



TO: Community Health Centers
Migrant Health Centers
Health Care for the Homeless Programs
Public Housing Primary Care Programs
State and Regional Primary Care Associations

DATE: April 2022

RE: Family Planning Services: Sample Policy and Procedure

Dear Colleagues:

Attached to this letter is an updated sample policy and procedure (P&P), *Family Planning Services: Sample Policy and Procedure*. This version updates and replaces the sample version distributed in August 2019, and has been revised to incorporate recent amendments to the Title X regulations set forth in a [Final Rule](#) published on October 4, 2021 (the “2021 Title X Regulations”).¹

The sample P&P continues to offer general guidance on applicable federal laws and regulations regarding reproductive health services (including the Hyde Amendment). As noted in the attached document:

- health centers that are Title X grantees, subrecipients, or contractors should pay special attention to the “*Key Considerations*” below, and to the Title X-specific text in the sample P&P; and
- health centers that are not Title X grantees, subrecipients, or contractors may disregard the Title X-specific text in the sample P&P.

Key Considerations for Title X Grantees, Subrecipients, and Contractors: If your health center is a Title X grantee, subrecipient, or contractor it is important to note that this sample P&P does not address all Title X requirements, but rather focuses specifically on non-directional options counseling and abortion-related prohibitions. *Accordingly, it is important that Title X grantees, subrecipients, and contractors become familiar with the 2021 Title X regulations, OPA guidance, and the terms of their particular Title X grant, Subrecipient Agreement, and/or Title X contract, as applicable.*

Additional NACHC Resources: NACHC has also published a sample P&P addressing the Legislative Mandates.² The Legislative Mandates specify that certain federal grant funds, including grants received from the Health Resources and Services Administration (“HRSA”),

¹ FTLF published Frequently Asked Questions that address several aspects of the October 2021 Title X regulatory amendments. The FAQs are available on the NACHC website.

² The sample Legislative Mandates P&P is available on the NACHC website at <https://www.nachc.org/wp-content/uploads/2020/10/Legislative-Mandates-Sample-Policy-10.23.20-glc-ftlf-to-Comms.pdf>



cannot be used to support certain specific activities.³ The Legislative Mandates include that federal Department of Health and Human Services grant funds can't be used for any abortion or for health benefits coverage that includes coverage of abortion. These restrictions do not apply to abortions (or health benefits coverage of abortions) that fall within the Hyde Amendment exceptions.

When Preparing your Health Center's P&P: Using the following sample as a guide, health centers should tailor the P&P to reflect their health center's particular structure and operations, as well as any relevant requirements in their state. When revising the sample, please pay particular attention to those footnotes that begin with "*Authors' Note*" as they contain information that is important for tailoring the sample P&P. In addition, be sure to delete footnotes that start with "*Authors' Note*"; such comments are for drafting purposes only.

If you have questions about this sample P&P, please contact Carrie B. Riley at criley@ftlf.com or 202-466-8960.

³ Many of the Legislative Mandates are applicable to federal grants issued by the Departments of Labor, Health and Human Services, and Education, and related agencies.

Family Planning Services: Sample⁴ Policy and Procedure⁵

This policy and procedure must be adapted to align with the laws in your state regarding reproductive health, including abortion. For example, your state may not permit the provision of abortion, even if the case of rape or incest. Health centers should consult with local counsel.

I. Statement of Purpose

[Health Center Name] (“Health Center”) is committed to high standards and compliance with all applicable laws and regulations.⁶

The purpose of the Family Planning Services Policy and Procedure is to provide safeguards to ensure Health Center’s compliance with laws and regulations relating to the provision of reproductive health services affecting health centers that receive federal grant funds under Section 330 of the Public Health Service Act (“Section 330”) through the U.S. Department of Health and Human Services (“HHS”).⁷

Note: If Health Center is a Title X grantee, subrecipient, or contractor, insert “and Title X” so that the above reads: The purpose of the Family Planning Services Policy and Procedure is to provide safeguards to ensure Health Center’s compliance with laws and regulations relating to the provision of women’s reproductive health services affecting health centers that receive federal grant funds under Section 330 and Title X of the Public Health Service Act (“Section 330”) through the U.S. Department of Health and Human Services (“HHS”).

