



1.2 PROHIBITION OF ABORTION

POLICY:

Title X recipients are not allowed to provide abortion as a method of family planning as part of the Title X project. (Section 1008, PHS Act; Consolidated Appropriations Act, 2022, Pub. L. No. 117-103, 136 Stat. 49, 444 (2022); 42 CFR § 59.5(a)(5))

A Title X project may not provide pregnancy options counseling that promotes abortion or encourages persons to obtain an abortion. Title X recipients are prohibited from providing services that directly facilitate the use of abortion as a method of family planning, such as providing transportation for an abortion, explaining and obtaining signed abortion consent forms from clients interested in abortions, negotiating a reduction in fees for an abortion, and scheduling or arranging for the performance of an abortion, promoting or advocating abortion within Title X program activities, or failing to preserve sufficient separation between Title X program activities and abortion-related activities. (65 Fed. Reg. 41281 (July 3, 2000))

Title X recipients must offer pregnant clients the opportunity to be provided information and counseling regarding the following options: prenatal care and delivery; infant care, foster care, or adoption; and pregnancy termination. If requested to provide such information and counseling, provide neutral, factual information and nondirective counseling on each option, and referral upon request, except with respect to any option(s) about which the pregnant client indicates they do not wish to receive such information and counseling. (42 CFR § 59.5(a)(5))

A Title X project may provide a referral for abortion, which may include providing a patient with the name, address, telephone number, and other relevant information (such as whether the provider accepts Medicaid, charges, etc.) about an abortion provider, the project may not take further affirmative action (such as negotiating a fee reduction, making an appointment, providing transportation) to secure abortion services for the patient. (65 Fed. Reg. 41281 (July 3, 2000))

Where a referral to another provider who might perform an abortion is medically indicated because of the patient's condition or the condition of the fetus (such as where the woman's life would be endangered), such a referral by a Title X project is not prohibited by section 1008 and is required by 42 CFR § 59.5(b)(1). The referral limitations do not apply in cases where a referral is made for medical indications. (65 Fed. Reg. 41281 (July 3, 2000)).

Section 205 of Pub. L. 94-63 states: "Any person who receives, under any program receiving Federal assistance, compensation for services, who coerces or endeavors to coerce any person to undergo an abortion or sterilization procedure by threatening such person with the loss of, or disqualification for the receipt of, any benefit or service under a program receiving Federal financial assistance shall be fined not more than \$1,000 or imprisoned for not more than one year, or both."



42 U.S.C. 300a-8 provides that any officer or employee of the United States, officer or employee of any State, political subdivision of a State, or any other entity, which administers or supervises the administration of any program receiving Federal financial assistance, or person who receives, under any program receiving Federal assistance, compensation for services, who coerces or endeavors to coerce any person to undergo an abortion or sterilization procedure by threatening such person with the loss of, or disqualification for the receipt of, any benefit or service under a program receiving Federal financial assistance shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.

PROCEDURE:

Subrecipients must:

- Offer pregnant clients the opportunity to be provided information and counseling regarding each of the following options:
 - Prenatal care and delivery
 - Infant care, foster care, or adoption; and
 - Pregnancy termination
 - If requested to provide such information and counseling, provide neutral, factual information and nondirective counseling on each option, and referral upon request, except with respect to any option(s) about which the pregnant client indicates they do not wish to receive such information and counseling.

ND FPP will require documentation from subrecipients/service sites to ensure compliance with this policy.

Administrative policies at service sites prohibit the site from providing abortion as a method of family planning part of the Title X project.

ND FPP includes language in subrecipient contracts addressing these requirements.

Financial documentation at service sites demonstrates that Title X funds are not used for abortion services.

RESOURCES:

ND DHHS FPP Family Planning Statement of Understanding

<https://www.hhs.nd.gov/sites/www/files/documents/DHS%20Legacy/FAMILYPLANNINGSTATEMENTOFUNDERSTANDING.pdf>

Title X Program Handbook

<https://opa.hhs.gov/sites/default/files/2022-08/title-x-program-handbook-july-2022-508-updated.pdf>

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