Global Gag Rule Expansion: What Funders Should Know

17 April 2019
Logistics

• **Please help us by ensuring your computers and/or phones are muted**
• The webinar will be recorded and made available to members of the co-sponsoring organizations
• There will be a moderated Q&A at the end of the presentations. We will not be taking questions “live” over the phone line. Instead, if you have a question in the interim, please:
  • Type it in the **chat feature** on your screen; OR
  • **Email** them to sarah@fcaaids.org
• Slides and additional resources will also be made available.
Agenda

• Introductions
• Overview of the Global Gag Rule (GGR)
• The latest GGR expansion and implications
• Funder recommendations
• Next steps and actions
Speakers

Jonathan Rucks, Senior Director of Policy and Advocacy (PAI)

Brian Honermann, Deputy Director of Public Policy (amfAR)

Beirne Roose-Snyder, Director of Public Policy (CHANGE)
Policy Overview and Expansion
On January 23, 2017, in one of his first actions as President, Donald Trump reinstated and expanded the Global Gag Rule—a policy that forces foreign NGOs to choose between receiving U.S. global health assistance and providing comprehensive sexual and reproductive health care.

Providers must agree not to provide information, referrals or services for abortion “as a method of family planning” or to advocate for the legalization of abortion in their country with their own non-U.S. government funds.
Abortion as a Method of Family Planning (U.S. definition)

“Abortion is a method of family planning when it is for the purpose of spacing births. This includes, but is not limited to, abortions performed for the physical or mental health of the mother and abortions performed for fetal abnormalities, but does not include abortions performed if the life of the mother would be endangered if the fetus were carried to term or abortions performed following rape or incest.”
Expansion to All U.S. Global Health Assistance

- HIV/AIDS
- Tuberculosis
- Malaria
- Maternal and child health
- Nutrition
- Water, sanitation and hygiene
- Pandemic influenza and other emerging threats
- Neglected tropical diseases, other infectious and noncommunicable diseases, health system strengthening, other public health threats

Family Planning and Reproductive Health

$575 million impacted to $8.8 billion

15X more funding affected
Who Does the Policy Apply to?

Non-U.S. based (foreign) nongovernmental organizations.

The policy is likely unconstitutional as applied to U.S.-based groups.

U.S.-based groups must pass the policy down to foreign subgrantees receiving U.S. global health assistance.
**How does the Policy work?**

<table>
<thead>
<tr>
<th>Standard Provisions</th>
<th>Non-U.S. groups are asked to certify that:</th>
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<tbody>
<tr>
<td>• Inserted into all agreements and flowed down in agreements with subgrantees</td>
<td>• They do not provide abortion as a method of family planning</td>
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<tr>
<td>• Limit what NGOs can do with private/non-U.S. funds, including from other donors</td>
<td>• They do not counsel or refer for abortion as a method of family planning</td>
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<tr>
<td>• Added as NGOs receive new agreements/funding disbursements</td>
<td>• They do not advocate for changes in laws relating to abortion as a method of family planning</td>
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In March 2019, Secretary of State Pompeo announced a new interpretation of language included in the standard provisions implementing the Global Gag Rule.

Under the new interpretation of the “financial support” provision, a foreign NGO that agrees to comply with the policy as either a direct recipient of U.S. global health assistance or as a subrecipient of U.S. global health assistance is prohibited from providing any financial support to any other foreign NGO that conducts activities prohibited under the policy.
Financial Support Interpretation

**Before**
- U.S. Global Health Assistance
  - Foreign NGO Prime or Subgrantee of U.S. Organization
    - Foreign NGO Maternal Health Subrecipient
      - U.S. Maternal Health Program
    - Foreign NGO Education Subrecipient
      - Basic Education Program
- Non U.S. Bilateral Donor Funds or Private Foundation Funds

**AFTER**
- U.S. Global Health Assistance
  - Foreign NGO Prime or Subgrantee of U.S. Organization
    - Foreign NGO Maternal Health Subrecipient
      - U.S. Maternal Health Program
    - Foreign NGO Education Subrecipient
      - Basic Education Program
- Non U.S. Bilateral Donor Funds or Private Foundation Funds

GGR Attached regardless of purpose or funding source.
## What Can Be Done?

An organization can certify compliance with the policy and:

| Provide abortion in cases of rape, incest, and life endangerment; | Provide post-abortion care in all cases; | Provide emergency contraception (aka Plan B or the Morning After Pill); | Provide abortion counseling and referrals in cases of rape, incest, life endangerment; | **OR** where a pregnant person has already decided to have a legal abortion and requests information on where to receive one; | Do any activities in a personal capacity – while not on duty, using no organizational resources, and making clear that you are not acting as a representative of the organization. |
(13) For the avoidance of doubt, in the event of a conflict between a term of this paragraph (a) and an affirmative duty of a healthcare provider required under local law to provide counseling about and referrals for abortion as a method of family planning, compliance with such law shall not trigger a violation of this paragraph (a).
Impacts of the Policy
Documenting the Impact

- U.S. government suggestion that there is no impact
- Difficulties of documenting impact
- Cost of compliance to subgrantees
- Severing of relationships and partnerships
## Historical Impacts

Under previous iterations applying to U.S. international family planning assistance:

