

Congress in 1999: Actions on Major Reproductive Health-Related Issues

By Susan Cohen

Congressional actions in 1999 yielded some major breakthroughs on family planning policy—both for good and for ill—and essentially a continuation of the status quo where abortion rights are concerned. The central U.S. family planning services program, Title X of the Public Health Service Act, fared especially well, receiving its single largest funding increase since 1980 and escaping any policy-related skirmishes. Results were more mixed on the international side, however; U.S. support for the United Nations Population Fund (UNFPA) was renewed, but the family planning and population assistance program of the U.S. Agency for International Development (USAID) was dealt a major setback on both policy and funding grounds.

Domestic Family Planning

Each year, social conservatives threaten amendments to Title X that would seriously impair the ability of family planning clinics to provide high-quality reproductive health services to low-income women and teenagers. A favorite proposal has been to prohibit Title X funds from flowing to any organization that provides abortion services with its own funds. Another perennial amendment is one that would require parental consent or notice prior to providing contraceptive services to minors.

This year, however, House Republican leaders pressured program opponents to refrain from offering these and any other controversial amendments to expedite passage through the House of the larger

and already precariously situated bill that included the FY 2000 appropriations for the Department of Health and Human Services. In return, they pledged to secure a major funding increase for abstinence promotion under the Adolescent Family Life Act (AFLA). Moreover, despite a subsequent recommendation by the Senate to add \$7 million to Title X's FY 1999 level of \$215 million, the House leaders insisted that the House-Senate conferees eliminate any increase for the family planning program.

Level funding for Title X and a doubling of the AFLA budget was the first “final” deal for these programs. President Bill Clinton vetoed the original version of the relevant appropriations bill, however, and among the many reasons he cited for his veto was insufficient support for family planning. When the bill was renegotiated, the result was quite different. Appropriations Subcommittee Chairmen Sen. Arlen Specter (R-PA) and Rep. John Porter (R-IL), working with the administration, agreed to a final FY 2000 level of \$239 million for Title X, almost matching the administration's initial request of \$240 million. The AFLA funding increase remained intact. As previously envisioned, only \$2 million of the increase was appropriated for FY 2000; an additional \$20 million has been “pre-obligated” for the program in FY 2001. (See chart for details on these and final figures on other important sources of family planning and related reproductive health funding.)

Meanwhile, Congress renewed the contraceptive coverage requirement under the Federal Employees Health Benefits Program (FEHBP), first enacted in 1998. This year's debate was low-key compared with last year's drama, although opponents of the requirement did mount an effort to allow any FEHBP participating plan to opt out of covering contraceptives because of a “moral” objection. (Currently, the law exempts five

FINAL FY 2000 APPROPRIATIONS FOR SELECTED DOMESTIC REPRODUCTIVE HEALTH PROGRAMS (IN MILLIONS)

| PROGRAM | FY 1999 | FY 2000 | % CHANGE |
|--|---------|---------|----------|
| TITLE X FAMILY PLANNING | \$ 215 | \$ 239 | +11 |
| MATERNAL AND CHILD HEALTH BLOCK GRANT | 700 | 710 | +1 |
| SOCIAL SERVICES BLOCK GRANT | 1,909 | 1,775 | -7 |
| ADOLESCENT FAMILY LIFE* | 18 | 40* | +122 |
| ABSTINENCE-ONLY EDUCATION† | 50 | 50 | +0† |
| STD PREVENTION AND CONTROL | 124 | 137 | +10 |
| BREAST AND CERVICAL CANCER SCREENING | 159 | 167 | +5 |
| RYAN WHITE AIDS PREVENTION | 94 | 138 | +47 |
| NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT | 751 | 863 | +15 |

*\$20 million not available until October 1, 2000. †Funding is guaranteed under the 1996 welfare reform law.

explicitly *religious* plans from the coverage mandate.) The House rejected Rep. Chris Smith's (R-NJ) amendment to that effect by a vote of 217–200. As a compromise, contraceptive coverage supporters agreed to a provision specifically allowing individual health care “providers” to refuse to provide contraceptive services or methods on the basis of their personal moral or religious beliefs. Whether the new provision extends only to clinicians (beyond physicians, who already were covered by law) or applies also to pharmacists remains a matter of interpretation. Regardless, it will have no impact on the contraceptive coverage requirement per se, since that requirement pertains only to the obligation of health plans and not to individual health care professionals.

International Family Planning

After conservatives finally succeeded in cutting off all U.S. funding for UNFPA in 1998—arguing that UNFPA's presence in China, notwithstanding the nature of its own program, amounts to complicity in China's coercive abortion practices—a concerted campaign began early this year to reverse this decision (*TGR*, Vol. 2, No. 1, February 1999). Much to the surprise of both sides, these efforts culminated in a midsummer House vote of 221–198 to provide up to \$25 million for UNFPA—on the condition that none of the U.S. funds be used in UNFPA's China program and that one dollar of U.S. funds be deducted for every dollar UNFPA spends of other donors' funds in that country. The House action cleared the way for the renewed funding, since the Senate had always been supportive of UNFPA and restoring a U.S. relationship with UNFPA was a high priority of the Clinton administration.

