



July 31, 2018

VIA ELECTRONIC SUBMISSION

Department of Health and Human Services
Office of Assistant Secretary for Health
Office of Population Affairs
Attention: Family Planning
Hubert H. Humphrey Building
200 Independence Avenue, S.W.
Washington, D.C. 20201

Re: Compliance With Statutory Program Integrity Requirements, 83 Fed. Reg. 25502, RIN 0937-ZA00

On behalf of the American College of Nurse-Midwives (ACNM), I write to provide comments in response to the proposed rule (“Compliance With Statutory Program Integrity Requirements”) published in the Federal Register on June 1, 2018. If implemented, this rule would significantly undermine the gains made for women’s health in the United States by restricting access to affordable, life-saving sexual and reproductive health services. ACNM respectfully urges the Department of Health and Human Services (HHS) to rescind this proposed rule and work to protect access to the full-range of family planning and preventive services and information currently available under the Title X family planning federal grant program.

ACNM is the professional association that represents certified nurse-midwives (CNMs) and certified midwives (CMs) in the United States. With roots dating to 1929, ACNM sets the standard for excellence in midwifery education and practice in the United States and strengthens the capacity of midwives in developing countries. Our members are primary care providers for women throughout the lifespan, with an emphasis on pregnancy, childbirth, gynecologic and reproductive health care.

The ACNM and its members stand for improving access to quality care and coverage for women, individuals and families. We support common-sense policy solutions that ensure guaranteed health coverage and access to a full-range of preventive, reproductive and sexual health services. As such, our membership has expressed concern with the proposed rule as it would restrict midwives who practice at Title X facilities from commenting, sharing or passing along critical and medically accurate counseling and information to their patients. ACNM is opposed to any regulation that interferes with the provider-patient relationship.

ACNM strongly believes that the changes being proposed to the Title X family planning program will have a negative impact on many of the women, individuals and families our members care for who benefit from the family planning and preventive services authorized under the Title X program. Specifically, access to comprehensive sexual and reproductive health care services, including contraception and information about all legally available health care services.

Title X is the only federal grant program dedicated solely to providing low-income, uninsured, and otherwise underserved individuals with comprehensive family planning and related preventive health services at low or no-cost. The Title X program, in its current format, is integral to the health care system, as it offers individuals access to medically accurate counseling on and referral services for all pregnancy options legally available to women and families in the United States. Each year, roughly four million women, men, and adolescents rely on Title X funded health centers for basic preventative health care, including cancer screenings, birth control, sexually transmitted infection screenings, pregnancy testing, and well-woman exams. The proposed rule would put 40% of Title X patients at risk of losing access to critical primary and preventive care services.

The proposed rule limits how Title X providers can discuss and/or counsel on the full-range of sexual and reproductive health care options with their patients by eliminating the nondirective options for counseling pregnant women that exist under current federal regulation. Additionally, the rule seeks to prevent providers from referring patients for specific health care services when requested. Current Title X regulation requires nondirective counseling to include offering a pregnant woman the opportunity to be provided information and counseling regarding . . . prenatal care and delivery; infant care, foster care, or adoption; and pregnancy termination.¹ Furthermore, existing regulation states that such information and counseling provide neutral, factual information and nondirective option counseling on each of the options, and referral upon request, except with respect to any options about which the pregnant woman indicate she does not wish to receive such information and counseling.² ACNM affirms that the decision around the sharing of the aforementioned information should remain up to the patient and the provider and not the government, as every individual has the right to access factual, evidence-based, unbiased information about legally-available sexual and reproductive health care services.³

The proposed rule uses medically inaccurate language, placing political ideology over science by removing information regarding the Centers for Disease Control and Prevention's *Quality Family Planning Recommendations*.⁴ Rather than mandating the full scope of care options and contraception, the proposed rule allows for a Title X site to provide a singular focus to family planning by redefining what is recognized as a "medically approved" family planning method under

¹ 42 C.F.R. 59.5 § (a)(5)(i)

² 42 C.F.R. 59.5 § (a)(5)(ii)

³ American College of Nurse-Midwives. Access to Comprehensive Sexual and Reproductive Health Care Services.

