

Congress of the United States
Washington, DC 20515

January 23, 2020

The Honorable Mike Pompeo
Secretary of State
U.S. Department of State
2201 C Street, N.W.
Washington, D.C. 20230

Dear Secretary Pompeo,

We thank you for your efforts to apply and strengthen Protecting Life in Global Health Assistance (PLGHA), which expanded the Mexico City Policy to all U.S. global health assistance. We applaud you for your diligent implementation of this policy. We write to urge you to close a loophole in PLGHA that allows taxpayer dollars to flow to U.S. Non-Governmental Organizations (NGOs) that are involved in the global abortion industry.

As you know, U.S. NGOs that receive U.S. global health assistance for their work overseas are not currently subject to PLGHA. We are concerned that some U.S. NGOs, especially those that actively promote abortions overseas, are integrating abortion-related activities into their taxpayer-funded global health programs and are restructuring in order to negate the impact of PLGHA for their foreign NGO affiliates. We urge you to create a wall of separation between abortion and health care in U.S. global health programs by ensuring that U.S. NGOs that work abroad meet abortion-related program integrity standards at least as strong as those in effect for the Title X family planning program at home.¹ U.S. NGOs that provide abortion as a method of family planning, or – similar to Title X – fail to maintain a rigorous physical and financial separation from abortion-related activities within funded programs should not receive U.S. global health assistance.

The following are examples of U.S. NGOs involved in abortion activities overseas that received U.S. global health assistance in FY2018:²

- \$123.2 million to Population Services International (PSI), which works to “supply medications and train providers to give women safe, comprehensive medical abortion care.”³
- \$85.7 million to Pathfinder International, which “collaborate[s] with governments in building the capacity of health systems to ensure quality comprehensive abortion services.”⁴

¹ “Compliance With Statutory Program Integrity Requirements,” Department of Health and Human Services, March 4, 2019, 84 Fed. Reg. 7714.

² Data from USAID Foreign Aid Explorer, under the sector category “Health and Population” <https://explorer.usaid.gov/query/>, accessed January 6, 2020. These funding amounts are based on incomplete data for FY18. Actual funding may be higher than listed here.

³ “Medical Abortion,” Population Services International, <https://www.psi.org/program/medical-abortion/>.

⁴ “Safe Abortion Care,” Pathfinder International, <https://www.pathfinder.org/focus-areas/safe-abortion-care/>.

- \$52.2 million to PATH, which works to increase “access to safe abortion in Nepal.”⁵
- \$15.8 million to Population Council, which states that its work in India demonstrates “the effectiveness of a comprehensive abortion care model.”⁶
- \$10.3 million to Engender Health, which works in Ethiopia “expanding access to comprehensive abortion care.”⁷
- \$2.2 million to Womancare Global International, manufacturer and distributor of a surgical abortion device known as the Manual Vacuum Aspirator.⁸

Currently, nothing prevents these and other U.S. NGOs from integrating abortion-related activities into taxpayer-funded global health programs. Such activities include the performance of, training for, counseling on, referrals for, and the use of literature promoting abortion as a method of family planning. Moreover, some foreign NGOs are employing gimmicks to work around PLGHA when they are affiliated with a U.S. NGO serving as the umbrella organization. The U.S. NGO PSI, for instance, has stated their intent to restructure their foreign affiliates so that they can keep “continuing to work in safe abortion... [by] switch[ing] around the way they are registered and operating in some countries.”⁹ Specifically, PSI stated that in Nigeria, they may have to open a “branch office” under their U.S. NGO which could “deliver the [abortion] services...work[ing] in tandem with the local office” for their foreign NGO affiliate, Society for Family Health (SFH).¹⁰ SFH received \$6.8 million in U.S. global health assistance in FY2018.¹¹

Such egregious workarounds for PLGHA should not be allowed to continue. Therefore, we urge you to require U.S. NGOs to certify that, during the term of any award, sub-award, contract, or sub-contract for U.S. global health assistance:

- (1) The organization will not, using any funding source:
 - perform an abortion as a method of family planning,
 - furnish or develop any item primarily intended to procure such an abortion, or
 - provide financial support to any other organization that conducts such activities.
- (2) The organization will ensure that its funded program:
 - does not include the performance of, training for, counseling on, referrals for, or the promotion of abortion as a method of family planning, and
 - maintains a complete physical and financial separation from such abortion-related activities, including by not co-locating a funded program with any site that conducts such activities.

