

ON DEFENDING ACCESS





A FOCUS ON DEFENDING ACCESS

In 2023 the public resoundingly reaffirmed strong majority support for abortion access. Policymakers and politicians opposed to abortion continued to push for bans, while supporters continued aggressive efforts to protect access to care. Time after time, the public was on the side of abortion access. This was most clearly demonstrated in November, when in every state where the question of abortion rights was put directly to the people via a ballot initiative, reproductive freedom won.

As the country continues to grapple with the far-reaching consequences of ending the constitutionally protected right to an abortion, the Biden-Harris administration has been steadfast in their efforts to address the public health crisis and protect abortion access.

Amid ongoing advocacy from Planned Parenthood Federation of America (PPFA) and Planned Parenthood Action Fund, alongside other partners in the reproductive health, rights, and justice movements, the Biden-Harris administration continued the three part strategy they laid out in the aftermath of the Supreme Court overturning *Roe v. Wade*:

- 1. Implement meaningful policy interventions to protect and improve access
- 2. Leverage the White House bully pulpit and convening power to address the crisis
- 3. Focus on patients' needs and health equity

This report outlines the robust actions the Biden-Harris administration has taken in 2023 to address the ongoing abortion access crisis and broader sexual and reproductive health and rights issues in the U.S. and around the world, and lays out important action items for 2024 and beyond. Previous year end reports detailing the full scope of Biden-Harris administration actions are here:

- 2021: Building Repro Back Better: A Year Of Opportunity And Crisis
- 2022: Rights And Access At Stake: Responding To The Crisis And Building For The Future

Protecting and Defending Access to Abortion and Abortion Providers

As the nation faced the first full year without the constitutional right to abortion, the administration continued to take action to ensure that people could access abortion and to protect abortion patients and providers. Importantly, as those opposed to abortion took aim at medication abortion, the administration engaged in efforts to protect and expand access to mifepristone.

At the beginning of 2023, after years of advocacy, FDA followed the extensive evidence and permanently lifted the in-person dispensing requirement for mifepristone (one of the two medications most commonly used for a medication abortion in the United States) to allow for greater access, particularly via telehealth. This made permanent the flexibilities that had been in place since the start of the COVID-19 pandemic. The



administration also expanded who could administer mifepristone, allowing pharmacists to register to dispense the medication. As of October 2023, <u>at least 19 pharmacies</u> across the country were certified to dispense mifepristone.

However, access to medication abortion remained at risk throughout 2023. Having achieved their goal of overturning *Roe v. Wade*, opponents of abortion worked to eliminate access to mifepristone nationwide through the courts. Medication abortion, including access to telemedicine abortion, has become much more important and common given the expansion of telehealth due to the COVID-19 pandemic and the restricted access to abortion post-Dobbs. Anti-abortion activists and organizations sued the FDA over its approval of mifepristone, and asked the court to order the FDA to rescind its approval of mifepristone from more than 20 years ago, in order to remove it from the market. Throughout 2023, the Biden-Harris administration defended mifepristone. The case is currently before the Supreme Court with a final decision expected in spring of 2024.

Medication abortion was not the only way that the Department of Justice (DOJ) needed to defend access to abortion in court. The administration defended people's access to emergency pregnancy care under the Emergency Medical Treatment and Active Labor Act (EMTALA), as well as the <u>right of people to travel</u> to access care in a different state. The Department of Health & Human Services (HHS) worked to ensure that hospitals across the country, including those in states that have banned some or all abortion, are aware of and in compliance with the legal obligations. In May, HHS Secretary Becerra <u>sent a letter</u> to hospital and provider associations about the obligations under the EMTALA to offer stabilizing care to patients who need emergency care, including abortion care. The Centers for Medicare and Medicaid Services (CMS) also <u>announced two investigations</u> of hospitals that did not offer necessary stabilizing care to an individual experiencing an emergency medical condition, in violation of EMTALA.

Throughout 2023, DOJ also enforced the Freedom of Access to Clinic Entrances (FACE) Act, as violence against and harassment of abortion providers escalated. In 2023, 19 people were charged criminally and

in August, DOJ announced the <u>conviction</u> of five defendants on FACE Act offenses for blocking access in Washington, DC.

