Federal HIV Policy: Contradictions, Opportunities, and Challenges

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Sean Bland: The O’Neill Institute for National and Global Health has received funding from Gilead Sciences for its Ryan White Policy Project and for a separate HIV Prevention Project.

Daniel Bruner: Whitman-Walker Health has received funding from Gilead Sciences and ViiV Healthcare for a Mobile Outreach Retention and Engagement project, focusing on patients who have fallen out of care or who encounter significant barriers to engagement in care. Gilead Sciences is also a sponsor of a National LGBT Cultural Competency Summit, organized by Whitman-Walker and the National LGBT Cancer Network. Whitman-Walker participates in drug trials with a number of pharmaceutical companies. ViiV, Gilead and Janssen are financial supporters of Whitman-Walker’s Walk to End HIV.

Ronda Goldfein: No conflicts to disclose.
Goals of This Presentation

- We hope to assist participants to:
  - Appreciate the latest developments in federal laws and policies that help or hinder HIV prevention and treatment.
  - Improve their understanding of the tensions and contradictions in federal policies.
  - Sharpen their thinking about the best way to respond to those policies in order to further HIV prevention and treatment goals while remaining committed to the fight for LGBT equality and racial and ethnic justice.
HIV Epidemic in the United States

- 1.1 million people living with HIV, of whom 15% are unaware of they are living with HIV
- Following about five years of overall declines in new HIV infections, the number of HIV infections began to level off in 2013 at about 39,000
- Black and Latinx gay and bisexual men, transgender individuals, Black women, and young people face disparities in HIV diagnoses and viral suppression
- Inadequate services for people who inject drugs
Ending the HIV Epidemic: A Plan for America

**GOAL:** HHS will work with each community to establish local teams on the ground to tailor and implement strategies to:

- **Diagnose** all people with HIV as early as possible.
- **Treat** the infection rapidly and effectively to achieve sustained viral suppression.
- **Prevent** new HIV transmissions by using proven interventions, including pre-exposure prophylaxis (PrEP) and syringe services programs (SSPs).
- **Respond** quickly to potential HIV outbreaks to get needed prevention and treatment services to people who need them.

75% reduction in new HIV infections in 5 years and at least 90% reduction in 10 years.
Ending the HIV Epidemic: A Plan for America

The plan highlights 48 CDC-identified vulnerable jurisdictions as well as D.C., San Juan, and 7 rural states for targeted interventions and funding. The plan does not assume significant changes in the current health care policy & legislation landscape.
President Trump’s Budget Request brief gave more detail about the plan for the proposed $291 million of new funding, including:

- CDC HIV prevention programs ($140m)
- Ryan White Program for CDC-identified vulnerable jurisdictions including 48 counties, Puerto Rico, and DC ($70m)
- HRSA Community Health Centers ($50m)*
- Indian Health Service ($25m)
- NIH CFARs ($6m)*

At the same time, the Administration proposed a $63 million cut to the Housing Opportunities for Persons with AIDS (HOPWA) Program, cuts to Medicaid funding by $1.5 trillion over 10 years, and cuts to NIH, SAMHSA, and the Teen Pregnancy Prevention Program.

The Budget Request also includes proposed cuts to federal housing programs, food assistance, disability benefit cuts and other critical social protection programs, and it cuts U.S. support for the Global Fund to Fight AIDS, Tuberculosis and Malaria by 29% and funding for the President’s Emergency Plan for AIDS Relief (PEPFAR) by 30%.

*reappropriated funds
Community Roadmap for Federal Action

- **Commit** to end the U.S. HIV epidemic and eliminate HIV health disparities
- **Ensure** broad and equitable access to effective HIV care and treatment
- **Prevent** new HIV transmissions
- **Address** social and structural barriers to effective HIV prevention and care
- **Maintain** U.S. leadership in lifesaving research
- **Support** the meaningful involvement of people living with HIV
Administration Actions That Encourage Health Care Discrimination

- **HHS “Conscience Protection” Rule**
  Protecting Statutory Conscience Rights in Health Care; Delegations of Authority, 84 Fed. Reg. 23170 (May 21, 2019)
  - Covers any health care provider or health insurer receiving federal funding.
  - Purports to enforce federal laws that protect the “conscience” of health care providers and health insurers. Most of these laws focus on abortion and sterilization, but one statute – the Church Amendments – allegedly protects the right to opt out of participating in any health program or activity or research project that is funded by HHS.
  - Very broad notion of “participation”, including refusal to provide information or referrals.
  - Currently being challenged in lawsuits in multiple federal courts, brought by multiple state, county and municipal governments, by LGBTQ and reproductive health and advocacy groups, and individual providers. Decision on motions for summary judgment expected by Nov. 22, 2019.

