

## **Title X Final Rule – Family Planning Compliance Requirements**

**Satellite Conference and Live Webcast  
Thursday, September 12, 2019  
10:00 – 10:40 a.m. Central Time**

Produced by the Alabama Department of Public Health  
Video Communications and Distance Learning Division

## **Faculty**

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## **Objectives**

- 1. Identify new and/or revised requirements of the 2019 Title X Final Rule**
- 2. Describe how provisions of the Final Rule impact FP clinic roles**
- 3. Identify implementation strategies for each new and/or revised requirement**
- 4. Identify resources for staff use to promote compliance with the Final Rule**

## **What is the Final Rule?**

- The Final Rule is the set of requirements and the implementing regulations, under Title X which govern project grants for family planning services. The official name is Compliance with Statutory Program Integrity Requirements. Also affectionately known as “The Gag Rule.”**

## **What is the Final Rule?**

- The Final Rule was published on March 4, 2019 in the Federal Register and was scheduled to take effect 60 days later on May 3, 2019. The effective date was delayed by numerous lawsuits and a nationwide injunction.**
- The effective date, following a legal victory by the Department of Justice, was officially July 15, 2019.**

## **Why Do I Need to Know About the Final Rule?**

**Important changes to ensure program compliance:**

- Expanded abortion restrictions**
- Pregnancy counseling and referrals**
- Patient fees**
- Documentation requirements when providing services to minors**
- Documentation requirements related to Alabama mandatory reporting law**

### **ADPH Title X Compliance Action Plan**

As evidence of a good-faith effort to come into compliance with the Final Rule, OPA required the following of Title X grantees:

- Assurance and Action Plan Documenting Steps to Come Into Compliance – Submitted on August 19, 2019.

### **ADPH Title X Compliance Action Plan**

- The expectation is that grantees will begin to implement the actions stated in their action plans immediately.
- This training is an element of ADPH's action plan.

### **Expanded Abortion Restrictions**

- A Title X project must be organized so that it is physically and financially separate from abortion related activities.
- The Final Rule prohibits use of Title X funds to perform, promote, refer for, or support abortion as a method of family planning.

### **Expanded Abortion Restrictions**

- ADPH has never provided abortions.
- Staff may not, on ADPH time and/or using ADPH resources, make referrals or assist patients in any way to obtain an abortion for family planning purposes.

### **Expanded Abortion Restrictions**

- Staff may not, on ADPH time and/or using ADPH resources, participate in activities to encourage or increase availability of abortion as a method of family planning.

### **Expanded Abortion Restrictions**

- Title X Staff affected- All Title X staff and sub recipients must comply with this requirement.
- Clinical activities affected- Clinical protocol, patient counseling, patient referrals, and all printed materials or electronic media that are available in or through the ADPH Title X program and/or sites must comply with this requirement.

### Expanded Abortion Restrictions

- **Affect on clinical documentation-** If nondirective pregnancy counseling is provided, documentation must support that a patient was not assisted in any way to obtain an abortion for FP purposes.
- **Implementation-** Standing order, inclusion in next CPM revision, sample scripts regarding abortion related patient questions and requests, provider referral lists and community resource directories.

### Sample Script for Title X Staff - Abortion

- All staff should be prepared to skillfully provide a Title X compliant response to phone inquiries and requests for assistance with accessing abortion services.

### Sample Script for Title X Staff - Abortion

“Although abortion falls outside the scope of our program under federal law, I can provide you a list of providers or community resources that serve pregnant women. You can reach out to these providers and agencies to learn about the services they provide.”

### Pregnancy Counseling and Referrals

- Title X funds are intended only for family planning services. Once a Title X client is medically verified as pregnant, she must be referred to a prenatal care provider. Prenatal care is considered medically necessary care.