The administration also took a number of actions to better protect the privacy of abortion patients and those who assist them, as the combination of the reversal of *Roe* and increased access to personal data makes abortion patients more vulnerable. In April, the White House announced new actions to safeguard patient privacy, including HHS proposing additional protections under the Health Insurance Portability and Accountability Act (HIPAA) in order to protect reproductive health data — an important step amid ongoing attacks that have jeopardized the privacy of patients. The Department of Education also issued guidance to over 20,000 school officials reminding them of their obligations to protect student privacy under the Family Educational Rights and Privacy Act (FERPA). Other agencies also issued proposed rules to limit access to and disclosure of personal data, including the HHS Office of the Chief Technology Office and the Federal Trade Commission.

The administration also took a number of actions to ensure access to abortion care for military personnel, veterans and dependents who are covered by Tricare, building on policies from 2022. This includes ensuring that people serving in the military and their dependents are able to access abortion even when it is not covered, and that they have resources for travel.

In September 2023, following extensive advocacy by Planned Parenthood and partners, the Centers for Medicare and Medicaid Services (CMS) <u>denied</u> Utah's Medicaid



Section 1115 <u>waiver amendment request</u>. The state was trying to exclude people who got an abortion not permitted by the state's trigger ban from postpartum coverage for 12 months. In its denial letter, CMS affirmed that 12 months postpartum coverage is beneficial for all eligible people and recommended the state expand this coverage in line with the requirements under the <u>American Rescue Plan Act (ARPA)</u> <u>State Plan Amendment (SPA) option</u>. This is a victory for state and federal advocates who have been working to ensure that states expanding Medicaid coverage to 12 months postpartum do so without restrictions.



At the same time, President Biden continued to direct agencies across the federal government to act to the utmost of their authority to protect and defend access to abortion. In January 2023, in recognition of the 50th anniversary of *Roe v. Wade* and first year since the overturning of the decision, President Biden signed a <u>Presidential Memorandum</u> on ensuring safe access to medication abortion.

Protecting and Expanding Access to Birth Control, STI Treatment, and Gender-Affirming Care

In addition to working to protect access to abortion, the Biden-Harris administration took a number of important steps in 2023 to expand access to the full range of sexual and reproductive health services.

- In February, HHS proposed a new rule that would strengthen access to birth control coverage without cost-sharing through employer-sponsored and university student health insurance plans, as required by the Affordable Care Act (ACA). The rule would reverse harmful regulations from the Trump administration that significantly expanded who could opt out of providing this coverage for religious or moral reasons, and would set up a new system for people who get their insurance through an entity that refuses to provide coverage for birth control.
- In June, in advance of one year passing since the overturning of *Roe v. Wade*, President Biden signed an <u>executive order</u> directing federal agencies to take steps to strengthen access to contraception through private health insurance and federal programs.
- In July, in a significant win 20+ years in the making, the Food and Drug Administration approved Opill, the first over-the-counter (OTC) birth control pill for people of all ages. When it becomes available in early 2024, Opill will become the most effective OTC birth control method on the market. Planned Parenthood and our partners continue to urge the administration to ensure that OTC contraceptive methods like Opill are covered by insurance without requiring a prescription, to reduce financial barriers for people who choose to use OTC methods.

The Biden-Harris administration has also staunchly defended the Title X program, the nation's only federal program dedicated to providing sexual and reproductive health services to people with low incomes.

- In court, the Biden-Harris administration has defended the 2021 Title X Rule, which reversed the
 Trump administration gag rule and ensures that people who get services through Title X can
 receive counseling and referrals for all options, including abortion, when requested. In *Ohio v.*Becerra, the administration defended the 2021 Title X Rule's separation and mandatory referral
 provisions before the Sixth Circuit.
 - In Deanda v. Becerra, the administration defended the Title X program's longstanding policy allowing young people to confidentially get basic health care they need through the Title X family planning program.
- In overseeing the Title X program, the Biden administration Office of Population Affairs (OPA) has enforced the program's standards, including by surveying grantees about their compliance with



Title X program requirements for mandatory options counseling and referral upon a patient's request and by issuing new grants as a result of noncompliance by some grantees.

 In September, Title X services were restored in <u>Tennessee</u> and Oklahoma through <u>grants</u> to Converge, the Virginia League For Planned Parenthood, Community Health Connection, and Missouri Family Health Council.

