



Secretariat of Pro-Life Activities

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March 3, 2017

Dear Senator,

I write on behalf of the U. S. Conference of Catholic Bishops' Committee on Pro-Life Activities to urge your support for S.J. Res 13. This resolution of disapproval would nullify former President Obama's final rule relating to compliance with Title X requirements by project recipients. 81 Fed. Reg. 91852 (Dec. 19, 2016). The stated purpose of this rule change is to prevent states from excluding providers such as Planned Parenthood from sub-awards based on state criteria, such as a requirement that sub-recipients provide comprehensive primary and preventive care in addition to family planning services.¹

The Title X rule change is bad public policy and should be nullified for several reasons. First, it is deeply troubling to many Americans that Planned Parenthood, the nation's largest abortion network (performing over a third of all abortions), receives more than half a billion taxpayer dollars per year. This concern has rightly grown with revelations about Planned Parenthood's willingness to traffic in fetal tissue from abortions, and to alter abortion methods not for any reason related to women's health but to obtain more "intact" organs. Additionally, a recent revelation that the vast majority of Planned Parenthood facilities do not provide prenatal services provides additional evidence of its bias toward providing and promoting abortion.

Second, the Department of Health and Human Service's stated objective in *preventing* states from ensuring the seamless delivery of comprehensive care places the Department in a self-contradictory position. Last year in the Nation's highest court, HHS touted the seamless coverage of health services *as a virtue*. Indeed, the Department argued that seamlessness is a government interest of the highest order, sufficient to outweigh constitutionally and statutorily protected religious objections.²

In this new rule, however, HHS takes the opposite position, saying that the seamless provision of services is an ill to be avoided. The present rule would ensure that the provision of care is fragmented, rather than seamless, because it would undermine state requirements that sub-recipients provide primary and preventive care in addition to family planning. Seamlessness cannot at one and the same time be a government interest of the highest order when it disadvantages religious organizations, but an affirmative ill to be avoided when it disadvantages Planned Parenthood.

¹ See *Planned Parenthood v. Moser*, 747 F.3d 814 (10th Cir. 2014) (upholding such a requirement).

² Brief for Respondents at 53-72, *Zubik v. Burwell*, 136 S. Ct. 1557 (2016) (Nos. 14-1418, 14-1453, 14-1505, 15-35, 15-105, 15-119, 15-191).

Third, states may have other reasonable and persuasive grounds for disqualifying entities from sub-awards that go beyond the ability of such entities to “provide Title X services” as the rule states (81 Fed. Reg. at 91860). For example, a sub-award applicant may have been involved in fraudulent practices, or the applicant or its stakeholders may even have committed a crime, bearing on the applicant’s fitness and suitability for a sub-award. Indeed, the requirements for federal awards and sub-awards in general are typically accompanied by all sorts of standards, many of which are imposed by the federal government itself, and those standards often have little or nothing to do with the ability to provide services (governmental guidelines are replete with such requirements). States may also have widely differing standards for sub-awardees based on the states’ own policy judgment. Therefore, it should be permissible for states to decline to make a sub-award when the sub-awardee does not meet applicable criteria, whether federal or state, even if the entity is, strictly speaking, able to “provide Title X services.” Those criteria, of course, themselves remain subject to applicable federal and state law.

For each of these reasons, we urge you to support S.J. Res. 13.

Sincerely,

A handwritten signature in black ink that reads "Tim. Card. Dolan". The signature is written in a cursive style with a large initial "T" and a distinct "D".

Timothy Cardinal Dolan
Chairman, Committee on Pro-Life Activities
United States Conference of Catholic Bishops