### Pregnancy Counseling and Referrals

- The Title X provider may also choose, but is not required, to provide the following:
  - Nondirective pregnancy counseling about any of the options – continuation, termination, and/or adoption;
  - A “referral” list of licensed, qualified, comprehensive primary care providers, including prenatal care providers;

### Pregnancy Counseling and Referrals

- Referral to social services or adoption agencies (“community resource directory”);
- Information about maintaining the health of the mother and unborn child during pregnancy.

## Federal Conscience Protections for Health Care Providers

Federal statutes protect health care provider conscience rights and prohibit recipients of certain federal funds (i.e. Title X) from discriminating against health providers who refuse to participate in certain health care services based on moral or religious objections. Under the federal conscience protection statutes, providers may file a complaint if they believe they have experienced discrimination due to their objection to, participation in, refusal to participate, or coercion into participating certain medical procedures, including abortion and sterilization.

## Federal Conscience Protections for Health Care Providers

The federal conscience protection statutes include:

- **The Church Amendments –**  
<https://www.hhs.gov/sites/default/files/ocr/civilrights/understanding/ConscienceProtect/42usc300a7.pdf>
- **Public Health Service Act, Section 245 -**  
<https://www.hhs.gov/sites/default/files/ocr/civilrights/understanding/ConscienceProtect/42usc238n.pdf>

## Federal Conscience Protections for Health Care Providers

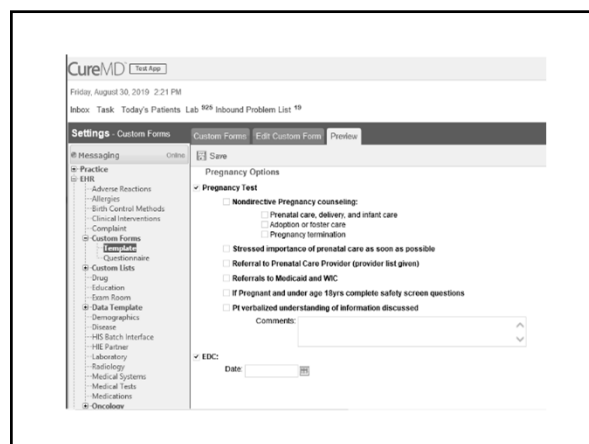
- **The Weldon Amendment -**  
[https://www.hhs.gov/sites/default/files/ocr/civilrights/understanding/ConscienceProtect/publaw111\\_117\\_123\\_stat\\_3034.pdf](https://www.hhs.gov/sites/default/files/ocr/civilrights/understanding/ConscienceProtect/publaw111_117_123_stat_3034.pdf)
- **The Affordable Care Act -**  
<https://www.hhs.gov/healthcare/about-the-aca/index.html>

## Pregnancy Counseling and Referrals

- **Title X Staff affected- All Title X staff and sub recipients must comply with this requirement.**
- **Clinical activities affected- Clinical protocol, patient counseling, and patient referrals must comply with this requirement.**

## Pregnancy Counseling and Referrals

- **Affect on clinical documentation- Documentation must support that every pregnant patient is referred for prenatal care (or immediately referred for emergency care, if clinically indicated).**
- **Implementation- Standing order, inclusion in next CPM revision, policy review and/or revision, sample scripts regarding pregnancy options and referrals, provider referral lists, EHR prompts regarding pregnancy counseling, and community resource lists.**



### **Sample Script – Prenatal Referral**

“This is a list of health care providers/community agencies that serve pregnant women. Reach out to these providers/agencies to learn about their services.”

### **Patient Fees**

- A woman who has employer provided health insurance that does not cover the contraceptive services she desires, due to the employer’s sincerely held religious or moral objection to providing such coverage, may be determined by the clinic director as unable to pay for the service and considered low-income.

### **Patient Fees**

- To determine if the woman is eligible for the Title X sliding scale discount, the clinic director may consider the woman’s annual income minus the total annual out-of-pocket costs of the contraceptive service she uses or seeks to use. The clinic director may determine those costs or estimate them at \$600 annually.