In response to efforts of Planned Parenthood and other advocates, the Biden-Harris administration's Drug Enforcement Administration issued temporary rules to extend the pandemic-era prescribing flexibilities that patients and providers rely on to prescribe drugs on the controlled substances list through December 2024. This policy, which provides access to scheduled drugs via telemedicine, is <u>particularly crucial</u> for patients who are prescribed testosterone for gender-affirming hormone therapy and for whom an in-person evaluation may not be possible. Planned Parenthood is encouraging the DEA to issue a final rule that continues to support access to necessary medication without imposing medically unnecessary burdens on patients or providers.

In June 2023, the Department of Health and Human Services released an <u>implementation plan</u> that spells out federal agencies' and departments' specific commitments to developing policies, initiatives, and activities to combat sexually transmitted infections, which have reached record rates over the past few years. The more than 200 actions in the implementation plan are intended to meet the goals of the 2021-2025 <u>STI National Strategic Plan</u>, which include lowering rates of gonorrhea, chlamydia, and syphilis; increasing the number of teens vaccinated for HPV; and increasing condom use among sexually active high school students.

Advancing a Budget to Invest in Sexual and Reproductive Health and Rights

In his third presidential budget proposal, President Biden issued an FY2024 budget request that reflects a commitment to sexual and reproductive health, including \$512 million for the Title X program, \$677 million for international family planning and reproductive health programs, and excluded the Hyde Amendment. In the budget proposal, the administration reiterated their commitment to abortion access, as well as proposing increased investments in Title X, a proposal to close the Medicaid coverage gap, additional funding for STD/STI treatment and testing, and funding for international family planning programs, including UNFPA.

Investing in Maternal Health

Since taking office, the Biden-Harris administration has made historic and key investments in its whole-of-government response to the worsening maternal health crisis. In the third year of the Biden administration, they took several steps to advance the priorities outlined in the White House Blueprint for Addressing the Maternal Health Crisis, released June 2022:

• Increasing access and expanding coverage to comprehensive high quality maternal health services. CMS has worked with state Medicaid agencies to extend Medicaid and CHIP maternity benefits through 12 months postpartum in 40 states, benefitting an estimated 641,000 enrollees.

HHS has also launched <u>new projects</u> and care models this year, that expand substance use disorder and behavioral health services, home visitation and other services.

- Ensuring those giving birth are heard and are decision-makers of care. The CDC supported and funded perinatal quality collaboratives (PQCs) in 36 states and added a 'birthing friendly' designation for hospitals who participate in PQCs in its CMS CARE Compare tool.
- Advancing data collection, standardization, transparency, research and analysis. In 2023 the CDC released a new report that highlighted alarming increases in maternal mortality during the pandemic. Major improvements in data collection have been facilitated by the CDC's Enhancing Reviews and Surveillance to Eliminate Maternal Mortality (ERASE MM), which funds 44 states and 2 U.S. territories. There are also efforts to diversify the research workforce, and HRSA has invested \$10 million to establish a new research network at minority-serving institutions to study disparities and inform strategies to respond to them.
- Expanding and diversifying the perinatal workforce. HRSA's Rural MOMs program funds 10 grantees in nine states. Grantees are improving maternal care in rural underserved communities through data collection, strengthening provider networks, telehealth capacity, and improving financial sustainability. HRSA is also working to expand access to community-based doulas, and has invested more than \$8 million to train and deploy more nurse midwives through programs at 10 universities.
- Strengthening social and economic support for people during and after pregnancy. The HHS Office of Minority Health (OMH) awarded 11 organizations \$13 million to implement its Health Families Community-Based Perinatal Health Initiative (COPHI), which addresses social determinants of health.

Addressing the Social Determinants of Health

In November 2023, the White House released the first-of-its-kind <u>The U.S. Playbook to Address Social Determinants of Health</u>. In it, the Biden-Harris administration lays out three pillars that the administration is prioritizing in response to health-related social factors, which are responsible for the majority of an individual's outcomes across their lifespan. These determinants include food and housing insecurity, educational access, and the environment an individual lives in.

The administration's pillars include:

- Expanding data gathering and sharing.
- Supporting flexible funding for social needs.
- Supporting backbone organizations.