These protections for U.S. NGOs would be constitutionally and statutorily grounded. There is no First Amendment right to perform abortions. Furthermore, the Supreme Court held in *Rust v.*

⁵ “Behavior change communication: increasing access to safe abortion in Nepal,” PATH, https://path.azureedge.net/media/documents/RH_sparking_dialogue_fact_sheet.pdf.

⁶ “Increasing Access to Comprehensive Abortion Care Services in India,” Population Council, <https://www.popcouncil.org/research/increasing-access-to-comprehensive-abortion-care-services-in-india>.

⁷ “In Action,” Engender Health, <http://fpconference.org/2016/wp-content/uploads/2016/01/EngenderHealth-FactSheets.pdf>.

⁸ “DKT Womancare,” DKT International, <https://www.dktinternational.org/dkt-womancare/>.

⁹ Dr. Christine Sow, PSI Chief Operating Officer, “President Trump Threatens Women’s Health: VIP Conference Call,” February 8, 2017, <https://www.psi.org/president-trump-threatens-womens-health-vip-conference-call/>.

¹⁰ Ibid.

¹¹ USAID Foreign Aid Explorer; see footnote 2.

Sullivan that regulations prohibiting federal grant recipients from performing, providing counseling for, referring for, or co-locating with sites that perform abortion as a method of family planning do not violate the First Amendment rights of grant recipients, their staff, or their patients.¹² Congress, moreover, has given the President broad statutory authority over foreign aid to set “such terms and conditions as he may determine” for both voluntary population planning and health programs more generally.¹³ This power, in turn, is delegated to the Secretary of State.¹⁴

Support for organizations involved in the abortion industry, especially in poor, developing nations which have pro-life laws, disrespects their local culture and undermines the optimal health outcomes and goodwill we seek to create through foreign assistance. Again, we urge you close the loophole in PLGHA for U.S. NGOs by holding them to abortion-related program integrity standards at least as strong as those that currently apply for the Title X family planning program. Implementing such protections would not reduce U.S. global health assistance by one dollar; rather, it would free up these funds for a new and more diverse partner base of providers that care for both mother and child.

Sincerely,



Michael S. Lee
United States Senator



Virginia Foxx
Member of Congress



Steve Daines
United States Senator



Christopher H. Smith
Member of Congress

cc:

The Honorable Mark Green
Administrator, U.S. Agency for International Development

The Honorable Alex Azar
Secretary, U.S. Department of Health and Human Services

The Honorable Mark Esper
Secretary, U.S. Department of Defense

¹² *Rust v. Sullivan*, 500 U.S. 173 (1991).

¹³ Subsections (b) and (c)(1) of section 104 of the *Foreign Assistance Act of 1964* (22 U.S.C. 2151b(b), (c)(1)).

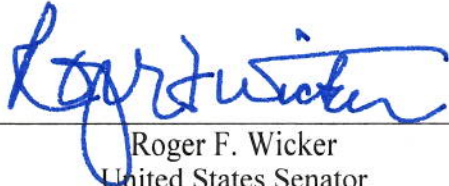
¹⁴ Part 1–100(a)(1) of Executive Order 12163, as amended by Executive Order 13118 of March 31, 1999.



