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May 17, 2021

Office of Population Affairs  
Office of the Assistant Secretary for Health  
U.S. Department of Health and Human Services  
200 Independence Avenue SW  
Washington, DC 20201

RE: Title X Rulemaking, RIN 0937-AA11

The Leadership Conference on Civil and Human Rights (“The Leadership Conference”) is pleased to provide comments to the U.S. Department of Health and Human Services (HHS) in support of its notice of proposed rulemaking (NPRM), “Ensuring Access to Equitable, Affordable, Client-Centered, Quality Family Planning Services,” RIN 0937-AA11.

The Leadership Conference is a coalition charged by its diverse membership of more than 220 national organizations to promote and protect the civil and human rights of all persons in the United States. We strongly support HHS’s NPRM revoking the 2019 Title X regulations (“the 2019 rule”) and reinstating the 2000 regulations with some revisions. The 2019 regulations had detrimental and far-reaching implications for all Title X-funded programs, severely impeding the ability of patients to seek and receive high-quality, confidential family planning and preventive health care service. Once finalized, the proposed rule would return Title X to its proper focus on “making comprehensive voluntary family planning services readily available to all persons desiring such services.”<sup>1</sup>

The statutory 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 their clients. However, the onerous requirements of the 2019 rule diverted resources from this important work and undermined Title X’s mission to provide equitable, affordable, client-centered, quality family planning and sexual health services. Among other things, the 2019 rule allowed Title X providers to withhold information about FDA-approved methods of family planning, disallowed providing information to patients about abortion services, and interfered in the relationship between providers and young patients seeking health services. Rather than compromise patient care, after the 2019 rule was implemented, Title X grantees immediately began to withdraw from the program. Overall, as the proposed rule notes, the Title X program lost more than 1,000 health centers,<sup>2</sup> which represented approximately one quarter of all Title X-funded sites in 2019.<sup>3</sup> As a result of the significant reduction of and restrictions on the Title X providers, at

<sup>1</sup> Public Law 91-572 (“The Family Planning Services and Population Research Act of 1970”), section 2(1).

<sup>2</sup> NPRM p. 19815.

<sup>3</sup> Mia Zolna et al., *Estimating the impact of changes in the Title X network on patient capacity*, Guttmacher Inst., 2 (Feb. 5, 2020),

least 1.5 million low-income individuals lost access to<sup>4</sup> the quality sexual and reproductive health services they need.

Of particular concern to The Leadership Conference is the impact that the 2019 rule had on low-income women and people of color. The Title X program offers confidential, preventive health care services to those most in need, including young people and people who lack health insurance. Nearly 85 percent of Title X recipients have incomes below 200 percent of the federal poverty level, and 40 percent are uninsured.<sup>5</sup> Additionally, Title X serves a racially and ethnically diverse patient population, with women of color comprising a large portion of the Title X population, due to racism and other systemic barriers that have contributed to income inequality.

While people of color experience disparities in almost every area of health care, these inequities are particularly egregious for sexual and reproductive health services. Women of color face greater obstacles<sup>6</sup> to obtaining sexual and reproductive health services than non-Hispanic White Americans.<sup>7</sup> Lack of access to health screenings and services has contributed to higher rates of reproductive cancers, unintended pregnancies, and sexually transmitted infections among women of color than White Americans.<sup>8</sup> Black patients are often diagnosed later than others with the same health problems and have less access to high quality affordable care. Black women have more than double the rate of unintended pregnancy than White women, and over three times as likely to die from pregnancy complications. Similar health disparities exist in the Hispanic community. Latinas are more likely to be diagnosed with cervical cancer than women of any other racial or ethnic group<sup>9</sup> and are more likely to live in areas with poor access to family planning services,<sup>10</sup> and the cervical cancer incidence rate is higher in several Asian American, Native Hawaiian, and Pacific Islander (AANHPI) subgroups than in non-Hispanic Whites.<sup>11</sup>

Disparities in reproductive health are undeniably linked to the disparities that women of color face in health care coverage. For example, while most private insurance providers cover reproductive health services, Black women are 55 percent more likely to be uninsured than their White counterparts,<sup>12</sup> and about 31 percent of Latinas are uninsured.<sup>13</sup> Title X funded health centers are a critical source of health care for women of color. In fact, women of color make up more than half of all Title X patients, and of all female patients, 32 percent are Latina, 21 percent are Black, and 4 percent are Asian American and

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[https://www.gutmacher.org/sites/default/files/article\\_files/estimating\\_the\\_impact\\_of\\_changes\\_in\\_the\\_title\\_x\\_network\\_on\\_patient\\_capacity\\_2.pdf](https://www.gutmacher.org/sites/default/files/article_files/estimating_the_impact_of_changes_in_the_title_x_network_on_patient_capacity_2.pdf); *see also Title X Family Planning Directory*, n.5.

<sup>4</sup> Title X: Key Facts About Title X, n.5.

<sup>5</sup> RTI International. Family Planning Annual Report: 2016 National Summary. August 2017. 22-23.