<http://www.midwife.org/ACNM/files/ACNMLibraryData/UPLOADFILENAME/000000000087/Access-to-Comprehensive-Sexual-and-Reproductive-Health-Care-Services-FINAL-04-12-17.pdf>. Accessed July 25, 2018.

⁴ <https://www.cdc.gov/mmwr/volumes/65/wr/mm6509a3.htm>

the Title X program. The proposed rule seeks to impede patient choice and access to evidence-based contraceptive care and Food and Drug Administration (FDA) approved contraceptive methods by requiring Title X providers to offer “acceptable and effective choices,” such as fertility awareness-based methods and abstinence-only education, both of which have incredibly high failure rates in preventing pregnancy.⁵ The passage of the *Patient Protection and Affordable Care Act (ACA)* has been instrumental in covering a wide-range of preventive services, ensuring that individuals have access to life-saving screenings and treatment and that women have access to all effective and affordable FDA-approved contraceptive methods. The FDA does not recognize non-drug and non-device fertility awareness-based methods as effective forms of contraception. The proposed definition of what would be considered a “medically approved” family planning method under Title X is not scientific and medically accurate information, and if adopted, would effectively limit access and coverage of reproductive health choices expanded upon in the ACA to the detriment of the women and families who rely on the Title X program for these essential health services.

Every individual should be able to speak openly with their health care provider about the full-range of legally available and medically accurate health care services. Effective communication between provider and patient is paramount to making informed health care decisions. Midwives and other health care providers have a moral and ethical obligation to share information that is relevant, accurate, truthful, individualized and medically accurate. It is through receiving truthful and comprehensive information that individuals are empowered to make a decision that is in their best interest, and to give informed consent. To provide information that is not truthful, comprehensive or medically accurate is to deliberately manipulate and coerce. Every individual has the right to safe, supportive and affirming health care in which providers demonstrate respect for human dignity.⁶

Further implementation of this proposal has the potential to deny many women and families access to comprehensive sexual and reproductive health services. ACNM strongly opposes the language as proposed, as it would create barriers to access for an even larger number of women nationwide. Access to family planning counseling and a full array of medically accurate sexual and reproductive health services is vital for women’s health and well-being, especially women who wish to avoid or post-pone pregnancy.

ACNM supports the rights of women to self-determine health care choices that meet her personal needs. These are personal choices, not institutional choices and are an integral component of women’s health care. The changes to the Title X family planning program contradicts ACNM’s position on a woman’s right to reproductive health choices. ACNM is committed to encouraging and upholding policies and actions that ensure access to medically accurate family planning methods and the full-range of family planning, sexual and reproductive health care services legally available in the United States. The proposed changes to the Title X program would interfere with the provider-patient relationship by barring providers from providing critical reproductive health information that

⁵ [https://www.jahonline.org/article/S1054-139X\(17\)30260-4/fulltext](https://www.jahonline.org/article/S1054-139X(17)30260-4/fulltext)

⁶ American College of Nurse-Midwives. Code of Ethics with Interpretive Statements.

<http://www.midwife.org/ACNM/files/ACNMLibraryData/UPLOADFILENAME/000000000293/Code-of-Ethics-w-Explanatory-Statements-June-2015.pdf>. Accessed July 27, 2018.

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midwives and other health care providers have a moral and ethical obligation to provide.

ACNM looks forward to working with HHS to prioritize the health care of women through improvement of programs that support access to affordable and excellent care midwives can provide. No reform of the current Title X program should come at the expense of the health and well-being of the women, individuals and families our members care for. Please don't hesitate to contact me at akohl@acnm.org or (240) 485-1806 with any questions.

Sincerely,



Amy M. Kohl
Director, Advocacy and Government Affairs
American College of Nurse-Midwives