II. Applicable Requirements

⁴ Author’s Note: Using the following sample as a guide, health centers should tailor the sample Policy and Procedure to reflect their health center’s particular structure and operations, as well as any relevant requirements in their state.

⁵ Author’s Note: The authors of these materials include attorneys at the law firm of Feldesman Tucker Leifer Fidell LLP. The sample Policy and Procedure offers general guidance based on federal law and regulations and does not necessarily apply to all health centers under all facts and circumstances. Further, these materials do not replace, and are not a substitute for, legal advice from qualified legal counsel.

⁶ Author’s Note: This sample Policy and Procedure was established in accordance with federal laws, regulations, and guidance effective as of November 2021. Health centers that seek to adapt and adopt this sample Policy and Procedure to align with the health center’s particular operations are advised to seek legal advice from qualified legal counsel to ensure that the Policy and Procedure reflects current requirements, both from a federal and a state level. In addition, if a health center is a recipient of Title X funds, note that its provision of family planning services must also comply with the terms and conditions under the Title X award, subrecipient agreement, and/or contract, as applicable.

⁷ Author’s Note: Look-alike community health centers should modify this sample Policy and Procedure to replace references to the Section 330 grant with references to look-alike designation.

1. Compliance with Section 330

Under Section 330, Health Center is required to provide, either directly or through contracts or formal written referral arrangements, voluntary family planning services.⁸ HRSA defines voluntary family services in the Service Descriptor Guide as the following:

“Voluntary family planning services are appropriate counseling on available reproductive options consistent with Federal, state, local laws and regulations. These services may include management/treatment and procedures for a patient's chosen method (e.g., vasectomy, subdermal contraceptive placement, IUD placement, tubal ligation).”

Note: If Health Center is a Title X grantee, subrecipient, or contractor, insert the following text:

Health Center will also render family planning services in accordance with Title X, which requires that the Title X project offer a broad range of acceptable and effective medically approved family planning methods and services.⁹

Health Center will provide family planning services in a manner that is client-centered, culturally and linguistically appropriate, inclusive, and trauma-informed; protects the dignity of the individual; and ensures equitable and quality service delivery consistent with nationally recognized standards of care.

In addition, Health Center will provide family planning services in a manner that does not discriminate against any client based on religion, race, color, national origin, disability, age, sex, sexual orientation, gender identity, sex characteristics, number of pregnancies, or marital status.

2. Compliance with the Hyde Amendment

In providing family planning services, Health Center will assure compliance with the Hyde Amendment. The Hyde Amendment is a statutory provision included as part of the annual HHS Appropriations legislation, which prohibits health centers from using federal funds to provide abortions (except in cases of rape or incest, or where a woman suffers from a physical disorder, physical injury, or physical illness, including a life endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed).

⁸ Authors' Note: If a health center renders voluntary family planning services via a contractual or formal written referral relationship, the health center may opt to describe such arrangements in the body of the Policy and Procedure.

⁹ The mandated Title X services are described in the Title X regulations at 42 C.F.R. § 59.15(a)(1).



The Hyde Amendment prohibits the performance of abortion procedures, as well as the administration of drugs and devices that are used for “medication” abortions that terminate a pregnancy, unless the abortion procedure or medication abortion fits within one of the explicit Hyde Amendment exceptions. The Hyde Amendment does not prohibit the use of drugs or devices to prevent implantation of a fertilized ovum. The Hyde Amendment also does not prohibit the use of drugs or devices to treat clients who have had a miscarriage.

3. Compliance with Prohibition on Coercion

In providing family planning services, Health Center will assure compliance with statutory requirements, as set forth in 42 U.S.C. §300a-8, which prohibits all Health Center employed and contracted staff from coercing or endeavoring to coerce any person to undergo an abortion by threatening such person with the loss of, or disqualification for the receipt of, any benefit or other health center services.

