

State of Vermont
Department of Health
Office of the Commissioner
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Agency of Human Services

August 15, 2019

Mr. David Johnson
Operations and Management Officer
Office of Population Affairs
1101 Wootton Parkway, Suite 700
Rockville, Maryland 20852

RE: Vermont State Department of Health, Grant NO. 1 FPHPA006411-01-00

Dear Mr. Johnson:

The Vermont Department of Health has partnered for over 40 years with U.S. Department of Health and Human Services (HHS) and our family planning network to provide critical family planning services to thousands of Vermonters through the Title X program. We have worked to carry out Title X's statutory purpose of making comprehensive voluntary family planning services readily available to all people desiring such services, in strict compliance with the Title X statute. These efforts have ensured that Vermonters have access to quality family planning services and have helped to reduce the rate of unintended pregnancy, and to support individuals in determining the number and spacing of their children to promote positive birth outcomes and healthy families.

Our Title X network providers deliver clinical, informational, educational, and referral services as appropriate for health and social needs. Our program ensures that Vermonters have access to a broad range of family planning and related preventive health services, including: patient education and counseling; breast and pelvic examinations; breast and cervical cancer screening; sexually transmitted disease (STD) and Human Immunodeficiency Virus (HIV) prevention education, counseling, testing and referral; and pregnancy testing, diagnosis and counseling.

HHS recently issued rules under which the Vermont Department of Health and its subgrantee would be prevented from providing the full range of family planning and reproductive health care services that our patients need and deserve. These recent events have forced the Department to change how we participate in the Title X program moving forward. I write now to inform you of these changes.

The rules would require the Department to violate Vermont's Act 47 (2019) that preserves the right to abortion that recognizes the "fundamental right of every individual who becomes pregnant to choose to carry a pregnancy to term, to give birth to a child, or to have an abortion" and prohibits the interference with "regulation or provision of benefits, facilities, services, or information, the choice of a consenting individual to terminate the individual's pregnancy." 18 V.S.A. § §9493 and 9497.





The Final Rule would also prohibit Title X providers in Vermont from caring for their patients according to their medical training, judgment, and professional and ethical obligations. As such, the medical community in Vermont has come out in strong opposition to the rule.

Despite the ongoing legal challenges, HHS Deputy Assistant Secretary Diane Foley recently issued guidance stating that compliance with the rules, except the physical separation requirements, was required as of July 15, 2019. While the courts determine whether the rules are legal, the State of Vermont maintains they are certainly bad policy that would have detrimental effects on individuals and families in Vermont. The Department will be moving, therefore, to use State funds to preserve our high-quality family planning network and ensure that health care providers will be able to continue to offer ethical patient care to Vermonters.

For the reasons listed above, including the Final Rule's harmful requirements and uncertain legal status, the Vermont Department of Health has stopped using federal funds under Title X to reimburse its subgrantee for services provided on or after July 15, 2019.

We are hopeful that these changes prove short-lived, and the relationship between Health and HHS returns to its historical partnership. Please contact me if you need any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Levine".

Mark Levine, MD, Commissioner of Health

A handwritten signature in black ink, appearing to read "Paul Daley".

Paul Daley, Financial Director and Grantee Authorizing Official

cc: Natalia Guevara, Project Officer