A week later, by a vote of 221–208, the House for the first time also endorsed an approach to the intractable Mexico City “gag rule”

policy issue that was supported by the administration and acceptable to Senate family planning advocates. While the House voted at the same time—as it repeatedly has in the past—for the Mexico City restrictions long promoted by Smith, the action marked the first real indication that a solution to this five-year standoff was possible. Smith's restrictions would block foreign nongovernmental organizations (NGOs) that use their own funds either to provide abortions or to lobby on abortion from receiving U.S. funds for family planning. The alternative, authored by Reps. Jim Greenwood (R-PA) and Nita Lowey (D-NY), would allow such organizations to be eligible for U.S. support as long as their abortion-related activities do not violate the laws of their own country.

House endorsement of the Greenwood-Lowey compromise led to optimism that a solution was finally at hand that would lead to the release of the \$1 billion in back dues the United States owed to the United Nations while minimizing harm to the U.S. international family planning program. The final deal struck in the fall budget endgame, however, much more resembles Smith's starting position than it does the administration's.

Under the terms of the agreement, Smith's policy restrictions were incorporated into the FY 2000 foreign aid appropriations bill. The president was given authority to waive the restrictions, but in doing so on November 29, \$12.5 million was deducted from the \$385 million appropriated for USAID's population aid program. Moreover, no more than a total of \$15 million may go to foreign NGOs that provide legal abortions or engage in legal lobbying on abortion.

Abortion Rights

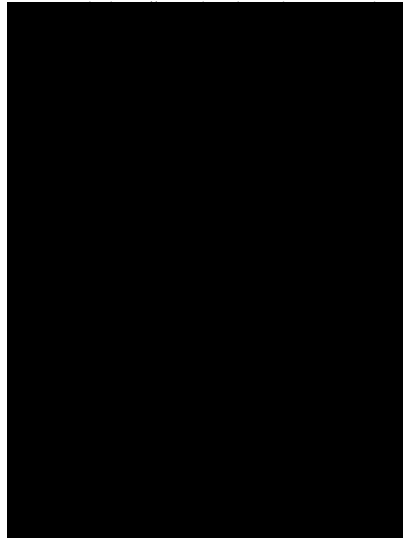
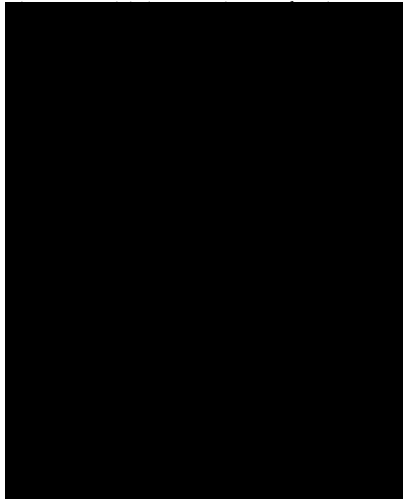
Action also was seen this year on three major pieces of legislation that are intended to ban, limit or otherwise undermine the right to abor-

tion: the Partial-Birth Abortion Ban Act, the Child Custody Protection Act and the Unborn Victims of Violence Act. These bills go well beyond the now long-standing bans on the use of federal funds for abortion for women dependent on the federal government for their health care or health insurance, all of which were renewed again this year.

In October, the Senate revisited the “partial-birth” abortion ban legislation for the third time since 1996; it was the only abortion bill to be considered by the Senate this year. As a result of the 1998 elections, support for the ban increased by one vote in the Senate to 63–34, but the bill remains two votes short of the two-thirds necessary to override a veto. Sen. Richard Durbin (D-IL) offered a “prochoice” alternative, which would ban all postviability abortions except in cases where grievous injury to a woman's life or physical health is threatened, but it failed on a vote of 38–61. Finally, Sen. Tom Harkin (D-IA), seeking to expose the fact that the ban's primary advocates are seeking to ban *all* abortions, not just certain procedures, offered a “sense of Congress” resolution stating that “*Roe v. Wade* was an appropriate decision and secures an important constitutional right” and “such decision should not be overturned.” The resolution passed, 51–47, but 16 senators saw no conflict in voting both for the “partial-birth” abortion ban and in favor of *Roe*. The House will take up the legislation next year.

The House passed the Child Custody Protection Act this summer for the second year running. The 270–159 vote—also short of the two-thirds majority necessary to override a veto—reflected slightly less House support for the measure than in the last Congress. This bill would make it a federal crime to transport a minor across state lines to have an abortion in an effort to circumvent

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