Global Sexual and Reproductive Health Care and Rights

The Biden-Harris administration took critical steps this year to affirm its commitment to global sexual and reproductive health and rights. In June, in recognition of the first year since the Dobbs decision, the administration released a <u>statement</u> emphasizing that it "remains resolutely committed to advancing and protecting sexual and reproductive health and rights (SRHR) around the world." The statement also

emphasized the United States' continued commitment to global SRH programs and provided answers to key <u>frequently asked questions</u> about the use of foreign assistance funding to provide post-abortion care, as well as evidence-based counseling about pregnancy options and referral services, in accordance with local law.

This year, the Biden-Harris administration continued its efforts to advance sexual and reproductive health and rights in international fora, including the United Nations (UN). In March, at the 67th Session of the UN Commission on the Status of Women. Ambassador Linda Thomas-Greenfield called attention to the importance of evidence-based, comprehensive sexuality education. Ambassador Thomas-Greenfield acknowledged our own challenges in the United States while urging Member States to continue advocating for bodily autonomy and access to sexual and reproductive health care. At the UN General Assembly in September, Assistant Secretary for Global



Affairs Loyce Pace <u>emphasized</u> that advocating for sexual and reproductive health and rights is essential to key foreign policy priorities like upholding dignity, saving lives, improving health, and advancing equity.

Notably, the administration was intentional in integrating and elevating sexual and reproductive health and rights across global health and development strategies. In March, USAID released its updated <u>Gender Equality and Women's Empowerment Policy</u>, which emphasized the importance of access to sexual and reproductive health care and reversed the harmful anti-SRHR and anti-LGBTQI+ changes made to the policy during the previous administration. And in August, USAID released its first-ever <u>LGBTQI+ Inclusive Development Policy</u>. The policy made explicit references to SRHR and affirmed USAID's commitment to championing the human rights of LGBTQI+ people, following the lead of local partners and LGBTQI+ activists, and working to combat stigma and discrimination.

This year, the State Department continued to include reporting on violations of reproductive rights (which was excluded during the prior administration) in the 2022 Country Reports on Human Rights Practices, released in March. These annual reports serve as an important tool for human rights advocates to identify where countries can improve human rights, including reproductive rights and access to sexual and reproductive health.

Personnel is Policy

One often overlooked area is the progress the Biden-Harris administration has made in appointing individuals steeped in SRHR experience and expertise across the administration, especially in senior level positions. More than 100 SRHR champions have been appointed by the Biden-Harris administration over the past three years. This is due, in no small part, to the efforts of the Blueprint Appointments Project, a concerted effort to build a robust pool of highly qualified SRHR experts and champions interested in serving in government.

This year, President Biden appointed Dr. Mandy Cohen to CDC Director. From her time at CMS and as the North Carolina Secretary of Health and Human Services, Dr. Cohen has first hand experience on the integral role of SRHR in the health care system and close working relationships with SRH providers.

Dr. Jeanne Marrazzo replaced the long-serving Dr. Anthony Fauci as director of the National Institute of Allergy and Infectious Diseases (NIAID). Dr. Marazzo is an infectious disease and STI expert.

There are SRHR and health equity champions at all levels of the administration, including Xochitl Torres Small, a PPFA alumna, who was appointed deputy secretary of agriculture this year.

The Biden administration continues to nominate — and work with the U.S. Senate to confirm — a record number of highly qualified judges who are professionally and demographically diverse. This includes the most women, people of color, and Black women of any administration. The nominees have a demonstrated commitment to protecting the inherent right to equality under the law and the right for individuals to make their most personal decisions. Notably, this year, President Biden nominated



Nicole Berner, a PPFA alum and labor advocate, to be a judge in the 4th Circuit. If confirmed, she will be only the third out lesbian on a circuit court and the first to sit on the 4th Circuit. Julie Rikelman, who argued important SRHR cases before the Supreme Court, was also nominated in 2022 and confirmed this summer as a judge in the 1st Circuit. In fact, November marked multiple milestones for President Biden and Leader Schumer, with the confirmation of 150 federal judges and the 100th woman confirmed to the federal bench since President Biden took office.

