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The Biden-Harris Administration's First Action on Reproductive Health Care Is A Win, But They Must Do So Much More to Expand Access to Abortion and Birth Control.

On January 28, 2021, President Biden took his first official action to start addressing the dire gaps we face in access to reproductive health care. He issued a Presidential Memorandum (PM) on “Protecting Women’s Health at Home and Abroad” reversing select dangerous policies put into place by the Trump Administration, in recognition of the extraordinary harm done to sexual and reproductive rights, health, and justice in the last four years.

But while the PM was an important first action, it is not enough. The Biden-Harris Administration needs to move quickly to address other harmful Trump policies restricting access to reproductive health care. And the Biden-Harris Administration needs to go beyond just undoing the harm of the last four years; they need to move us forward. Fortunately, the January 28 PM and an Executive Order issued the same day on “Strengthening Medicaid and the Affordable Care Act” lay the groundwork for those critical action items.

The Presidential Memorandum of January 28, 2021

President Biden’s PM rescinded the devastating global gag rule, which bars foreign non-profits from receiving any U.S. global health assistance if they provide information, referrals, or services for legal abortion or advocate for the legalization of abortion in their country, even if these activities were supported solely with non-U.S. funds. The global gag rule has blocked health care access, stifled local advocacy efforts, and undermined reproductive rights worldwide. The PM also takes the important first action of ordering the Secretary of Health and Human Services to consider rescission of the harmful domestic gag rule. The domestic gag rule prevents Title X family planning grant recipients from providing nondirective options counseling to pregnant patients, referring to abortion providers, and allows Title X projects to refuse to provide the broad range of contraceptive methods. These are critical to ensuring that patients are no longer blocked by these rules from getting the care and information they need when they seek family planning care.

While undoing the domestic and global gag rules are important wins, these actions are not sufficient to truly address the fact that across large swaths of the country, people are unable to access essential reproductive health care, jeopardizing their health, economic security, futures, and lives. Below are additional actions the Biden-Harris Administration must take over the coming weeks to protect and expand access to reproductive health care, especially abortion.

Additional immediate actions needed to undo the harm of the Trump Administration:

❖ Suspend In-Person Dispensing Requirements for Medication Abortion During the Pandemic

The Biden Administration must issue guidance [to suspend in-person dispensing requirements for medication abortion](#) for the duration of the public health emergency. Requiring people to make an unnecessary trip to a health center during a pandemic puts their health at serious risk. Yet despite the risk, and despite the fact that all major medical groups, including the AMA and ACOG, support lifting the

requirement, the Supreme Court allowed the Trump Administration to reinstate the FDA's requirement for medication abortion to be dispensed in-person only. The Biden Administration must act quickly to stop enforcement. The FDA should also initiate a full review of the restrictions placed on medication abortion to ensure patient access is based on the latest science and medical evidence.

❖ **Rescind the Trump Administration Refusal of Care Rule**

The Trump Administration finalized a rule that gives sweeping new rights to virtually any individual or entity involved in patient care to refuse to help people seeking health care. The [refusal of care rule](#) targets patients seeking reproductive health care, particularly abortion and sterilization, and LGBTQ+ patients. The Biden Administration must act quickly to ensure health care entities do not use personal beliefs to deny patients care.

❖ **Protect the Affordable Care Act's Birth Control Benefit**

The Trump Administration [finalized two rules](#) allowing virtually any employer or university to exempt themselves from the Affordable Care Act's requirement that insurance plans cover birth control without out-of-pocket costs. Currently, [64.3 million women](#) have birth control coverage thanks to the ACA's birth control requirement, helping women to obtain the method that is right for them, prevent unintended pregnancy, manage health conditions, and save money. But that coverage is threatened by the exemptions created by the Trump Administration. The Biden Administration must act quickly to rescind the Trump Administration's rules and ensure everyone has access to birth control coverage, no matter where they work or go to school.

❖ **Rescind the Trump's Administration Rule Intended to Eliminate Private Insurance Coverage of Abortion**

The Trump Administration [finalized a rule](#) placing onerous and arbitrary requirements on insurance companies that offer plans with abortion coverage on the ACA marketplaces. This rule is intended to make it so burdensome for insurance companies to offer abortion coverage that they drop abortion coverage from their plans, ultimately eliminating abortion coverage from the ACA marketplaces altogether. The Biden Administration must rescind this harmful rule.

❖ **Undo the Trump administration's Rollback of Critical Health Care Non-Discrimination Protections**

The Trump Administration finalized a rule that rolled back critical protections against discrimination in health care, leaving patients more vulnerable to discrimination, more likely to be confused about their rights, and less likely to seek out care. The [rule puts people's lives in danger](#) and is especially harmful to those living at the intersection of impacted communities. The rule specifically targets abortion care by imposing religious and abortion exemptions and further stigmatizes the care. The Biden Administration must rescind this rule and restore and strengthen health care non-discrimination protections. No one should face discrimination in health care.

Additional immediate actions needed to move us forward:

❖ **Strike the Hyde and Weldon Amendments from the President's Budget**

The President's budget must eliminate the Hyde and Weldon amendments. These dangerous policy riders are included in the annual appropriations process and are intended to erect barriers to abortion care for Black, Indigenous, and other communities of color, LGBTQ+ people, as well as people with low-incomes. The [Hyde amendment](#) denies abortion coverage to individuals enrolled in Medicaid. The [Weldon amendment](#) threatens policymakers with the loss of critical federal dollars if they seek to protect their residents' access to abortion. The Trump Administration attempted to dramatically expand the reach of the Weldon Amendment to punish states that ensure abortion coverage and to allow health care providers to deny patients abortion care. We are encouraged that President Biden included a general policy position in the Jan. 28 PM that "[u]ndue restrictions on the use of Federal funds have made it harder for women to obtain necessary healthcare," as this lays the groundwork for undoing restrictions like Hyde and Weldon. It is beyond time for these injustices to be righted and these policies to go.

❖ **Create an Interagency Task Force or High Level Office on Reproductive Health Care**

There is a reproductive health care crisis in this country, which is compounded by the COVID-19 crisis and underlying systemic racism. The crisis was undeniably worsened by the Trump Administration, but the cause of the crisis goes deeper and cannot be solved by a single agency or by merely reversing the harms of the Trump Administration. The Biden-Harris Administration should establish a White House Interagency Task Force on Reproductive Health Care – or a similar high level office – to develop a coordinated federal response to the crisis, with a particular focus on communities who are most impacted.

Not only are these actions necessary to help ensure that people have the right – and ability – to access reproductive health care, but they are what voters want from the President. In an election eve poll conducted on behalf of the National Women's Law Center, over half of voters overall agree – and 73% of those who voted for Biden strongly agree – that the next President and Congress should create better policies to protect and expand access to reproductive health care, including abortion. The President must immediately take concrete and meaningful actions to fulfill that mandate.