

United States Senate

WASHINGTON, DC 20510

May 9, 2019

The Honorable Alex Azar
Secretary
U.S. Department of Health & Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Secretary Azar:

The Title X Family Planning Program provides critical family planning services to low-income populations across the country. Each year millions of vulnerable patients rely on Title X grantees and the networks they fund for cancer screenings, preventive health services, and contraceptive counseling and care that many would be unable to access anywhere else. In fact, six in ten Title X family planning patients report that being their only source of medical care in a year.¹

The program's outcomes underscore the success of such services: 70 percent of patients at risk of unintended pregnancy left their Title X visit with a contraceptive method of their choice, and cancer screening services gave tens of thousands of women the benefit of early detection. Millions of men and women receive STD and HIV tests each year that help to ensure treatment and prevent disease transmission.²

The Administration's Final Rule to revise the regulations that govern the Program (84 FR 7714) places significant limitations on Program grantees, subrecipients, and service sites and the services they deliver. We previously expressed concerns about the impact of restrictions in the Proposed Rule on access to affordable, quality and lifesaving health care that is confidential, medically accurate and evidence-based. Unfortunately the final rule does not address these concerns. As a result, stakeholders in Nevada have indicated that the Final Rule will serve only to exacerbate existing barriers to access.

Nevada suffers from some of the worst health care workforce shortages in the country. Our state ranks 47th nationwide for active physicians and 48th for active primary care doctors

¹ Kavanaugh, M. L., Zolna, M. R., & Burke, K. (2018, June 12). Use of Health Insurance Among Clients Seeking Contraceptive Services at Title X-Funded Facilities in 2016. *Perspectives on Sexual and Reproductive Health*, 50(3), 101-109. (online at <https://doi.org/10.1363/psrh.12061>)

² Fowler, C. I., Gable, J., Wang, J., & Lasater, B. (2018, August). *Family Planning Annual Report: 2017 national summary*. Research Triangle Park, NC: RTI International. (online at <https://www.hhs.gov/opa/title-x-family-planning/ip-annual-report/index.html>)

per 100,000 residents.³ These shortages extend to other types of providers as well – Nevada ranks 42nd among other states for Physician Assistants (PAs) with 25 PAs per 100,000 residents; just 42 Advanced Practice Registered Nurses (APRNs) per 100,000 residents are registered in the state.

The Final Rule limits those providers who are able to provide nondirective counseling and referrals to doctors and advance practice practitioners (APP) including PAs and APRNs, but excluding registered nurses (RNs) and public health nurses.

It has come to our attention that the rule will have an outsized impact on states with provider shortages and in extreme rural areas that inevitably are heavily reliant on public health infrastructure for health care access. In Nevada, more than two thirds of the state’s Title X funds – 70 percent – are distributed to state and local health departments.⁴

Among the state’s small, rural health departments, counseling services are conducted by registered nurses who would be barred from offering those services under the Final Rule. In some cases, APRNs visit clinics only once a month. The rule would thus severely limit the window of availability for counseling services, and divert APRNs from performing more complicated services that they are uniquely qualified to deliver.

Limiting a qualified provider’s authority to deliver services directly contradicts this Administration’s recommendation that allied health professionals should be allowed to practice at the top of their licenses because “scope of practice restrictions limit provider entry and ability to practice in ways that do not address demonstrable or substantial risks to consumer health and safety.”⁵ We find the provider restrictions in this rule to be without merit, and respectfully request the additional information below to understand the Department’s rationale for such a change:

- What evidence did you consider when making the decision to limit the definition of advance practice provider such that existing providers would be no longer able to deliver services?
- What stakeholders were consulted in the development of this specific provision of the rule?
- Please justify the exclusion of any provider that was previously authorized to provide Title X services; including RNs and public health nurses.

³Dill, M., Fisher, K., & Jones, K (2017). *2017 State Physician Workforce Data Report*. Association of American Medical Colleges. (online at https://store.aamc.org/downloadable/download/sample/sample_id/30/)

⁴Office of Population Affairs. (2019, March 29). Recent Grant Awards HHS Title X Family Planning Service Grants Award by State. In *U.S. Department of Health & Human Services* (online at <https://www.hhs.gov/opa/grants-and-funding/recent-grant-awards/index.html>)

⁵ U.S. Department of Health and Human Services, U.S. Department of the Treasury, U.S. Department of Labor. (2018, December). Reforming America’s Healthcare System through Choice and Competition. *U.S. Department of Health & Human Services*. (online at <https://www.hhs.gov/sites/default/files/Reforming-Americas-Healthcare-System-Through-Choice-and-Competition.pdf>)

- Please submit any correspondence related to the development of the APP definition.

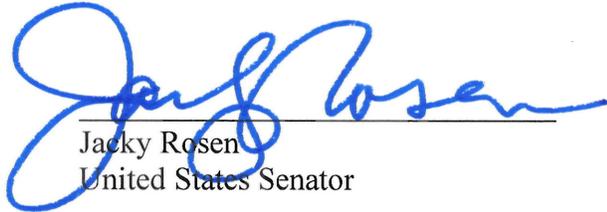
We are concerned that the Final Rule would so significantly limit the ability of Nevada's rural providers to service their populations that it would have negative impacts on health outcomes among our state's underserved populations.

We urge you to reconsider these limitations and instead seek ways to increase access to care in our nation's rural and underserved areas.

Sincerely,



Catherine Cortez Masto
United States Senator



Jacky Rosen
United States Senator