> Id., "Title X in New Hampshire,"

<https://www.help.senate.gov/imo/media/doc/Title%20X%20in%20New%20Hampshire.pdf>.

<sup>22</sup> Id., "Title X in Pennsylvania,"

<https://www.help.senate.gov/imo/media/doc/Title%20X%20in%20Pennsylvania.pdf>.

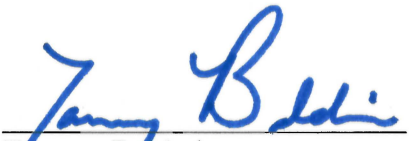
<sup>23</sup> Id., "Title X in Virginia," <https://www.help.senate.gov/imo/media/doc/Title%20X%20in%20Virginia.pdf>.


<sup>24</sup> Id., "Title X in Massachusetts,"

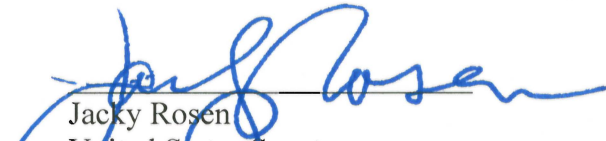
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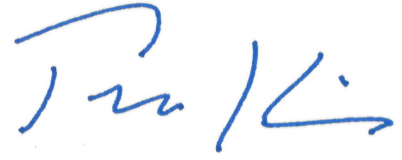
<sup>25</sup> Health Affairs, "Quantifying Planned Parenthood's Critical Role In Meeting the Need for Publicly Supported Contraceptive Care," Jennifer Frost and Kinsey Hasstedt, September 8, 2015,

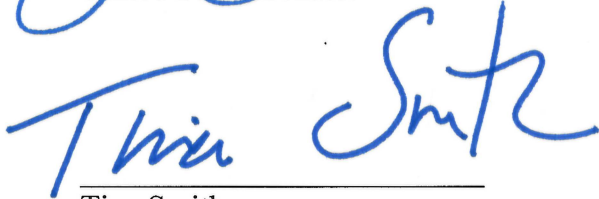
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Tammy Baldwin  
United States Senator

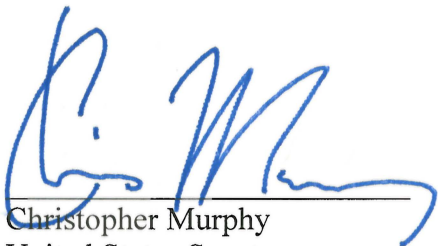
  
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Robert P. Casey, Jr.  
United States Senator

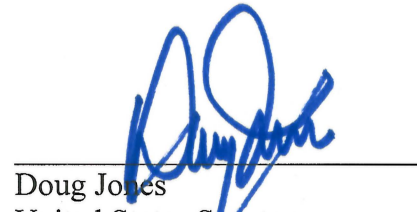
  
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Jacky Rosen  
United States Senator

  
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Tim Kaine  
United States Senator

  
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Tina Smith  
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Bernard Sanders  
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Christopher Murphy  
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Doug Jones  
United States Senator