

Administration of Joseph R. Biden, Jr., 2021

Memorandum on Protecting Women's Health at Home and Abroad

January 28, 2021

Memorandum for the Secretary of State, the Secretary of Defense, the Secretary of Health and Human Services, and the Administrator of the United States Agency for International Development

Subject: Protecting Women's Health at Home and Abroad

Section 1. Policy. Women should have access to the healthcare they need. For too many women today, both at home and abroad, that is not possible. Undue restrictions on the use of Federal funds have made it harder for women to obtain necessary healthcare. The Federal Government must take action to ensure that women at home and around the world are able to access complete medical information, including with respect to their reproductive health.

In the United States, Title X of the Public Health Services Act (42 U.S.C. 300 to 300a–6) provides Federal funding for family planning services that primarily benefit low-income patients. The Act specifies that Title X funds may not be used in programs where abortion is a method of family planning, but places no further abortion-related restrictions on recipients of Title X funds. *See* 42 U.S.C. 300a–6. In 2019, the Secretary of Health and Human Services finalized changes to regulations governing the Title X program and issued a final rule entitled "Compliance With Statutory Program Integrity Requirements," 84 Fed. Reg. 7714 (Mar. 4, 2019) (Title X Rule), which prohibits recipients of Title X funds from referring patients to abortion providers and imposes other onerous requirements on abortion providers. The Title X Rule has caused the termination of Federal family planning funding for many women's healthcare providers and puts women's health at risk by making it harder for women to receive complete medical information.

It is the policy of my Administration to support women's and girls' sexual and reproductive health and rights in the United States, as well as globally. The Foreign Assistance Act of 1961 (22 U.S.C. 2151b(f)(1)), prohibits nongovernmental organizations (NGOs) that receive Federal funds from using those funds "to pay for the performance of abortions as a method of family planning, or to motivate or coerce any person to practice abortions." The August 1984 announcement by President Reagan of what has become known as the "Mexico City Policy" directed the United States Agency for International Development (USAID) to expand this limitation and withhold USAID family planning funds from NGOs that use non-USAID funds to perform abortions, provide advice, counseling, or information regarding abortion, or lobby a foreign government to legalize abortion or make abortion services more easily available. These restrictions were rescinded by President Clinton in 1993, reinstated by President George W. Bush in 2001, and rescinded by President Obama in 2009. President Trump substantially expanded these restrictions by applying the policy to global health assistance provided by all executive departments and agencies (agencies). These excessive conditions on foreign and development assistance undermine the United States' efforts to advance gender equality globally by restricting our ability to support women's health and programs that prevent and respond to gender-based violence. The expansion of the policy has also affected all other areas of global health assistance, limiting the United States' ability to work with local partners around the world and inhibiting their efforts to confront serious health challenges such as HIV/AIDS, tuberculosis, and malaria, among others. Such restrictions on global health assistance are particularly harmful in light of the coronavirus disease 2019 (COVID–19) pandemic. Accordingly, I hereby order as follows:

Sec. 2. Revocations and Other Actions. (a) The Secretary of Health and Human Services shall review the Title X Rule and any other regulations governing the Title X program that

impose undue restrictions on the use of Federal funds or women's access to complete medical information and shall consider, as soon as practicable, whether to suspend, revise, or rescind, or publish for notice and comment proposed rules suspending, revising, or rescinding, those regulations, consistent with applicable law, including the Administrative Procedure Act.

(b) The Presidential Memorandum of January 23, 2017 (The Mexico City Policy), is revoked.

(c) The Secretary of State, the Secretary of Defense, the Secretary of Health and Human Services, the Administrator of USAID, and appropriate officials at all other agencies involved in foreign assistance shall take all steps necessary to implement this memorandum, as appropriate and consistent with applicable law. This shall include the following actions with respect to conditions in assistance awards that were imposed pursuant to the January 2017 Presidential Memorandum and that are not required by the Foreign Assistance Act or any other law:

- (i) immediately waive such conditions in any current grants;
- (ii) notify current grantees, as soon as possible, that these conditions have been waived; and
- (iii) immediately cease imposing these conditions in any future assistance awards.

(d) The Secretary of State, the Secretary of Defense, the Secretary of Health and Human Services, and the Administrator of USAID, as appropriate and consistent with applicable law, shall suspend, revise, or rescind any regulations, orders, guidance documents, policies, and any other similar agency actions that were issued pursuant to the January 2017 Presidential Memorandum.

(e) The Secretary of State and the Secretary of Health and Human Services, in a timely and appropriate manner, shall withdraw co-sponsorship and signature from the Geneva Consensus Declaration (Declaration) and notify other co-sponsors and signatories to the Declaration and other appropriate parties of the United States' withdrawal.

(f) The Secretary of State, consistent with applicable law and subject to the availability of appropriations, shall:

- (i) take the steps necessary to resume funding to the United Nations Population Fund; and
- (ii) work with the Administrator of USAID and across United States Government foreign assistance programs to ensure that adequate funds are being directed to support women's health needs globally, including sexual and reproductive health and reproductive rights.

(g) The Secretary of State, in coordination with the Secretary of Health and Human Services, shall provide guidance to agencies consistent with this memorandum.

Sec. 3. General Provisions. (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

- (i) the authority granted by law to an executive department or agency, or the head thereof; or
- (ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The Secretary of State is authorized and directed to publish this memorandum in the *Federal Register*.

JOSEPH R. BIDEN, JR.

NOTE: An original was not available for verification of the content of this memorandum.

Categories: Communications to Federal Agencies : Women's health at home and abroad, protection efforts, memorandum.

Names: Bush, George W.; Clinton, Bill; Obama, Barack; Trump, Donald J.

Subjects: Civil rights : Women's rights and gender equality; Foreign policy, U.S. : Foreign aid policies and funding; Government organization and employees : Federal regulations, review; Health and medical care : Abortion; Health and medical care : Women's health issues.

DCPD Number: DCPD202100100.