



Marking the 50th Anniversary of Roe:
Biden-Harris Administration Efforts to Protect

Reproductive Health Care

A REPORT BY THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

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On June 24, 2022, the Supreme Court of the United States overturned *Roe v. Wade* and eliminated a woman's right to make decisions about her own health care. As of today, more than a dozen states have abortion bans in place. These restrictions have impacted the health and wellbeing of millions of women and allowed for government interference in deeply personal medical decisions.

HHS Actions Since *Dobbs*

In the face of this health crisis, the Department of Health and Human Services (HHS) continues to take the actions possible to defend reproductive rights and support access to the full spectrum of reproductive care, including abortion and contraception. In response to President Biden's Executive Order 14076, HHS issued an Action Plan to Protect and Strengthen Reproductive Care that outlined the Department's approach. HHS Secretary Becerra co-chairs the White House Interagency Task Force on Reproductive Healthcare Access, which was established by President Biden in Executive Order 14076 and coordinates efforts across the Federal government to protect access to reproductive healthcare services. Separately, Secretary Becerra established and leads HHS's Task Force on Reproductive Healthcare Access, which is composed of senior-level HHS officials and regularly meets to coordinate policymaking, program development, and outreach efforts across the Department.

Our strategy has focused on:

- 1. Protecting Access to Abortion Services**
- 2. Safeguarding Access to Birth Control**
- 3. Protecting Patient Privacy**
- 4. Promoting Access to Accurate Information**
- 5. Ensuring Non-discrimination in Healthcare Delivery**
- 6. Evidence-Based Decision Making at FDA**

We continue to activate all divisions of the Department in service to our commitment to ensuring women across the country are able to access the care they need. Secretary Becerra and senior officials at HHS continue to travel the country, meeting with Americans in their communities, listening to their stories, and making sure they know their rights.

Below is a summary of actions HHS has taken since the *Dobbs* decision, using the authorities available to the Department, to protect access to reproductive rights, including abortion and contraception.

1. Protecting Access to Abortion Services

- **Protecting Emergency Medical Care:** HHS [issued guidance](#) and a [letter from Secretary Becerra](#) to reaffirm that the Emergency Medical Treatment and Labor Act (EMTALA) protects providers in Medicare-participating emergency departments when offering legally mandated, life- or health-saving abortion services as stabilizing care for emergency medical conditions.¹
- **Encouraging States to Pursue Medicaid Waivers:** Secretary Becerra and CMS Administrator Chiquita Brooks-LaSure [issued a letter](#) to U.S. governors inviting them to apply for Medicaid section 1115 demonstration projects to provide increased access to reproductive health care for women.

2. Protecting Access to Birth Control

- **Clarifying Protections for Women with Private Health Insurance.** Under the Affordable Care Act (ACA), most private health plans are required to provide birth control and family planning counseling with no out-of-pocket costs. With the Departments of the Treasury and Labor, [HHS convened a meeting with health insurers and employee benefit plans and sent them a letter](#), calling on the industry to commit to meeting their obligations to cover contraceptive coverage as required under the ACA. Later, in response to this conversation, [HHS issued guidance to clarify protections for birth control coverage under the ACA](#).
- **Ensuring Access to Family Planning Services at Health Centers:** In December 2022, the Health Resources and Services Administration (HRSA) provided [updated technical assistance](#) to HRSA-funded community health centers to reiterate the statutory and regulatory requirements for these providers to provide family planning services to their patients. The technical assistance included evidence-based recommendations and resources to support health centers in providing these services.
- **Supporting Quality Family Planning Services:** HHS awarded more than \$106 million to support reproductive health services and adolescent health that includes:
 - \$7.75 million, with [nearly \\$3 million](#) in new funding, to provide training and technical assistance for staff working in the nationwide network of [Title X family planning services](#) projects and Teen Pregnancy Prevention grantees through the

¹ In *Texas v. Becerra*, the court ordered the following preliminary relief with regards to the Centers for Medicare & Medicaid Services's July 11, 2022 Guidance, entitled "Reinforcement of EMTALA Obligations specific to Patients who are Pregnant or are Experiencing Pregnancy Loss (QSO-21-22-Hospitals-UPDATED JULY 2022)," and Secretary Becerra's accompanying July 11, 2022, Letter: (1) The defendants may not enforce the Guidance and Letter's interpretation that Texas abortion laws are preempted by EMTALA; and (2) The defendants may not enforce the Guidance and Letter's interpretation of EMTALA—both as to when an abortion is required and EMTALA's effect on state laws governing abortion—within the State of Texas or against AAPLOG's members and CMDA's members.