4. Conscience Protections

Health Center will implement this Policy and Procedure in a manner that complies with applicable statutes and regulations that provide protections in health care for individuals and entities on the basis of religious beliefs or moral convictions, including but not limited to the conscience protections related to abortion, sterilization, and certain other health services applicable to the Department of Health and Human Services and recipients of certain Federal funds encompassed by 42 U.S.C. 300a-7 (the “Church Amendments”).

Note: If Health Center is a Title X grantee, subrecipient, or contractor, insert the following Section 5:

5. Compliance with Title X Program Requirements

Health Center will assure that its Title X project activities are conducted in a manner consistent with Title X requirements, as set forth in statute, regulations (i.e., 42 C.F.R. Part 59), and guidance issued by the Office of Population Affairs, including but not limited to the resource entitled *Providing Quality Family Planning Services: Recommendations from Centers for Disease Control and Prevention and the US Office of Population Affairs (QFP)*.

III. Procedure¹⁰

1. Training

[Health Center staff]¹¹ will receive training regarding this Policy and Procedure, including the prohibition on providing abortions within the Section 330-supported health center program (unless such abortion fits within a Hyde Amendment exception) and coercing or endeavoring to coerce any person to undergo an abortion.

Note: If Health Center is a Title X grantee, subrecipient, or contractor, modify the prior sentence to the following: Health Center staff¹² will receive training regarding this Policy and Procedure, including the prohibition on providing abortions within the Title X project or the Section 330 health center project (unless such abortion fits within a Hyde Amendment exception), and coercing or endeavoring to coerce any person to undergo an abortion. In addition, all staff supporting Health Center's Title X project will receive training that addresses requirements specific to Title X.

Health Center will maintain records indicating the completion of such training in the applicable personnel files.

2. Contraceptive Methods¹³

Health Center will, upon request, provide patients with information regarding the management/treatment, as appropriate, for a patient's chosen family planning method. Such management/treatment information may address vasectomy, tubal ligation, and placement of long-acting reversible contraception (e.g., IUDs and implants).

¹⁰ Author's Note: The procedural requirements included in this Policy and Procedure are applicable only if Health Center furnishes family planning services either directly or by contract. Some or all of the procedural requirements may not be applicable if a Health Center furnishes family planning services exclusively by referral.

¹¹ Author's Note: These training requirements may not be applicable to all health center staff. Accordingly, a health center may wish to modify the description of the staff members who must comply with this Policy and Procedure. For example, a health center may wish to modify the phrase "All Health Center staff" to state "All Health Center employees and contractors who provide clinical services and non-clinical support services"

¹² Author's Note: All staff who support the Title X project should receive training specific to the Title X requirements.

¹³ Author's Note: If a health center provides voluntary family planning services directly or by contract, then it may wish to include this Section 2: Contraceptive Methods, which aligns with the [HRSA Technical Assistance Resource: Family Planning and Related Services in Health Centers](#), June 14, 2016.

3. Pregnancy Options Counseling¹⁴

If a woman is identified as pregnant, Health Center staff shall offer the woman 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, Health Center Staff will provide neutral, factual information and nondirective counseling on each of the options, and referral upon request, except with respect to any option(s) about which the pregnant woman indicates that she does not wish to receive such information and counseling.

While Health Center staff may provide a referral for abortion, which may include providing a patient with the name, address, telephone number, and other relevant factual information (such as whether the provider accepts Medicaid, charges, etc.) about an abortion provider, the Health Center staff may not take further affirmative action (such as negotiating a fee reduction, making an appointment, providing transportation) to secure abortion services for the patient.¹⁵

4. Prohibition on Coercion

Health Center staff are strictly prohibited from coercing or endeavoring to coerce any person to undergo an abortion by threatening such person with the loss of, or disqualification for the receipt of, any benefit or other health center services.

5. Provision of Abortions that Comply with the Hyde Amendment

Note: There are two options for this section. Each health center should select the option that aligns most closely with its operations and modify as necessary/appropriate.

