

County of Santa Clara

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DATE: September 2, 2022

TO: Board of Supervisors
Jeffrey V. Smith, County Executive

FROM: Elaine Trinh
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SUBJECT: Presidential Executive Orders for Reproductive Health Care

At the August 17, 2022 Federal Affairs Advocacy Task Force meeting, the Task Force was given a verbal report with information regarding two Presidential Executive Orders related to reproductive health care. This memorandum provides additional information on those Executive Orders. Details of the Executive Orders were derived directly from the Executive Orders and the fact sheets published by The White House.

Executive Order 14076: Protecting Access to Reproductive Healthcare Services

On July 8, 2022, two weeks after the overturn of the 1973 U.S. Supreme Court decision in *Roe v. Wade*, which held that access to abortion is a fundamental right under the United States Constitution based on the right to privacy in health care decisions, President Biden signed Executive Order (EO) 14076 *Protecting Access to Reproductive Healthcare Services*. The order recognized that eliminating the right authorized in *Roe* has had and will continue to have devastating implications for women's health and public health more broadly. This order is built on previous actions taken by the Biden Administration to defend reproductive rights by safeguarding access to reproductive health care services, including contraception and abortion; protecting the privacy of patients and their access to accurate information; promoting the safety and security of patients, providers, and clinics; and coordinating the implementation of Federal efforts to protect reproductive rights and access to health care by establishing the Task Force on Reproductive Healthcare Access, an inter-agency task force. The following provides further information on these actions:

Safeguard Access to Reproductive Health Care Services

The President aims to safeguard access to reproductive health care services by directing the Secretary of Health and Human Services (HHS) to take a multitude of actions. HHS will work to protect and expand access to abortion care including access to medication for abortion. HHS will also work to ensure all patients – including pregnant women and those experiencing pregnancy loss - have access to full rights and protections for emergency medical care. In addition, the directive includes working to expand access to the full range of reproductive health services including contraception, family planning services and providers, and long-acting reversible contraception. Furthermore, the order will aim to launch outreach and public education efforts regarding access and rights to reproductive health care services ensuring reliable and accurate information is disseminated. Lastly, the Administration aims to convene volunteer lawyers to represent and protect the right to travel out of state to seek medical care.

Protect Patient Privacy and Access to Accurate Information

The President's Executive Order takes additional steps to protect patient privacy, by addressing the transfer and sales of sensitive health-related data, combatting digital surveillance related to reproductive health care services, and protecting people seeking reproductive health care from inaccurate information, fraudulent schemes, or deceptive practices. The Secretary of HHS will consider additional actions to better protect sensitive information related to reproductive health care. Initial steps have been directed to ensure patient privacy and non-discrimination by issuing new guidance on how to address Health Insurance Portability and Accountability Act (HIPAA) Privacy Rules. The guidance helps ensure doctors, medical providers and health plans know that, in most cases, they are not required to disclose patient's private information. In addition, a how-to guide has been published to ensure consumers are aware of how they can protect their personal data on mobile apps.

Promote Safety and Security of Patients, Providers and Clinics

The Administration will ensure the safety of patients, providers, and third parties, and protect the security of other entities that are providing, dispensing, or delivering reproductive health care services. This charge includes efforts to protect mobile clinics, which have been deployed to borders to offer care for out-of-state patients.

Coordinate the Implementation of Federal Efforts

The President has directed the HHS and White House Gender Policy Council to establish and lead an interagency Task Force on Reproductive Healthcare Access. This task force is responsible for coordinating federal interagency policymaking and program development.

Executive Order 14079: Securing Access to Reproductive and Other Healthcare Services

As mentioned, part of EO 14076 established the interagency Task Force on Reproductive Healthcare Access (Task Force). The Task Force coordinates and drives efforts across the Federal government to protect access to reproductive healthcare services and defend reproductive rights. On August 3, 2022, at the first meeting of the Task Force, the President signed the second Executive Order (EO 14079) related to reproductive health care, titled *Securing Access to Reproductive and Other Healthcare Services*. This order further expands on the Administration's efforts on reproductive health care through support for patients traveling for medical care, ensure health care providers comply with federal non-discrimination law, and promote research and data collection on maternal health outcomes.

Support for Patients Traveling

Through this order, the Administration seeks to provide support for patients who travel out of state for reproductive health care services, including patients with Medicaid. This directive is in line with the President and Attorney General's commitment to defending the right to travel across state lines to seek reproductive health care in states where those services remain legal.

Ensure Health Care Providers Comply with Federal Non-Discrimination Law

The EO directs the Secretary of HHS to consider all appropriate actions to ensure health care providers comply with Federal non-discrimination laws so that women receive medically necessary care without delay. Actions would include providing technical assistance for health care providers, convening providers to convey information on their obligations and potential consequences of non-compliance, and issuing additional guidance or taking appropriate action in response to complaints or reports of non-compliance with federal laws.

Promote Research and Data Collection on Maternal Health Outcomes

In order to accurately measure the impact that diminishing access to reproductive health care services has on women's health, the EO directs the Secretary of HHS to evaluate and improve research, data collection, and data analysis efforts at the National Institutes of Health and the Centers for Disease Control and Prevention on maternal health and other health outcomes.

Please feel free to contact me at Elaine.Trinh@ceo.sccgov.org or 408/299-5108 or Legislative Manager Danielle.Christian@ceo.sccgov.org or 408/299-5183 if you have any questions about this information.

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