



July 24, 2009

**OPPOSE PENCE AMENDMENT TO THE LABOR-HHS-
EDUCATION APPROPRIATIONS BILL (HR 3293) WHICH WOULD
DENY PLANNED PARENTHOOD TITLE X FUNDS**

Dear Representative:

On behalf of the American Civil Liberties Union (ACLU), a nonpartisan public interest organization dedicated to protecting the constitutional rights of individuals, and its hundreds of thousands of members, activists, and 53 affiliates nationwide, we urge you to vote against Representative Pence's Amendment to the FY2010 Labor-Health and Human Services-Education Appropriations Bill (HR 3293), that would prohibit the disbursement of Title X family planning funds to Planned Parenthood Federation of America.

Representative Pence's amendment would undermine women's access to basic health care services and would disproportionately impact low-income women and women of color. Moreover, the amendment is constitutionally suspect. In these grave fiscal times, when women and their families face significant challenges and pressures, Congress shouldn't magnify these burdens by impeding or eliminating access to needed health care services. Planned Parenthood is a critical and effective safety-net provider whose reach should be expanded not limited. The amendment should be defeated.

- **The Pence amendment endangers access to safe, reliable family planning and reproductive health care and would disproportionately impact low-income women and women of color**

Enacted more than thirty-five years ago with broad bipartisan support, Title X is the only federal program devoted solely to providing family planning services nationwide. One of Title X's greatest achievements has been the establishment of uniform, high-quality standards of care among family planning providers. These standards have been central to making Title X facilities *the* stable, trusted, ongoing health care providers in many communities. Title X grantees, like Planned Parenthood, are among the most experienced providers of *comprehensive* reproductive health care in their communities. They provide comprehensive family planning services, including counseling, contraceptives, education, and preventive health screenings to women and men who would otherwise be unable to afford these basic healthcare services.

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Planned Parenthood is an integral piece of our health care delivery system. For more than 90 years, it has provided low-income, uninsured, and underinsured women and families with vital reproductive health care services. It serves more than 4 million women and members of their families in 49 states across the country. In some states, Planned Parenthood is the only Title X provider. With Title X funding, Planned Parenthood provides women with a range of services that include detecting breast and cervical cancers, preventing unintended pregnancies, treating and preventing sexually transmitted infections, testing for high blood pressure, and counseling about their options including adoption, foster care and pregnancy terminations.

Defunding Planned Parenthood jeopardizes women's health. Moreover, the burden of this lost funding would fall most heavily on the most vulnerable populations. The vast majority of clients at Title X-supported clinics are poor or low-income women, most of whom have no other access to health care. Indeed, the Title X program plays a central role in reducing disparities by race and income in accessing family planning services.¹ For example, African-American and Latina women comprise a disproportionately high percentage of Title X clients relative to their representation in the general population.² The loss of Title X clinics like Planned Parenthood would create an inexcusable gap in access for these communities.

- **The Pence Amendment undermines the shared public health goal of reducing unintended pregnancies**

The preservation of Planned Parenthood's funding is central to achieving the public health goal of reducing unintended pregnancies. Each year, Title X providers like Planned Parenthood help women to avoid an estimated 1.3 million pregnancies.³ In the last two decades, Title X providers have helped prevent an estimated 20 million unintended pregnancies, including 5.5 million adolescent pregnancies.⁴

Moreover, Title X programs save taxpayers money on health care costs. Every public dollar spent for contraceptive services saves an average of three dollars in Medicaid costs for pregnancy related health care and medical care for newborns.⁵

¹ William D. Mosher et al., *Use of Contraception and Use of Family Planning Services in the United States: 1982-2002*, Advance Data From Vital and Health Statistics (Dec. 10, 2004), at <http://www.cdc.gov/nchs/data/ad/ad350.pdf>

² African American women comprise 13.3% of the general population, but 20% of the clients at Title X-supported clinics; Latina women comprise 13.7% of the general population, but 23% of Title X clients. *Title X: The National Family Planning Program - Essential Health Care for Uninsured and Low Income Women of Color*, National Family Planning and Reproductive Health Association (July 2005).

³ *Abortion in Women's Lives* (Guttmacher Institute 2006), at 33.

⁴ Adam Sonfield, *Preventing Unintended Pregnancy: The Need and the Means*, Guttmacher Report on Public Policy (Dec. 2003), at 10.

⁵ Sonfield, at 10.

- **The Pence amendment raises potential constitutional concerns**

In addition to jeopardizing the trusted source of reproductive health services for millions of women and men, the Pence amendment presents potential constitutional concerns. There can be little doubt that the Pence amendment targets Planned Parenthood simply because Planned Parenthood provides women with abortion care. The amendment does this despite the fact that Planned Parenthood *does not use a single federal dollar* for abortion care and despite the fact that Planned Parenthood is already required by federal regulations to demonstrate that any abortion-related activities are separate and distinct from its activities that are funded by federal dollars.⁶

The Pence Amendment thus essentially penalizes Planned Parenthood for its use of non-federal dollars. In doing so, it targets the exercise of a woman's legally protected right to an abortion, *regardless* of how that abortion is funded. Yet current law is clear that although Congress may condition receipt of federal funds and restrict the uses for those funds, it may not do so in a way that bans the use of *non-federal* funds to exercise a constitutionally protected right.

In *Rust v. Sullivan*, 500 U.S. 173 (1991), for example, the Supreme Court held that although Congress could prohibit the use of Title X funds for abortion-related activity, it would be unconstitutional to bar a *recipient* of Title X funds, like Planned Parenthood, from engaging in abortion-related activity *in other projects* financed wholly by non-Title X funds and administered through a legally separate affiliate. The Pence Amendment raises constitutional questions because it bars Planned Parenthood from receiving federal money because of what it chooses to do with its non-federal money to assist women in exercising their constitutional right to abortion.

For all these reasons, we urge you to oppose the Pence amendment to defund Planned Parenthood. Should you have additional questions, please contact Vania Leveille at 202.715.0806 or vleveille@dcaclu.org.

Sincerely,



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Vania Leveille
Legislative Counsel

⁶ 65 Fed. Reg. 41276 (July 3, 2000).