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United States Senator



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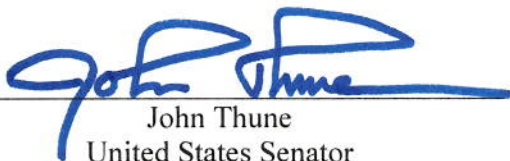
Bill Cassidy, M.D.
United States Senator



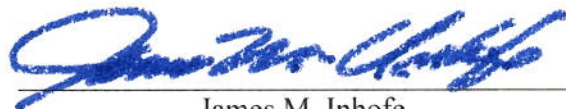
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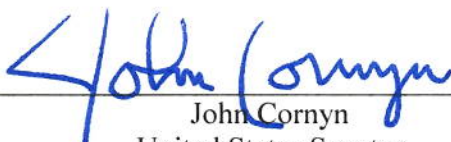
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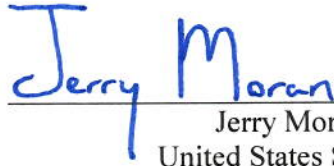
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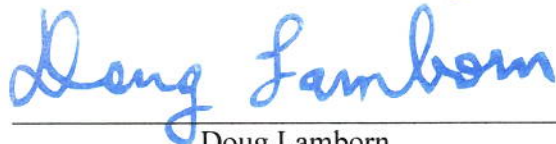
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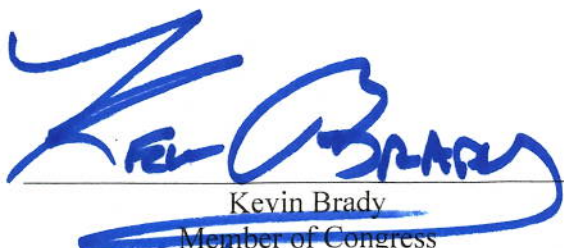
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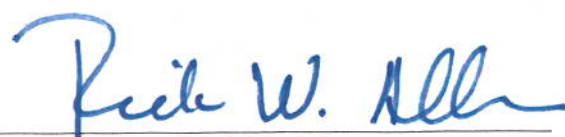
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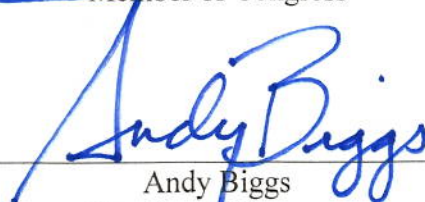
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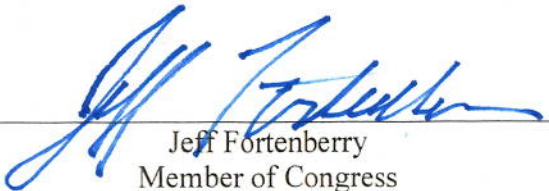
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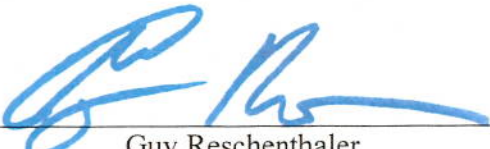
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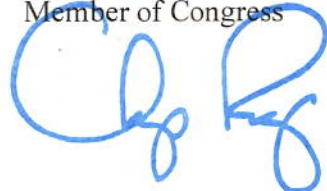
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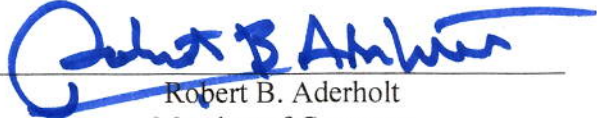
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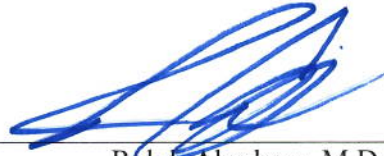
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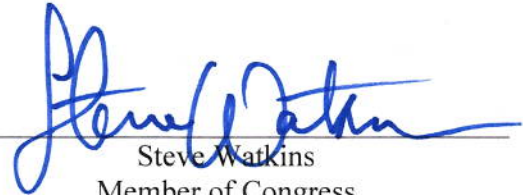
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