TITLE X UPDATE

WHAT WE KNOW AND OUR BEST GUESSES
What is Title X? Why do we care?

Grant from U.S. Dept. of Health & Human Services, Office of Population Affairs (HHS, OPA)
- Program dedicated to providing individuals with comprehensive family planning and related preventive health services
- No restrictions based on citizenship
- All individuals of reproductive capacity under 250% FPL. Services may not be withheld based on ability to pay

Oregon as a Grantee
- OHA has been a grantee for more than 40 years
- Funds are braided as part RH Program FFS reimbursement and supports Program Element (PE) 46 (LPHA specific funding)
Current/Future Title X Grant Cycle

Current Title X grant period: 9/1/18 – 3/31/19

New Funding Opportunity Announcement released: ?/?/18
Due: ?/?/19

Future Title X grant period: April 1, 2019 - ??
Current & Future Priorities

• New/revised priorities in current FY19 grant
  – Natural family planning methods
  – Return to sexual risk free status/delaying sex (adolescents)
  – Engagement with faith-based organizations
  – Increasing family participation (for all & especially adolescents)

• New or revised priorities in upcoming FOA
  – Unknown until FOA released

• ALTERING PRIORITIES CAN ONLY GO SO FAR TO MODIFY TITLE X – IT IS GOVERNED BY REGULATIONS
What does Title X pay for?

- Current budget (annualized)
  - Staff (3.68 FTE) $460,000
  - Funding for sub-recipients
    - Fee for service $1,400,000
    - PE 46 $675,000
    - Coffee Creek $71,000
  - Program administration $500,000
  - Technical assistance/training $65,000
Proposed rulemaking for Title X

On June 1, 2018, the US Department of Health and Human Services (HHS) officially published a notice of proposed rulemaking ("2018 NPRM") for the Title X family planning program. The 2018 NPRM not only reintroduces the majority of a Reagan-era Title X rule known as the "domestic gag" rule, but it expands those provisions and introduces numerous new and harmful requirements and restrictions.

Collectively, the provisions of the 2018 NPRM would undermine the high-quality standards of care in Title X and discourage and prevent highly qualified, trusted family planning providers from participating in the Title X program. Although the rule in many ways is designed to target abortion-related activities and entities that provide abortion care, it is not limited to such activities and/or providers, and would have far-reaching implications for all Title X-funded entities, the services they provide, and the ability of patients to seek and receive high-quality, confidential family planning and sexual health care.
Highlights

• Undermines the standard of care: refuses to provide the broad range of contraceptive methods
• Eliminates nondirective options counseling but requires all pregnant people to be referred for prenatal care and/or social services, regardless of their wishes
• Undermines trust: directs Title X-funded entities to withhold full and accurate medical information from patients
• Undermines confidentiality
• Prohibits activities related to abortion: Title X project may not “present,” “support,” or even “promote a favorable attitude toward” abortion as a method of family planning
• Requires physical and financial separation
• Makes counseling on abortion difficult, if not impossible

NPRM Timeline

Proposed rule published: 7/1/18

Public comment period: 7/1/18 – 8/31/18

Final rule published 12/18???

Implement most requirements with 60-days

Implement physical separation requirements with 1-year
Oregon’s Response

- Oregon’s Attorney General submitted public comment with AGs of Washington, Massachusetts & Vermont
- Option #1: Oregon *unable* to comply because of OHA funding of abortion through OHP and HB 3391. Unlikely able to demonstrate separation sufficiently. May contradict with Section 8 of HB 3391
- Option #2: Oregon *unwilling* to comply. Governor Brown’s stated intent:

> “If the Trump gag rule is adopted and legal challenges are unsuccessful, it would leave me no choice but to … withdraw our state’s participation from an unethical, ineffective Title X program that reduces access to essential preventive health services.”
HOWEVER
Tea leaf time

- We can count on litigation seeking an injunction on many grounds. This would stop the implementation process during litigation efforts.

- Scenario #1: INJUNCTION - YES: Continue under current Title X regulation, grant priorities and Oregon’s application and notice of award (NOA).

- Scenario #2: INJUNCTION – NO: Governor rejects funds because unwilling to comply (or unable to comply).

- Scenario #3 – INJUNCTION – NO: Governor doesn’t reject funds
  - If ineligible → DONE
  - If eligible → decision making process ????
Impact of no Title X funds?

- Gaps in services (e.g. follow-up Pap tests, STI treatment/rescreening)
- Gaps for individuals (e.g. men with another immigration status, non-Oregon residents, those unable to verify immigration status/citizenship)
- Gaps in certain combinations of services and individuals (e.g. CCare-eligible client seeking pregnancy)
- PE 46, 3.68 FTE, eligibility for 340B pricing
Potential scenarios

• Legislature could allocate additional funds to replace lost Title X funds

• HB 3391 could be amended to cover additional services and additional individuals

• RH Program modifications
  – Would re-examine current certification requirements

• Ballot Measure 106
  – If passes – prohibition on state funds to pay for abortion services except in very few circumstances
  – Would apply to OHP, RHEA population, public employees
Questions???