[Reproductive Health National Training Center](#) and the [National Clinical Training Center for Family Planning](#); and

- [\\$6.2 million](#) in Title X Family Planning Research grants, Research to Practice Center grants, and Teenage Pregnancy Prevention Evaluation and Research grants as part of HHS' work to protect and expand access to reproductive healthcare.

3. Protecting Medical Privacy

- **Protecting Medical Privacy:** HHS [issued guidance](#) that addresses how federal law and regulations protect individuals' private medical information (known as protected health information or PHI) relating to abortion and other sexual and reproductive health care – making it clear that providers are not required to disclose private medical information to third parties.
- **Empowering Patients to Protect Their Medical Information on Smart Phones and Apps:** HHS [issued guidance](#) that addresses the extent to which private medical information is protected on personal smart phones and tablets, and provides tips for protecting individuals' privacy when using period trackers and other health information apps.
- **Clarifying the Use of Online Tracking Technologies:** HHS [issued guidance](#) on how federal law and regulations apply to online tracking technologies that are used to collect and analyze user information on various websites and smartphone apps. Some regulated entities regularly share electronic protected health information (ePHI) with online tracking technology vendors and some may be doing so in a manner that violates the HIPAA Rules. The Bulletin explains what tracking technologies are, how they are used, and what steps regulated entities must take to protect ePHI when using tracking technologies.

4. Ensuring Access to Accurate Information

- **Providing Accurate Information on Health and Rights for Patients and Providers:** HHS [launched the ReproductiveRights.gov](#) public awareness website, which includes accurate information about reproductive health, including a Know-Your-Rights patient factsheet to help patients and providers.
- **Hearing Directly from Communities Across the Country:**
 - In response to Executive Order 14079 HHS has held national convenings in-person and remotely with providers, patient advocates, provider associations and other stakeholders to inform patients of their rights and providers of their obligations under Federal non-discrimination laws and potential consequences of non-compliance as well as listening sessions with patients, providers, and others regarding reproductive health. Discussions have centered around concerns regarding information providers can and cannot share with their

patients; to what extent federally funded sites can provide reproductive health care; and general concerns about inaccurate information.

- Secretary Becerra and other senior leaders have continuously engaged local and state officials on the frontlines of these efforts, regularly communicating with governors, state Attorneys General, and state Medicaid directors on what they're seeing in their states and how HHS can support them and their residents in protecting and expanding access to reproductive health care.

5. Ensuring Nondiscrimination in Healthcare Delivery

● **Protecting Patients and Providers from Discrimination**

- HHS [issued a proposed rule](#) that would strengthen the regulations interpreting the nondiscrimination provision of the ACA and would reinforce that discrimination on the basis of sex includes discrimination on the basis of pregnancy or related conditions.
- After hearing concerns that individuals were experiencing delays and denials of lawfully prescribed medications, HHS [issued guidance](#) to roughly 60,000 U.S. retail pharmacies, clarifying their obligations under federal civil rights laws to not discriminate on the basis of sex or disability. These civil rights requirements prohibit discrimination in supplying medications; making determinations regarding the suitability of a prescribed medication for a patient; and advising patients about medications to ensure these actions are done in manner that does not discriminate against patients.

6. Evidence-Based Decision Making at FDA

- **Emergency Contraceptive Labeling:** In December 2022, the FDA approved changes to the labeling for Plan B One Step, a type of emergency contraception, after FDA scientists carefully reviewed the available data and evidence. FDA determined the current science supports a conclusion that Plan B One-Step works by inhibiting or delaying ovulation and the midcycle hormonal changes. The evidence also supports the conclusion that there is no direct effect on fertilization or implantation. Accordingly, FDA approved labeling changes that remove descriptions of fertilization and implantation from the discussion of Plan B One Step's mechanism of action. These updates were made in response to the drug manufacturer's request for updates to the labeling to make it more accurate and to reduce consumer confusion. These labeling changes help ensure that providers, pharmacists, and consumers understand how Plan B One Step works and enables women to make the decision that's right for them.
- **Mifepristone for Medical Termination of Early Pregnancy:** Mifepristone has been approved by the FDA as safe and effective for over 20 years for medical termination of early pregnancy. Medication abortion accounts for the majority of early abortions in the United States. Based on a comprehensive review of the

Mifepristone Risk Evaluation and Mitigation Strategy (REMS) Program, in January 2023 the FDA approved modifications to the REMS so that Mifepristone is no longer required to be dispensed in-person. In addition, the FDA eliminated the previous REMS requirement that did not allow the drug to be dispensed by retail pharmacies; under the REMS, any pharmacy that meets the requirements, and is certified, may dispense mifepristone based on a prescription from a certified prescriber.