Leveraging the Bully Pulpit

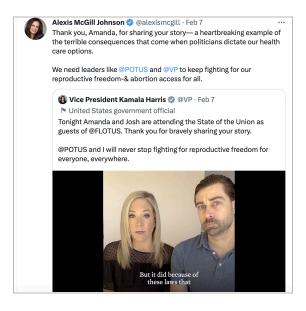
In 2023, the Biden-Harris administration continued the important strategy of using the White House bully pulpit. This included high level convenings, a college speaking tour, key officials visiting in-state sexual and reproductive health centers, and multiple high profile speeches.

The Biden-Harris administration leveraged their influential platforms to shape the national conversation about the needs of patients, the harms of the abortion access crisis, and innovative ways local elected officials are protecting access.

During the <u>State of the Union</u>, President Biden highlighted the importance of protecting access to reproductive care, and the First Lady invited Amanda and Josh Zurawski to be her guests in the viewing box. Their painful story of how the Texas abortion ban prohibited Amanda from getting needed care underscored the importance of protecting access to sexual and reproductive health care amidst ongoing attacks.

The First Lady also hosted a <u>conversation</u> at the White House with four women who talked about the impact of overturning *Roe* and their personal stories of being denied care.

This year, Vice President Kamala Harris repeatedly used her platform to highlight the crisis. She delivered five high profile speeches across the country. In January, marking the anniversary of *Roe*, she delivered a powerful address in Tallahassee. In April, Vice President Harris visited Reno and highlighted Nevada's efforts to protect abortion access, as well as gave a rousing speech at the Rally for Reproductive Freedom at Howard University in DC. In June, she gave a speech in North Carolina, to mark the one year anniversary of SCOTUS overturning *Roe*. In July, Vice President Harris traveled to Iowa to highlight the harms of the





state's six week abortion ban. In September and October, she embarked on a 7 campus swing dubbed the Fight For Our Freedoms College Tour, where she talked with college students about the importance of fundamental rights and freedom, including reproductive freedom. She used her social media in creative ways to spotlight patients and <u>providers</u>, including meeting with PPSLR chief medical officer <u>Dr. Colleen McNicholas</u>. And she led discussions of <u>protecting reproductive freedom</u> at cabinet meetings.

















Both First Lady Dr. Jill Biden and Vice President
Harris highlighted gender equity and access to health
care, particularly for young people, during overseas travel
this year. During a trip to Namibia in February, Dr. Biden
connected with adolescent girls and young women
served by PEPFAR's DREAMS partnership, which
focuses on reducing rates of HIV among adolescent girls
and young women, including by expanding access to
youth-friendly reproductive health information and care. In
Kenya, Dr. Biden spoke with young people about the
importance of comprehensive sex education and
contraception. In March, during a trip to Ghana, Vice
President Harris announced investments in economic
empowerment of women, including advancing the sexual
and reproductive health and rights of young people.



HHS Secretary Xavier Becerra continued to use his bully pulpit to be a vocal advocate for reproductive rights. Last year, he was the first HHS Secretary to visit a Planned Parenthood health center. He kicked off this year by speaking at <u>Planned Parenthood's patient advocate summit</u> and visiting three Planned Parenthood health centers to hear directly from patients and providers: <u>Planned Parenthood North Central States</u> health center in Minnesota; Planned Parenthood Wisconsin; and Planned Parenthood Mar Monte's health center in Oakland, California. He also hosted multiple <u>roundtables</u> with SRHR leaders, providers and experts on various topics, including several on abortion and one on <u>contraceptive access</u>. He also spoke out on global stages, including the World Health Assembly in May <u>declaring</u>, "To build that equitable and inclusive world, we must ensure sexual and reproductive health and rights for all."











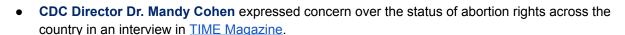




Other cabinet secretaries and senior officials also leveraged their platforms:

- Commerce Secretary Gina Raimondo, in an interview on CNN, highlighted the adverse economic consequences for states that ban abortion.
- Attorney General Merrick Garland talked about
 the DOJ's commitment to protecting and advancing
 reproductive freedom in testimony before the Senate Judiciary Committee.

