

## REPORT TO THE PRESIDENT AND VICE PRESIDENT

TO: The President's Task Force on Reproductive Healthcare Access

FROM: Jennifer Klein, Director, Gender Policy Council

DATE: October 4, 2022

SUBJECT: The State of Reproductive Health Access: 100 Days from the Supreme Court's Decision in *Dobbs*

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October 2 marked 100 days since the Supreme Court issued a decision in *Dobbs v. Jackson Women's Health Organization*, overturning *Roe v. Wade* and eliminating the constitutional right to abortion.

As the President has repeatedly said, the only way to fully protect women's access to the full spectrum of reproductive health care, including abortion, is for Congress to pass a law codifying the protections of *Roe v. Wade*. Republicans in Congress have blocked that – and Republican elected officials at the state and national level have taken extreme steps to block women's access to health care. Senator Lindsey Graham and Congressional Republicans introduced a national abortion ban that threatens to put doctors in jail for performing an abortion to save the health of their patients, for offering a full range of miscarriage care, or for providing an abortion to a woman carrying a fetus with little to no chance of survival.

The result is that in 100 days, millions of women cannot access critical health care and doctors and nurses are facing criminal penalties for providing health care.

### **Post-Dobbs Availability of Women's Health Care**

October 2 marked 100 days since the Supreme Court issued a decision in *Dobbs v. Jackson Women's Health Organization*, overturning *Roe v. Wade* and eliminating the constitutional right to abortion. Since then:

- Abortion bans have gone into effect in more than a dozen states, most of which ban abortion from the moment of fertilization and do not provide exceptions for rape or incest.
- Close to 30 million women of reproductive age now live in a state with a ban—including nearly 22 million women who cannot access abortion care after six weeks, before most women know they are pregnant.
- Extreme abortion bans are having consequences that extend beyond abortion, including reports of women being denied access to necessary prescriptions and contraception at pharmacies and on college campuses.

These abortion bans have had immediate and dangerous consequences, including:

- Putting women's lives and health at risk, including women experiencing miscarriages who have been turned away from emergency rooms;
- Forcing survivors of rape and incest to carry their pregnancies to term;
- Threatening to put physicians in jail—including, in some states, life imprisonment—for fulfilling their duty of care;
- Delaying and even denying access to medication unrelated to reproductive health care, such as methotrexate, which is prescribed for conditions including arthritis and other autoimmune diseases, and cancer; and
- Threatening to deny women access to contraception.

### **Administration Response**

Today, at the Task Force meeting, the Administration will announce two new actions to protect access to reproductive health care:

- The Department of Education is releasing guidance for universities reiterating Title IX's requirement that institutions protect their students from discrimination on the basis of pregnancy, including pregnancy termination.

- The Department of Health and Human Services (HHS) is announcing more than \$6 million in new Title X grants and other grants to protect and expand access to reproductive health care and improve service delivery, promote the adoption of healthy behaviors, and reduce existing health disparities. The Administration reiterated its ongoing support for the Title X family planning program, which is essential to preserving access to affordable, quality family planning services and other preventive health care, including contraception. The President requested \$400 million in Title X funding for FY23 and will continue strong support for the program in the future.

Today's announcements build on the Administration's ongoing response to the *Dobbs* decision, which includes:

- **Presidential Executive Orders** directed at safeguarding access to abortion and contraception; ensuring everyone has access to health care free from discrimination; defending the right to travel across state lines for medical care; protecting the physical safety of clinics, providers, and patients; and protecting patient privacy and access to accurate information.
- **Protecting access to emergency medical care**, including access to abortion when that is the stabilizing treatment for a patient presenting with an emergency medical condition. HHS issued guidance and a letter to providers affirming requirements under the Emergency Medical Treatment and Labor Act (EMTALA) to provide stabilizing medical treatment, including abortion care, in such emergency situations. The Department of Justice (DOJ) is defending this guidance in litigation in Texas and has filed a lawsuit in Idaho, which has led to a preliminary injunction blocking the enforcement of Idaho's abortion ban as applied to medical care required by EMTALA.
- **Supporting patients traveling out of state for medical care**, including through HHS' work with states through Medicaid and the Administration's efforts to convene pro bono lawyers able to defend reproductive rights, including the right to travel.
- **Protecting patient privacy**, including guidance from HHS reiterating patient privacy protections under the Health Insurance Portability and Accountability Act and the Federal Trade Commission's commitment

to fully enforce the law against the illegal use and sharing of highly sensitive data, including location and health information.

- **Providing Access to Accurate Information and Legal Resources**, including through [ReproductiveRights.gov](https://www.ReproductiveRights.gov), which HHS launched to help people access reproductive health care, including birth control, abortion services, other preventive health services, and health insurance coverage. DOJ also launched [justice.gov/reproductive-rights](https://www.justice.gov/reproductive-rights), to provide a centralized online resource of the Department's work to protect access to reproductive healthcare services.