<table>
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<tr>
<th>Increased unintended pregnancies and unsafe abortions</th>
<th>Effective health providers forced to cut services, increase fees, close clinics</th>
<th>Chilling effect</th>
<th>Onerous compliance requirements</th>
</tr>
</thead>
</table>
Previous Effect on Health Services

Community-Based Distribution
- Rural and Youth Programs cut back

Family Planning
- Established organizations forced to close clinics and cut services
- Loss of U.S.-donated contraceptives in 22 countries
  - Providers and clients deprived of contraceptives
  - Efforts to increase contraceptive method mix hindered

HIV/AIDS
- Prevention efforts were weakened
- Screening and treatment for sexually transmitted infections (STIs)
Effects in the field

- Referral networks dismantled
- Vulnerable groups at risk
- Services reduced
- Partnerships ended
- NGO resources diverted to compliance
- Non-U.S. donor programs impeded
- Contraceptive supply chain obstructed
- Advocacy halted
- National health priorities hindered
What about the impact on PEPFAR partners?

PEPFAR:

- Largest global health program: appropriated at ~$5.2 billion
- Operating in 50 countries
- Supporting over 14 million people on treatment
- Hundreds of implementing partners including NGOs, universities, government, private contractors, multilaterals etc.
Disruptions in SRH Services and Information

Pregnancy Counseling:
“[They] are the populations that are the most affected. When they are pregnant, they still want to go to school, and they say, ‘Should I get an abortion?’ and we are in limbo, we don’t know what to tell them. When they come to you, they need to be counseled, they need to know their options. The girls say ‘Abortion, what is that?’ and you can’t say.”

-South Africa, current partner

Youth Outreach
“Youth ARV care can also be disrupted because they used to get HIV treatment through outreach programs, but now they have to travel to a government facility that they don’t prefer – this has potential to create gaps in consistent treatment, increased viral load, and risk of onward transmission.”

-Eswatini, former partner
Altering Implementing Partner Relationships

With patients:

“We are trusted in the community to provide information, but we can’t talk about it [abortion], we have to act like we don’t know about it. We have to act like we don’t know about the girls dying because they go to a so-called doctor who tells them to drink bleach. It seems like even the Department of Health has turned a blind eye.”

-South Africa, current partner

With sub-partners:

“Now the U.S. primes are trying to be the implementers and do the work but it’s not as good. Sometimes these large international NGOs are just chasing numbers and they don’t understand the context on the ground, which causes care to suffer. ..Usually only around 10% of their staff are local and they don’t know how to implement locally. Services are compromised.”

-Eswatini, former partner
Example: EMCP Impact on VMMC in Eswatini

“Circumcision programs brought men, now we don’t serve men as much... We just don’t have the funding to do it. We have a whole circumcision theatre which is sitting empty”

- Eswatini, former partner
Recommendations
Donor Advocacy in the Short Term

- Express opposition to extension of GGR to your donor funding with direct outreach to the White House and Secretary of State.
- Provide written communication to grantees that they should not alter or change their subgrants on your projects until there is official communication and legal clarity from the U.S. government.
- Cultivate conservative opposition to most recent expansion by highlighting programs at risk.
- Support efforts to provide continued technical assistance to partners who are faced with having to comply or not with the GGR:
  - It is in all of our best interests to minimize disruption of service delivery where possible.
- Request that grantees document the cost of compliance monitoring for your grants.
Donor Advocacy in the Medium Term

Join with other donors, utilize all mechanisms to elevate outrage at this overreach if the administration does not walk back this extension

Intensify global opposition to the GGR

Document the harm

- This includes the forced shifts in your donor strategies;
- the impact on your partners; the undermining of in-country health systems;
- and the emboldening of conservative opposition to comprehensive service delivery

Take charge of your funding priorities

- Think about the ways in which your grants are structured/can be structured to avoid implicating your funding.
- Make sure that you know when and if your partners have to comply with the GGR
- Require your grantees to report any changes in programs, approaches, or sub-partner arrangements as a result of the GGR

Do not fall into their narrative. Work against counter-conditionality in aid
Donor Advocacy in the Long Term

Promote domestic resource mobilization to encourage countries to take charge of their own health systems and blunt future impacts due to donor policies.

Fund policy advocacy work in-country to change laws and mitigate the impact of GGR.

Encourage policymakers to think about ways to mitigate and blunt the impact of the policy in their respective countries.
Resources

- CHANGE
  - Beirne Roose-Snyder
    broosesnyder@genderhealth.org

- PAI
  - Jonathan Rucks
    jrucks@pai.org

- amfAR
  - Brian Honermann
    brian.honermann@amfar.org
Build alternatives to US funding and leadership by providing grassroots-led movements, networks and CSOs with an increase in the amount and quality of funding, including:

1. Sufficient, flexible and long-term funding;
2. Increased core funding;
3. Support for capacity building;
4. Opportunities for exchange and learning;
5. Support for partners’ national, regional and international advocacy work;
6. Mobilizing funds and technical support to generate new evidence and research;
7. Support for physical and mental well-being of SRHR and LGBTQI activists; and
Questions?

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Next Steps

• Resources will be shared post-call, including the presentation;

• Join the day-long convening the co-sponsors are planning;

• Engage in donor advocacy and speak out against this policy;

• Educate staff by holding briefings to discuss the potential implications for funding and for the movements and organizations we support; and

• Build alternatives to US funding and leadership to mitigate the harms of rising extremism, fundamentalism and anti-rights agendas