

United States Senate

WASHINGTON, DC 20510

October 7, 2016

The Honorable Sylvia Mathews Burwell
Secretary
Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201
Attn: RIN 937-AA04

Re: RIN 937-AA04
Proposed Rule: Compliance with Title X Requirements by Project Recipients in Selecting Subrecipients

Dear Secretary Burwell:

Thank you for your commitment to protect reproductive health and family planning programs that serve millions of women and families. We applaud the Department of Health and Human Services (Department) updates to the Title X family planning program as outlined in the Notice of Proposed Rulemaking, "*Compliance with Title X Requirements by Project Recipients in Selecting Subrecipients*." This regulation will clarify and reinforce existing protections in the Title X program, ensure no provider is excluded from eligibility for federal funding, and help guarantee that women and LGBT people have access to the care entitled to them by the federal government.

The Title X family planning provider network is the only federal grant program dedicated solely to providing individuals with comprehensive family planning and related preventive health services. Since the passage of the Affordable Care Act, these safety-net providers have become critical partners in expanding access to health care for every individual in our country, no matter their income or other life circumstances. Last year, Title X provided basic primary and preventive health care services such as Pap tests, breast exams, and HIV testing to more than 4 million low-income women and men at nearly 4,000 health centers. In fact, four out of ten women who receive care at health centers funded by Title X consider it to be their only source of health care. It is important to support and strengthen this preventive health program because investing in it improves health and wellbeing for women, and reduces health care costs in the long term.

Unfortunately, a growing number of states are targeting clinics that participate in federal programs and are abortion providers. For example, some states restrict specific types of providers from participating in the Title X program. These policies, and related Court decisions on their legality, create uncertainty among grantees and patients, lead to inconsistencies in program administration,

and restrict access to services for women.¹ In Texas, for example, providers who offer abortion care are barred from participating in the Title X program. This leads to poorer health outcomes by reducing access to contraception and decreased use of preventive services, including cancer screenings, for some of the state's most vulnerable individuals.² There are several other examples across the country, as the preamble to the rule points out:

[In] New Hampshire, in 2011, the New Hampshire Executive Council voted not to renew the state's contract with a specific provider that was contracted to provide Title X family planning services for more than half of the state. To restore services to clients in the unserved part of the state, HHS issued an emergency replacement grant, but there was significant disruption in the delivery of services, and for approximately three months, no Title X services were available to potential clients in a part of the state. Most recently, in 2016 Florida enacted a law that would have gone into effect on July 1, 2016, prohibiting the state from making Title X subawards to certain family planning providers. In one county alone, 1,820 clients are served by the family planning provider that would have been excluded, and it is not clear how the needs of those clients would have been met.³

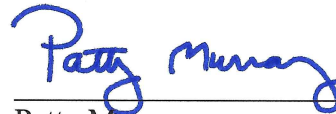
The proposed regulation would clarify that service delivery decisions by Title X grantees, including states, must be determined by a health care provider's ability to effectively provide Title X services. Erroneous attempts by states to restrict the network's providers as an attack on women's health care will be clearly illegal and will no longer be allowed to jeopardize access to care for millions of vulnerable individuals including low-income women and LGBT individuals.

We appreciate the Department's efforts at advancing this vital rule to strengthen the Title X program. We urge you to finalize this rule as quickly as possible and look forward to working with you on this and other efforts to protect reproductive health and family planning programs for millions of women and families.

Sincerely,



Richard Blumenthal
United States Senator

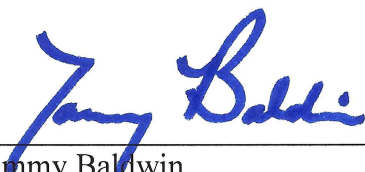


Patty Murray
United States Senator

¹ State Family Planning Funding Restrictions, Guttmacher Report, February 1, 2016.
http://www.guttmacher.org/statecenter/spibs/spib_SFPPFR.pdf

² <http://www.npr.org/2016/01/28/464728393/texas-tries-to-repair-damage-wrought-upon-family-planning-clinics>

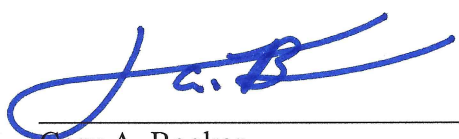
³ Department of Health and Human Services, Compliance with Title X Requirements by Project Recipients in Selecting Subrecipients, available at: <https://www.gpo.gov/fdsys/pkg/FR-2016-09-07/pdf/2016-21359.pdf>