### **Confidential Services to Minors**

- Un-emancipated minors who wish to receive services on a confidential basis must be considered on the basis of their own financial resources, provided that the Title X provider has documented in the medical record the specific actions taken to encourage family participation.

### **Confidential Services to Minors**

Such documentation is not required if the provider has documented that:

- The provider suspects the minor to be a victim of child abuse or incest; and
- In compliance with Alabama mandatory reporting requirements, a report has been made to the appropriate authorities.

### **Patient Fees and Confidential Services to Minors**

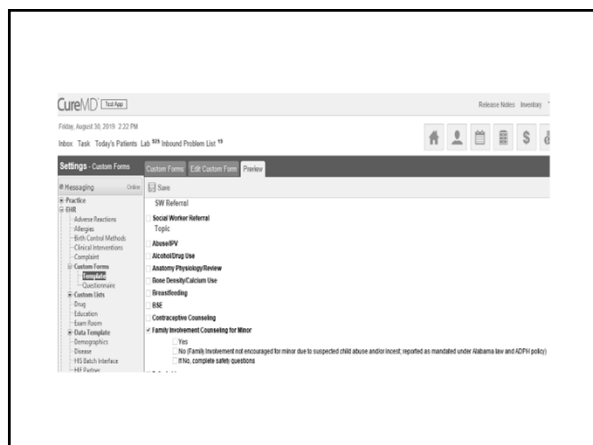
- Title X staff affected- All Title X staff and sub recipients must comply with this requirement.
- Clinical activities affected- Insurance and income verification, Fee System Manual, and clinical protocol.

## Patient Fees and Confidential Services to Minors

- **Affect on clinical documentation-** If patient financial records indicate a minor patient requested and received confidential services, the clinical record must document (A) encouragement of family participation, OR (B) suspicion of child abuse/incest AND mandatory reporting as required by Alabama law and ADPH policy.

## Patient Fees and Confidential Services to Minors

- **Implementation-** Standing order, inclusion in next CPM revision, FSM revision, EHR prompts regarding family participation, revision of Title X staff training plan to require annual training on AL mandatory reporting law, review and revision (if needed) of ADPH Abuse/Neglect Reporting Policy.



## Sample Script – Encouragement of Family Participation

“It can be helpful to have a trusted adult that you can talk to about things like dating, relationships, and pregnancy prevention. These topics can be challenging and sometimes confusing. Having someone you can talk to can be really helpful.” (Clinical note - Verbal encouragement of family participation provided.)

## Expanded Requirements Regarding Family Planning Services to Minors

In addition to the family participation documentation requirements,

- **every minor who presents for treatment must be provided counseling on how to resist attempts to coerce them into engaging in sexual activities;**
- **any minor who presents with a sexually transmitted disease, pregnancy, or any suspicion of abuse, must be screened for victimization of a minor.**

## Expanded Requirements Regarding Family Planning Services to Minors

- **Title X staff affected-** Clinical staff; sub recipients.
- **Clinical activities affected-** Clinical protocol must support compliance with this requirement.
- **Affect on clinical documentation-** Clinical documentation of compliance with these requirements will be audited during Title X program reviews.

### **Expanded Requirements Regarding Family Planning Services to Minors**

- **Implementation- Standing order, inclusion in next CPM revision, EHR prompts regarding safety screening of minors, revision to Title X staff training plan to include coercion resistance counseling training.**

### **Resources**

- **Updated Fee System Manual**
- **A referral list of primary care providers and prenatal providers**
- **Sample scripts**
- **FP clinical protocol manual and standing orders**
- **ADPH Abuse/Neglect Reporting Policy, in the document library under Social Work Unit.**

### **Resources**

- **Alabama DHR Written Report of Suspected Child Abuse/Neglect Form #1593**  
**<http://dhr.alabama.gov/documents/ChildAbuseForm1593.pdf>**
- **Title X training requirements in LCMS**