<https://www.hhs.gov/opa/sites/default/files/title-x-fpar-2016-national.pdf>

<sup>6</sup> <https://intersectionsofourlives.org/wp-content/uploads/2019/03/Reproductive-Justice-for-Women-of-Color.pdf>

<sup>7</sup> Planned Parenthood, Addressing Sexual and Reproductive Health Disparities among African Americans. 2015.

[https://www.plannedparenthood.org/files/3614/2773/6927/AA\\_Disparities.pdf](https://www.plannedparenthood.org/files/3614/2773/6927/AA_Disparities.pdf).

<sup>8</sup> Id.

<sup>9</sup> <https://intersectionsofourlives.org/wp-content/uploads/2019/03/Reproductive-Justice-for-Women-of-Color.pdf>.

<sup>10</sup> Planned Parenthood, Addressing Sexual and Reproductive Health Disparities among Latinos. 2015.

[https://www.plannedparenthood.org/files/2814/2773/6927/Latino\\_Disparities.pdf](https://www.plannedparenthood.org/files/2814/2773/6927/Latino_Disparities.pdf).

<sup>11</sup> <https://intersectionsofourlives.org/wp-content/uploads/2019/03/Reproductive-Justice-for-Women-of-Color.pdf>

<sup>12</sup> Id.

<sup>13</sup> Planned Parenthood, Addressing Sexual and Reproductive Health Disparities among Latinos. 2015.

[https://www.plannedparenthood.org/files/2814/2773/6927/Latino\\_Disparities.pdf](https://www.plannedparenthood.org/files/2814/2773/6927/Latino_Disparities.pdf)

Pacific Islander.<sup>14</sup> In many states, Title X providers are sometimes the only places where women of color can access reproductive and preventive health care services.

The COVID-19 pandemic has laid bare the many inequities in our nation's health care system and highlighted how systemic racism and other forms of oppression have resulted in pervasive health disparities and disproportionately poor health outcomes for people of color. The Title X program has a significant role to play in combating these systemic barriers to care and ensuring that all people, regardless of their race, ethnicity, age, sexual orientation, gender identity, immigration status, employer, insurance status, or any other demographic, have timely access to comprehensive, high-quality family planning and sexual health services. The proposed rule's emphasis on health equity will further support these goals.

The Leadership Conference applauds the administration's emphasis on health equity in the proposed rule. Yet, given the CDC's recent declaration that racism is a serious threat to public health, The Leadership Conference would like to see systemic racism explicitly included and addressed as part of the expectations related to health equity. Systemic racism and other forms of oppression have resulted in structural barriers to health care services. The Title X family planning program itself arose out of a history of reproductive coercion and a fundamental devaluing of the bodily autonomy of people of color and people with low incomes. We must never return to this history, a history that contributed to mistrust of the health care system, particularly with respect to family planning. As the administration raises health equity as an important goal of Title X in the proposed rule, The Leadership Conference urges HHS to acknowledge and reckon with that history as a part of their work.

The Leadership Conference also strongly supports the additions the proposed rule makes to the definitions in the Title X regulations, including definitions for health equity and inclusivity. In particular, the transition from using the word "women" to the more inclusive "client" is more reflective of the diverse population of patients served by the Title X program. Gender identity should never be a barrier to receiving the care one needs and all people who are capable of becoming pregnant, including queer, transgender, and nonbinary people, may have a need for family planning care, just as their sexual partners may. The proposed rule's definitions help to illustrate key aspects of quality care including the importance of client-centeredness; culturally and linguistically appropriateness; and recognition of how trauma affects people.

For 50 years, the Title X family planning program has been a critical underpinning of the public health safety net that serves millions of low-income people each year. Furthermore, Title X has been a critical source of health coverage for people of color and the program has proven to be critical to filling coverage and quality gaps in their health care. This federal program should be preserved and strengthened – not compromised by limitations that are contrary to ethical medical practice. The proposed rule, if adopted, would address the harms inflicted by the 2019 rule which left the Title X program unable to properly serve its clients and provide its hallmark quality care. Revoking the 2019 rule will help ensure that the 3.1

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<sup>14</sup> Office of Population Affairs. Family Planning Annual Report: 2016 National Summary. August 2017. <https://www.hhs.gov/opa/sites/default/files/title-x-fpar-2016-national.pdf>



million<sup>15</sup> people relying on the varied network of providers participating in the Title X program can continue to access high-quality, culturally responsive family planning and preventive health services. Furthermore, because of the devastating impact of the 2019 rule, The Leadership Conference urges that the proposed rule be finalized and take effect as quickly as possible.

The Leadership Conference 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 Arielle Atherley, policy analyst, at [atherley@civilrights.org](mailto:atherley@civilrights.org).

Sincerely,



Wade Henderson  
Interim President and CEO

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<sup>15</sup> Family Planning Annual Report: 2019 National Summary. <https://opa.hhs.gov/sites/default/files/2020-09/title-x-fpar-2019-national-summary.pdf>