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U.S. Department of Health and Human Services
Hubert H. Humphrey Building, Rm 716G
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Re: Proposal to Revise Title X Regulations, Compliance with, and Enhance Implementation of the Statutory Program Integrity Requirements
Docket ID: HHS-OS-2018-0008-0001

On behalf of the Big Cities Health Coalition (BCHC), I write to provide comments on the Proposal to Revise Title X Regulations, Compliance with, and Enhance Implementation of, the Statutory Program Integrity Requirements, Docket ID: HHS-OS-2018-0008-0001. BCHC is comprised of health officials leading 30 of the nation’s largest metropolitan public health departments, who together serve more than 55 million— or one in six— Americans.

Our member health departments (HDs) work every day to keep their communities healthy and safe. They convene community partnerships and facilitate important conversations with diverse stakeholders on how to create the conditions in which everyone can get and be healthy.

Title X is the federal family planning program that about 4 million people rely upon each year for affordable birth control and reproductive health care. In 2016, 64 percent of Title X patients had family incomes at or below the federal poverty level (FPL), and 24 percent had incomes between 101 percent and 250 percent of the FPL (HHS Office of Population Affairs, *Title X Family Planning Annual Report: 2016 National Summary*). Nearly one-third of patients self-identified as nonwhite, one-third as Hispanic or Latino, and 13 percent were limited English proficient. In addition, 18 percent of patients were under age 20 (*Ibid*). Further, a significant number of U.S. women still lack health insurance, and Title X plays an essential part in them attaining reproductive health care.

Importantly, more than half of Title X grantees are state and local HDs that play a critical role in ensuring access to a broad range of family planning and complete preventive health services to communities. And, those departments that are not Title X grantees work alongside funded entities to ensure services such as family planning and STI and HIV testing are available in communities across the U.S.

As the only federal program dedicated to providing low-income and adolescent patients with essential preventative reproductive health care and comprehensive reproductive health information, Title X is designed to ensure that all people—regardless of geography, income, background, and insurance status—have access to a host of reproductive health services including birth control, STI testing, cancer screenings, and others. And, it has received bipartisan support for decades.
BCHC opposes the proposed changes to the Title X regulations and has significant concerns about their implementation. We highlight several specific concerns below.

Limiting Comprehensiveness of Reproductive Counseling Options
In Section 59.5(a)(1) of the Proposed Rule, HHS has proposed loosening the standards on Title X providers by removing the requirement that family planning methods and services be “medically approved.” This would fundamentally reshape both the scope of services and the network of entities supported by Title X funds. It shifts the emphasis of family planning away from contraceptive care, and supporting a patient’s choice, by placing greater emphasis on “acceptable and effective choices” such as fertility awareness-based methods and, specifically, natural family planning. The proposed requirements also place greater emphasis on providers that only offer one or a limited set of methods of family planning such as these, so long as “the Title X project as a whole offers a broad range of family planning methods and services.”

The proposed regulations would require that all Title X projects offer natural family planning methods, infertility services, and services for adolescents, but there would not be a requirement to provide every acceptable and effective family planning method or service as part of a project. There is also no requirement that a contraceptive method be included in a project’s services. Abstinence-based family planning or fertility awareness methods that are calendar-based are less effective compared to other types of birth control and STD prevention, which will likely result in higher rates of unintended pregnancies and increased transmission of disease. Title X should retain the emphasis on medically approved family planning methods and services—methods approved by the U.S. Food and Drug Administration and accepted by major medical organizations.

The Proposed Rule also limits the comprehensiveness of reproductive counseling options by including new restrictions on referrals for abortion services. Proposed section 59.14 would prohibit Title X projects from “performing, promoting, referring for, or supporting, abortion as a method of family planning.” This restriction would prohibit referrals for abortion services even when information is requested by patients. Only in a limited context would a physician (but not other staff) be able to “provide nondirective counseling on abortion” to a patient who has decided to have one. In those cases, the physician would be able to provide a pregnant woman with a list of comprehensive prenatal care providers, “some (but not all) of which provide abortion.” The proposed regulations will therefore remove the guarantee that such patients receive neutral, factual, and nondirective information on all their pregnancy options. This would be in violation of medical ethics, the tenets of informed consent, and runs counter to guidelines of professional medical associations, including the American College of Obstetricians and Gynecologists and the American Academy of Pediatrics, that call for unbiased counseling on all pregnancy options.

Physical and Financial Separation Requirement
Proposed section 59.15 adds a new requirement that a Title X grantee must be physically and financially separate from a grantee or subrecipient site that provides or refers for abortion services. Current requirements only mandate financial or bookkeeping separation between Title X and abortion services. The standard established by the new requirement would require separate waiting, consultation, examination, and treatment areas, creating an onerous burden that would effectively eliminate participation by many currently qualified sites.
Subsequent elimination of qualified providers will have far-reaching negative consequences on the health safety net, impeding access to reproductive health care for low-income populations from clinics that close or reduce services as a result of these imposed financial burdens. Further, there is no evidence that a requirement for physical and financial separation from abortion services will improve the health and well-being of Title X patients.

In the last several years, the public health community, particularly in large cities, has experienced significant gains in reducing unintended pregnancy rates, with teen pregnancy rates at historic lows. The loss of clinics and services without any contingency plan in place puts these advances in jeopardy. Conversely, we have also recently seen rates of sexually transmitted diseases (STDs) rising in a troubling magnitude across the country. Family planning programs provide essential services for screening, diagnosis, and treatment for STDs for women, men, and young people. The proposed new regulations will exacerbate STD health inequities for low-income populations that will be most affected by the loss of safety net provider services supported currently by Title X grants.

**Barriers to Youth Participation**

In section 59.2 of the Proposed Rule, a new requirement would require Title X clinics to document in a minor’s medical records the “specific actions taken” to encourage “family participation” with respect to the decision to seek family planning services. This new provision will have a detrimental effect on the ability of young people to access contraceptive care and other needed services, and will threaten the patient/provider relationship by hindering trust. Further, this new requirement may be in conflict with many state provisions regarding minors’ health care choices. Finally, these new requirements neither further the Congressional intent of the Title X program nor serve a public health purpose. Instead, they will discourage youth who are sexually active from seeking necessary care leading to unintended pregnancy and unnecessary disease.

In closing, BCHC believes that health care services should be evidence-based, and patients should have the autonomy to make the decisions that are right for their health and themselves with the help and support of their provider. All patients, no matter their service mechanism, expect and deserve medically accurate, comprehensive information from their providers, and it is unethical and dangerous for a governmental body to compromise patient health by interfering with the provision of that care and information. Title X providers must be allowed to provide the broad range of contraceptive methods with nondirective options counseling, not withhold full and accurate medical information from patients, and provide confidential care. As such, BCHC stands with our partners across the health landscape in firm opposition to these regulatory proposals. If you require additional information about the issues raised in these comments, please do not hesitate to contact me.

Sincerely,

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Director, Big Cities Health Coalition