

United States Senate

WASHINGTON, DC 20510

May 20, 2021

The Honorable Xavier Becerra
Secretary
Department of Health and Human Services
200 Independence Avenue, Southwest
Washington, D.C.

Dear Secretary Becerra:

We write to express our appreciation for the Department of Health and Human Services' (HHS) action to revoke the harmful Title X 2019 regulations (2019 Rule)¹, and provide formal comments on your proposal to readopt the 2000 regulations with revisions, entitled Ensuring Access To Equitable, Affordable, Client-Centered, Quality Family Planning Services (RIN 0937-AA11). We urge the administration to move expeditiously to finalize the proposed rule that will ensure Nevadans have access to comprehensive family planning services, and enable registered nurses (RNs) and public health nurses to provide nondirective counseling and referrals under the Title X program.

As you know, over the last 50 years the Title X Family Planning Program has provided critical family planning services to more than 190 million people in low-income and underserved communities.² 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 addition to harmful provisions like abandoning the client centered approach that provides discussion and access to all options and appropriate referrals, or increasing compliance and oversight costs with no actual benefit, the 2019 Rule also limited the types of providers who were able to provide nondirective counseling and referrals. The rule only allowed doctors and advance practice practitioners (APPs) including Physician Assistants (PAs) and Advanced Practice Registered Nurses (APRNs) to provide these services, thereby excluding registered nurses (RNs) and public health nurses from the program. In Nevada, more than two thirds of the state's Title X funds in 2019 – 70 percent – were distributed to state and local health departments.³ Among the state's small, rural health departments, counseling services are mostly conducted by registered nurses who were barred from offering those services under the 2019 Rule. In some cases, APRNs visit clinics only once a month. The rule thus severely limited the window of availability for counseling services, and diverted APRNs from performing more complicated services that they are uniquely qualified to deliver. This directly impacted our frontier areas that are heavily reliant on public health infrastructure for health care access.

¹ 84 FR 7714

² (OPA). Title X: Celebrating 50 Years of Title X Service Delivery. Accessed on April 27, 2021 from <https://opa.hhs.gov/sites/default/files/2020-11/title-x-50-years-infographic.pdf>.

³Office 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>)

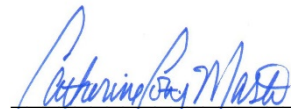
Limiting a qualified provider's authority to deliver services directly contradicted the recommendation that health professionals should be allowed to practice at the top of their licenses because "scope of practice restrictions limit provider entry and ability to practice in ways that do not address demonstrable or substantial risks to consumer health and safety."⁴ We expressed concerns about the impact this restriction would place on our rural communities' access to care with the previous Administration and unfortunately they were not addressed in the final rule.

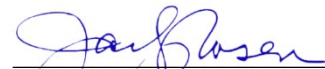
Given the previous success and that the Title X program is the only federal grant program dedicated exclusively to providing individuals with comprehensive family planning and related preventive health services, we are encouraged by changes made within the proposed rule. The inclusion of health equity objectives that seek to ensure the provision of culturally sensitive, linguistically appropriate care will be essential in making progress toward health equity. This rule will return the Title X program to its core mission of giving confidential, high quality care from trusted providers. Moreover, we are supportive of measures that will reduce unnecessary restrictions on providers serving our rural communities.

We urge you to finalize the proposed rule to increase access to care in our nation's rural and underserved areas by including registered nurses and public health nurses as providers who are able to provide nondirective counselling and referrals under the title X programs.

Thank you for your consideration of this request.

Sincerely,


Catherine Cortez Masto
United States Senator


Jacky Rosen
United States Senator

⁴ 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>)