Option #1: If Health Center does not provide abortions under any circumstance, regardless of whether the abortion falls within a Hyde Amendment exception, insert the following language:

¹⁴ Author's Note: The Health Center Program statute, regulations, and HRSA guidance do not specifically address requirements regarding options counseling and referrals for pregnant women. Accordingly, this sample Policy and Procedure is drafted in a manner that aligns with the Title X requirements.

¹⁵ Author's Note: Note that the text in this paragraph regarding abortion referrals aligns with Title X program policy, as set forth in 65 FR at 41281 (July 3, 2000). A health center that does not receive Title X funds is not obligated to incorporate this text within their Policy and Procedure. In addition, a health center that receives Title X funds may opt to modify this paragraph to set forth that the restrictions exclusively apply to the Health Center's Title X activities.



Health Center will not provide abortions under any situation, regardless of whether the abortion fits within a Hyde Amendment exception, as described in Section II(2).

Option #2: If Health Center reserves the authority to furnish abortions within its health center project if the abortion fits within a Hyde Amendment exception, insert the following language:

Health Center may provide abortions within Health Center's Section 330-supported health center project only if the abortion fits within a Hyde Amendment exception, as described below and in Section II(2). Health Center will maintain adequate documentation and certifications verifying that a Hyde Amendment exception has been satisfied.

Specifically, if Health Center provides an abortion in the event that the woman is a victim of rape or incest, Health Center will secure and maintain documentation from a law enforcement agency or public health service stating:

- that the person upon whom the medical procedure was performed was reported to have been the victim of an incident of rape or incest;
- the date on which the incident occurred;
- the date on which the report was made, which must have been within 60 days of the date on which the incident occurred;
- the name and address of the victim and the name and address of the person making the report (if different from the victim); and
- that the report included the signature of the person who reported the incident.

In addition, if Health Center provides an abortion within Health Center's Section 330-supported health center project in cases where a woman suffers from a physical disorder, physical injury, or physical illness, including a life endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed, Health Center will secure and maintain a written certification from a physician who has found that, on the basis of his or her professional judgment, the life of the mother would be endangered if the fetus were carried to term. The certification must contain the name and address of the patient.

Note: If the Health Center provides abortions that are prohibited under the Hyde Amendment outside of the HRSA-approved health center project as an "other line of business," then modify the above accordingly and insert the below.

If Health Center furnishes abortion services that are prohibited under the Hyde Amendment, it will do so exclusively outside of its Section 330-supported program (or outside of its "scope of



project”), and accordingly Health Center will not use Section 330 grant funds or program income to pay for such out-of-scope abortion services or associated overhead costs. Health Center will ensure that the revenue from such out-of-scope activities are segregated from the Section 330-supported program and the out-of-scope direct and indirect costs are appropriately allocated consistent with applicable grants management rules, set forth in 45 C.F.R. Part 75.

Note: If Health Center is a Title X grantee, subrecipient, or contractor, insert the following Section 6:

6. Minors and Confidentiality

To the extent practical, Health Center’s Title X activities shall encourage family participation. However, Health Center’s Title X staff are prohibited from requiring the consent of parents or guardians for the provision of family planning services to minors. In addition, Health Center’s Title X staff are prohibited from notifying a parent or guardian before or after a minor has requested and/or received Title X family planning services.]



EXHIBIT A

CERTIFICATION OF COMPLIANCE WITH THE FAMILY PLANNING SERVICES POLICY AND PROCEDURE

I hereby acknowledge and certify that I have received and reviewed a copy of the Health Center Family Planning Services Policy and Procedure and I understand that it represents a mandatory policy of Health Center.

By signing this form below, I agree to abide by the Family Planning Services Policy and Procedure during the term of employment, contract, or agency or while otherwise authorized to serve on Health Center's behalf.

Please return this completed, signed Certification of Commitment to the [INSERT APPLICABLE STAFF (E.G., COMPLIANCE OFFICER OR CEO)].

Date

Signature

Printed Name

Title/Position