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- **USAID Administrator Samantha Power** <u>highlighted</u> the importance of investing in international family planning and reproductive health to reduce maternal mortality.
- HHS OCR director Melanie Fontes Rainer traveled to at least five states to meet with local providers and patients.
- USAID Assistant Administrator for Global Health Dr. Atul Gawande spoke at UNFPA's report launch "8 Billion Lives, Infinite Possibilities: The Case for Rights and Choices."

Throughout the year, the White House also hosted multiple convenings with <u>state legislators</u>, including an in-person <u>convening</u> of more than 80 state legislators from 41 states.

The Biden-Harris administration also leveraged the bully pulpit by issuing several cross-cutting in-depth reports.

- In January, HHS issued a report: "Marking the 50th Anniversary of Roe: Biden-Harris Administration Efforts to Protect Reproductive Health Care."
- In February, they issued a <u>progress report</u> on their ongoing efforts to advance both domestic and global sexual and reproductive health and rights as part of their National Strategy on Gender Equity and Equality.



ALABAMA AG VOWS TO PROSECUTE INDIVIDUALS WHO HELP WOMEN TRAVEL OUT OF STATE TO RECEIVE ABORTIONS



What Comes Next: Priorities for Next Year and Into the Future

In 2023, the global and domestic sexual and reproductive health, rights, and justice community released the 2023 Blueprint for Sexual and Reproductive Health, Rights, and Justice Policy Agenda. The 2023 Blueprint Policy Agenda builds on the 2019 Blueprint Policy Agenda and all of the work that the Biden-Harris administration has done to advance sexual and reproductive health, rights, and justice (SRHRJ) domestically and around the globe. It lays out critical actions that the administration can take now, heading into 2024, to further protect and advance people's access to health care and health equity.

We are facing an ongoing global assault on human rights to undermine access to abortion, contraception, sex education, gender-affirming care, the rights of women, girls, and LGBTQ+ people, and more, alongside related crises in maternal health and STI rates. Our nation and our world cannot continue on this trajectory. While the crises we face cannot be solved by executive action alone, it is critical that the administration continue to prioritize sexual and reproductive health care and racial and gender justice in all actions and implement policies that will help ensure all people — no matter who they are, how much money they have, or where they are from — obtain and maintain sexual and reproductive autonomy.

Planned Parenthood encourages the administration to take the following actions and others laid out in the Blueprint and other resources.

- Work with Congress on meaningful budgets: Establish a budget that reflects a commitment to SRHRJ domestically and globally by ending restrictions that limit access to SRH coverage and care and providing adequate funding to truly meet the need for SRH coverage, including meaningfully increasing funding the Title X Family Planning Program, the Teen Pregnancy Prevention Program, the Division of Adolescent and School Health, the Title V Maternal & Child Health Services Block Grant, international family planning and reproductive health programs, UNFPA, and other federal programs that address SRH.
- Focus on rulemaking: Finalize all proposed rules that protect and expand access to health care and coverage, including abortion, birth control, and gender-affirming care, and those that regulate coverage for specific populations, including immigrants.
- Affirm U.S. commitment to global SRHRJ: Launch an initiative to integrate, elevate, and prioritize sexual and reproductive health, rights, and justice across foreign policy priorities and global health, development, and humanitarian programs. This effort must include ensuring all agencies that administer global health programs and U.S. Missions provide clear, ongoing, and proactive communication that reflects U.S. support for SRHR, and clarify what is permitted under current abortion funding restrictions to ensure access to allowable abortion services, information and counseling in countries where abortion is legal; as well as communicating that the global gag rule is no longer in place.
- Protect access to medication abortion and self-managed abortion: Build public education
 and outreach efforts to combat widespread misinformation regarding medication abortion,
 including creating and supporting the public availability of materials with medically accurate
 information about how self-managed abortion with pills works, what the common side effects are,

and under what conditions a person may need to seek medical help following a medication abortion or miscarriage.

- Address the maternal health crisis: Develop a robust research and outreach initiative on U.S.
 maternal mortality which disproportionately harms Black and Indigenous communities in the
 form of an interagency task force, and prioritize funding research to improve maternal health and
 pregnancy outcomes.
- Protect and expand immigrant access to health care: Explicitly recognize facilities providing sexual and reproductive health services as sensitive locations and strengthen standards of care for people in immigration detention, including guaranteed access to comprehensive sexual and reproductive health care.