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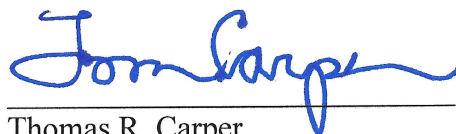
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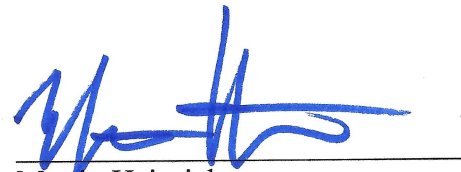



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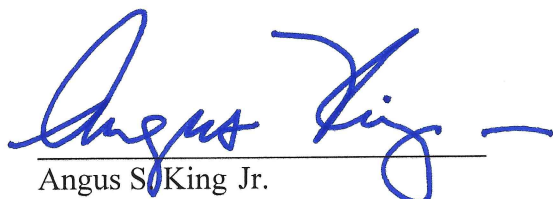

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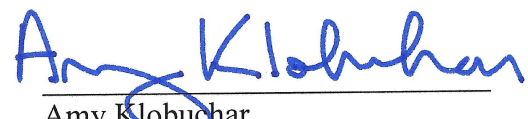

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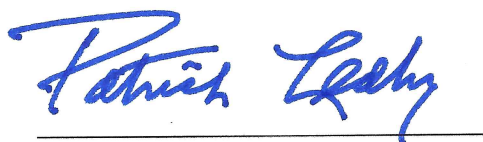

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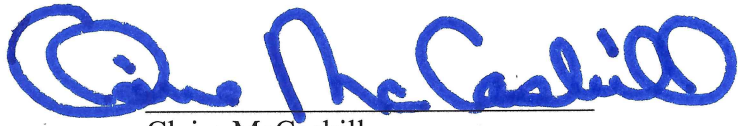

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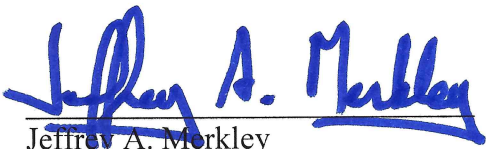

Edward J. Markey
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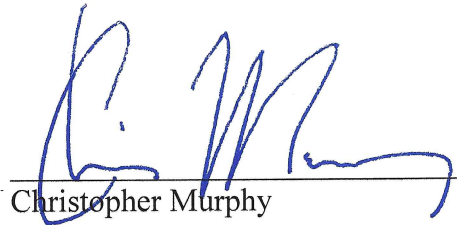
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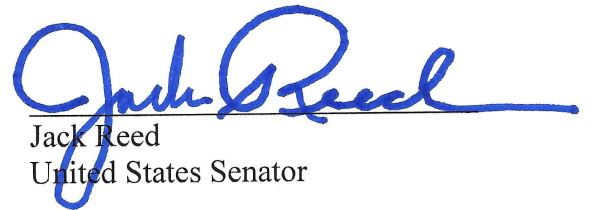
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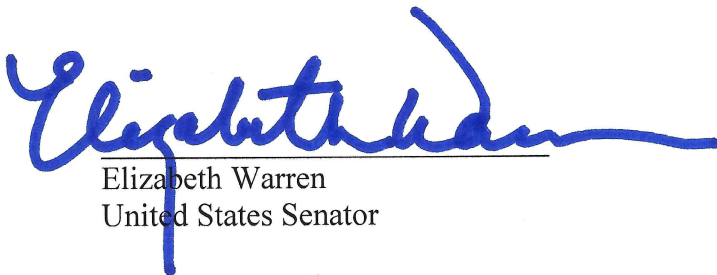
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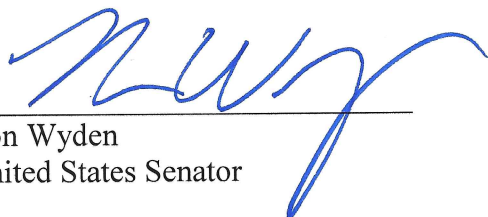
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Sheldon Whitehouse
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