hivma
hiv medicine association

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July 31, 2018

Diane Foley, MD, FAAP
Deputy Assistant Secretary for Populations Affairs
Office of the Assistant Secretary for Health
U.S. Department of Health and Human Services
Washington, D.C. 20201

**RE: RIN 0937-ZA00, Proposed Rule for Compliance with Statutory Program Integrity Requirements**

Dear Dr. Foley:

I am writing on behalf of the HIV Medicine Association (HIVMA) to **urge you to withdraw this proposed rule** which would threaten our national efforts to reduce HIV transmission, decrease access to high quality reproductive health and prevention services, and interfere with the doctor-patient relationship weakening the safety net of family planning and women's health clinics. HIVMA represents more 5,000 physicians, researchers and other healthcare professionals who work on the frontlines of the HIV epidemic in communities across the country.

Family planning clinics play a vital role in providing life-saving care and critical public health services to communities most affected by HIV and other sexually transmitted infections (STI). This rule will restrict the care they deliver will harm patients and lead to poorer health outcomes for the four million low income and uninsured patients who rely on their services. I highlight our key concerns below

**This proposed rule violates the Medical Code of Ethics and would be an unacceptable intrusion of the doctor-patient relationship.** This rule conflicts with a fundamental principle that guides health care providers every day: patients' needs are paramount, and providers have an obligation to put the needs of patients first. This unnecessary and burdensome proposed regulation would impose a "gag rule" on Title X-funded providers by barring them from providing comprehensive, accurate, evidence-based medical information to their patients. A prohibition on abortion referrals would contravene medical ethics and leave providers in the untenable position of not being able to provide the appropriate level of medical care or no longer participating in the Title X program, thereby potentially leaving their patients without access to care at all.[1]

The doctor-patient relationship is grounded in the implicit understanding that medical providers advise patients on the range of medical options available to them. The proposed rule would potentially require providers to withhold sound medical advice and erode the trust that is critical to effective doctor and patient relationships. In treating patients with HIV for decades, we have learned that trust between providers and patients contributes to better health outcomes but is difficult to cultivate and maintain – particularly in patients with stigmatized conditions like HIV, STIs, addiction, and disabilities. Coercing safety net providers and their clinics to provide sub-optimal care to their patients undermines the ethical obligation we as providers hold to our profession and patients.

Implementation of this rule would be burdensome for some clinics that receive Title X funding and impossible for many forcing them to choose between offering accurate and complete medical information to their patients or risk losing funds that are necessary to keep the doors open and serve their low income and uninsured patients at no or low cost. This, inevitably, will cause our national gains in reducing unwanted teenage pregnancy to reverse, while reducing the number of providers and options available to low-income women and LGBTQ people seeking basic preventive services, including confidential, free, and regular HIV and STI screenings. Just at a time when we should be aiming to dramatically decrease new HIV infections, this rule could decrease access to the very services that have contributed to getting the epidemic under better control.

**Title X-funded clinics are critical components of the healthcare and HIV safety net.** Planned Parenthood and thousands of other clinics provide five million screenings for STIs, including over one million HIV tests. While Planned Parenthood clinics only represent 13 percent of Title X clinics, they serve more than 40 percent of Title X patients. In rural and medically underserved urban areas in every state, these clinics are often the *only* source of both HIV and STI screening and other preventive services for low-income women and LGBTQ populations at higher risk for acquiring HIV. Prior to the 2015 HIV outbreak in Scott County, Indiana, a family clinic that was a critical source for HIV screening to county residents closed due to lack of funding allowing a serious HIV outbreak to spread for too long without detection. The opioid epidemic in America has created many potential Scott Counties, and one lesson that should have been learned is that more prevention services—not fewer—are needed to prevent new HIV, and hepatitis C, outbreaks.

Restricting access to basic preventive services will disproportionately impact women of color who represent more than half of patients served by Title X clinics and are at higher risk for HIV infection. The proposed rule would require Title X recipients to physically and financially separate Title X project activities from any of their abortion-related activities, including abortion referrals. These provisions completely ignore that specialized providers have for decades played an important – and irreplaceable role – in the Title X program.

Since 2001, the HHS Office of Population Affairs supplemented grant funds to Title X clinics with Minority AIDS Initiative funding to expand availability to HIV prevention services, which has resulted in increased institutional capacity to conduct these services and identify thousands of people living with HIV, who otherwise may not have been tested and who were then referred to care services.[2] Title X clinics are vital to our national response to the HIV epidemic and a threat to them is a threat to our public health.

**Restricting access to Title X clinics would be a major setback to efforts to fight the STI and opioid epidemics.** At a time when our STI rates are at a record high and the nation's opioid crisis and infectious diseases associated with it continue to grow we cannot afford to lose any healthcare access points that provide non-judgmental prevention, screening and other healthcare services. In 2016, more than two million cases of chlamydia, gonorrhea and syphilis were reported in the U.S. with increases being seen across populations including women, infants and gay and bisexual individuals. These STIs are curable with timely access to screening and treatment like that provided by Title X clinics but when left untreated they have serious health consequences including transmission of the STI to others, increased risk of HIV transmissions, infertility and life-threatening pregnancy complications. In addition, opioid and other **s**ubstance use disorders are associated with increased risk for STIs, HIV, hepatitis B and C and other infections. Title X clinics provide clients with critical screening for infectious diseases and behavioral health conditions and refer patients to appropriate treatment for both.

**Finally, this proposed rule runs counter to the Administration's stated prioritization of lowering healthcare costs and reducing medical provider burden**. The economic costs of implementing this proposed rule would be significant to Title X clinics. If implemented, the proposed rule also would also lead to higher downstream healthcare expenditures as the potentially millions of patients who stand to lose access to reproductive health and preventive care at community clinics will access care at hospitals and with more serious conditions due to delays in diagnosis and care. Every new HIV infection will add a lifetime cost of hundreds of thousands of dollars to public health obligations. In addition, the increased administrative burden and government interference in the ability of physicians and other healthcare providers to care for patients will worsen a growing shortage of healthcare providers, particularly in rural areas where they are most needed.

On behalf of HIV medical providers and researchers across the country, I strongly urge you to not finalize this proposed rule. Please contact George Fistonich, HIVMA senior policy and advocacy manager, at gfistonich@hivma.org with questions or to schedule a meeting.

Sincerely,

Melanie Thompson

Melanie Thompson, MD
Chair

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[1] American Medical Association. Code of Medicaid Ethics Opinion 2.1.3, Withholding Information from Patients, available at https://www.ama-assn.org/delivering-care/withholding-information-patients.

[2] Tran NT, Hallerdin JM, Flowers-Maple C, Moskosky SB. Collaboration for the integration of HIV prevention at Title X family planning service delivery sites. Public Health Rep. 2010 Jan-Feb;125 Suppl 1:47-54.