



DEPARTMENT OF JUSTICE

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February 7, 2019

The Honorable Alex Azar
Secretary, Department of Health and Human Services
Hubert H. Humphrey Building
200 Independence Ave. SW
Washington, DC 20201

The Honorable Mick Mulvaney
Director, Office of Management and Budget
725 17th St. NW
Washington, DC 20503

RE: State Attorneys General Request for a Meeting on "Compliance with Statutory Program Integrity Requirements"

Dear Secretary Azar and Director Mulvaney:

On behalf of the states of Oregon, New York, California, Washington, Connecticut, Hawaii, Illinois, Maryland, Minnesota, North Carolina, Vermont, Virginia and Pennsylvania, we have serious concerns with the U.S. Department of Health and Human Services' Title X regulation, *Compliance with Statutory Program Integrity Requirements*, which seriously undermines the nation's only program dedicated to family planning. This regulation is currently under review by the Office of Management and Budget (OMB). We write to request a meeting, pursuant to Executive Order 12866, to discuss the regulation and its impact on our respective states and residents. We previously requested a meeting on this rule and were not granted a meeting request with OMB.¹

¹ See multi-state AG letter (July 18, 2018), <https://oag.ca.gov/system/files/attachments/press-docs/7-18-18-final-title-x-process-letter-omb-hhs.pdf> (noting the truncated review process and requesting additional time to consider the impacts of the rule). See also Letter from California Attorney General Xavier Becerra (May 24, 2018), https://oag.ca.gov/system/files/attachments/press_releases/CA%20Title%20X%20Letter%20FINAL%2020180524.pdf.

The regulation, if finalized, severely undermines the Title X family planning program, restricting access to affordable, lifesaving reproductive healthcare. Such far-reaching changes would lead to increased unintended pregnancies, sexually transmitted infections and disease (STI/STD), risks for HIV and cancer, and other negative public health impacts in every state across the country. We request a meeting to discuss this regulation and urge you to withdraw the regulation. Further, because the regulation requires broad sweeping changes that would require planning, time and resources in all states, we urge you to extend the implementation timeline to allow Title X grantees more time to address the rule changes in their application process.

As outlined in our multi-state comment letters², Title X funding has successfully provided health care to people in our states for decades. As our states' Attorneys General, we have a duty to the millions of individuals who are residents of our states to protect their health, safety and wellbeing. The proposed regulation guts our family planning healthcare networks and will have a serious detrimental effect on patients in our states. These changes would also likely impose direct and indirect costs on our states and our residents. Title X is our nation's only family planning program dedicated to serving low-income women and families, including historically underserved communities. Title X provides patients with basic preventive healthcare including reproductive health care services, well-woman exams, lifesaving cervical and breast cancer screenings, birth control, contraception education, and testing and treatment for STIs, including HIV. The proposed rule underestimated the impact of these changes to our state residents and budgets, which is why we are requesting a meeting to discuss with you.

Further, the proposed regulations interfere with the practice of medicine, effectively instituting a domestic gag rule on women's healthcare providers by preventing them from offering comprehensive, nondirective pregnancy options counseling and banning them from making referrals for abortion. The regulation is not evidence-based and compliance would require providers to violate their ethical standards as well as nationally-recognized standards of care. Women's healthcare around the country will suffer as a result and we have serious concerns about its impact on the practice of medicine and access to care in our states.

The loss of Title X's specialized reproductive health providers would force other providers to increase their capacity to serve patients. A recent Guttmacher Institute study found that other providers would have to increase their capacity by 70% just to maintain access to the current levels of contraceptive care.³ We are concerned that this could result in further healthcare provider shortages, leaving patients without access to a qualified healthcare provider, as well as increased costs to the state. In addition, among other legal flaws, this regulation violates federal

² State AG comment letters can be found at <https://www.regulations.gov/contentStreamer?documentId=HHS-OS-2018-0008-182278&attachmentNumber=1&contentType=pdf> and <https://www.regulations.gov/contentStreamer?documentId=HHS-OS-2018-0008-161828&attachmentNumber=1&contentType=pdf> and <https://www.regulations.gov/document?D=HHS-OS-2018-0008-200551>

³ Kinsey Hasstedt, "Beyond the Rhetoric: The Real World Impact of Defunding Planned Parenthood and Title X" . <https://www.guttmacher.org/gpr/2017/08/beyond-rhetoric-real-world-impact-attacks-planned-parenthoodand-title-x>.

statutory and constitutional rights of providers to provide full, complete, and accurate information to their patients.

In order to more fully outline the damaging effects this proposed rule would have on families in our states, we request that OIRA meet with our staff at the soonest possible date, and before OIRA concludes review on the draft final rule. Please contact Oregon Attorney General's Special Counsel Kamala Shugar at kamala.h.shugar@doj.state.or.us, or 503-378-6002 to arrange a meeting with representatives from each of our state's offices. We look forward to your prompt response.

Sincerely,



ELLEN F. ROSENBLUM
Oregon Attorney General



Letitia James
Attorney General, State of New York



Xavier Becerra
Attorney General, State of California



Bob Ferguson
Attorney General, State of Washington

Secretary Azar and Director Mulvaney

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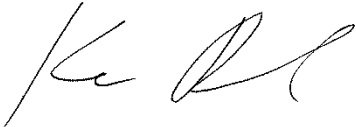
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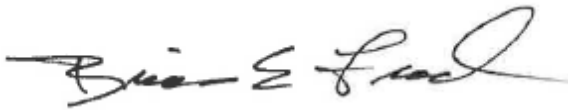
William Tong
Attorney General, State of Connecticut



Clare E. Connors
Attorney General, State of Hawaii



Kwame Raoul
Attorney General, State of Illinois



Brian E. Frosh
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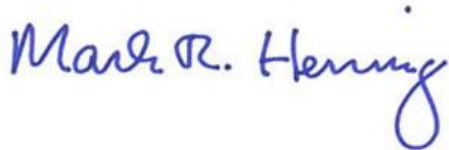
Keith Ellison
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Joshua H. Stein
Attorney General, State of North Carolina

A handwritten signature in black ink, appearing to read "TJDJ".

Thomas J. Donovan, Jr.
Attorney General, State of Vermont

A handwritten signature in blue ink, appearing to read "Mark R. Herring".

Mark Herring
Attorney General, State of Virginia

A handwritten signature in blue ink, appearing to read "Josh Shapiro".

Josh Shapiro
Attorney General, State of Pennsylvania