- **Notice Of Proposed Rulemaking To Weaken Protections Against Discrimination**
  Nondiscrimination in Health and Health Education Programs and Activities, 84 Fed. Reg. 27846 (June 14, 2019)
  - Interprets Section 1557 of the Affordable Care Act
  - Explicitly withdraws protections against LGBT discrimination.
  - Exempts many forms of health insurance from any nondiscrimination obligation (not only sex, but also disability, race, color, national origin, age)
  - Weakens safeguards for Limited English Proficiency patients.
  - Many of the proposed provisions contradict court rulings on the actual meaning of Section 1557. A regulation cannot change a statute, but it can foster misinformation, discourage individuals from seeking care, and limit administration remedies when discrimination occurs.
Administration Actions That Undermine Access To Health Insurance And Medicaid, And Access To Adequate Nutrition

- Numerous administrative actions to undermine the ACA by promoting access to limited-coverage health plans and weakening coverage requirements.

- Supporting a lawsuit seeking to declare the ACA unconstitutional.
  - Texas v. United States, 340 F. Supp. 3d 579 (N.D. Tex. 2018), appeal filed, No. 19-10011 (5th Cir.).

- Supporting state efforts to impose work requirements in Medicaid programs.
  - To date, rejected by the courts as inconsistent with the purpose of Medicaid.

- Attempts to curtail the Supplemental Nutrition Assistance Program (SNAP).
  - Revision of Categorical Eligibility in the Supplemental Nutrition Assistance Program (SNAP), 84 Fed. Reg. 35570 (July 24, 2019) – would eliminate provisions for automatic eligibility for persons who qualify for other income-based public benefits. Estimates are that this new rule would eliminate more than 3 million people from the program.
The new “public charge rule” penalizes many immigrants who access Medicaid and other public health and social service programs by limiting their ability to adjust their status to lawful permanent resident, and to eventually become citizens.


Administration efforts to make immigration relief less available and to increase the threat of ICE actions are discouraging individuals and families, even with legal status, from seeking health care.

- HUD is proposing to deny federal housing assistance to families where any member living in the home is undocumented.

Border Control agents at the Southern border allegedly are taking HIV status into account when deciding whether to admit, detain or separate families seeking to enter the U.S., in violation of federal immigration law.

HIV and Overdose Prevention

- This is a major area of concern, especially due to the opioid crisis.
- CDC has identified 220 counties are at risk of outbreaks of HIV and/or Hepatitis C.
- Increases in HIV diagnoses have been reported in various jurisdictions— for example, Massachusetts, Seattle-King County, and Philadelphia.
- Syringe service programs have proven effectiveness, and overdose prevention sites can reduce HIV and Hepatitis C transmission, reduce overdose deaths, and create a new pathway to substance use treatment.
- In February, the Justice Department filed a civil lawsuit against Safehouse, a Philadelphia-based nonprofit that plans on operating the country’s first ever overdose prevention site.
Safehouse: A Public Health Approach to Overdose Prevention in Philadelphia
**Registration**

NO ILLEGAL DRUGS WILL BE PROVIDED

### Assessment of physical and behavioral health

**Offer of services**

**Data collection**

<table>
<thead>
<tr>
<th>Medically supervised consumption room</th>
<th>Medically supervised observation room</th>
<th>Medical services</th>
<th>Wraparound services</th>
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<tbody>
<tr>
<td>Sterile equipment</td>
<td>Overdose reversal, emergency care</td>
<td>Wound care</td>
<td>Referrals to social services, legal services, and housing opportunities</td>
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<tr>
<td>Fentanyl test strips</td>
<td>Certified peer specialists</td>
<td>On-site initiation of MAT (Medication-Assisted Treatment) and recovery counseling</td>
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<tr>
<td>Overdose reversal and emergency care</td>
<td>Offer of services</td>
<td>HIV and HCV counseling, testing, and treatment</td>
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<td>Safe disposal of equipment</td>
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<td>Primary care</td>
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### Check out

Additional data collection, offer of services, and naloxone distribution