

DIOCESE OF MANCHESTER

December 12, 2019

(via email only)

Members of the Joint Legislative Fiscal Committee
107 N. Main St.
State House
Concord, NH 03301

Re: FIS 19-322 (DHHS - Transfer Authorization/Family Planning Program)

Dear Members of the Fiscal Committee:

As Director of the Office of Public Policy of the Roman Catholic Diocese of Manchester, and on behalf of Bishop Peter Libasci, I want to express our opposition to the transfer requested by DHHS in FIS 19-322. We respectfully ask that you vote against that transfer.

DHHS is asking to use state general funds to pay seven entities that have unilaterally withdrawn from the Title X NH Family Planning Program. These withdrawals were done in response to a new federal administrative rule that prohibits Title X grantees from (among other things) providing referrals for abortion or engaging in activities that otherwise encourage or promote abortion as a method of family planning.

The granting of this request would vitiate the important public policy that is embodied in the federal rule and indeed in Title X itself: that abortion and family planning must be kept distinct. To grant DHHS' request would also be contrary to the deeply held beliefs of the manifold numbers of New Hampshire citizens who object to the payment of public moneys to abortion providers – an issue that is squarely presented by FIS 19-322, because the very purpose of the proposal is to enable state funds to be paid to entities that left the Title X program precisely so that they could continue to engage in the abortion-related activities that the federal rule addresses.

In addition, it is not at all clear that the budget documents as enacted actually support what DHHS is requesting. FIS 19-322 is based on the assertion that general funds were appropriated to the NH Family Planning Program through HB 4 Section 229. That section provides as follows:

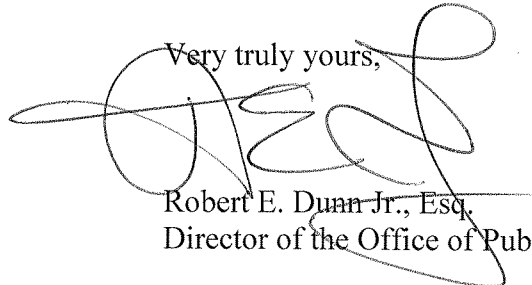
346:229 Federal Family Planning Funding. If the proposed federal rule on Compliance with Statutory Program Integrity Requirements, 83 Fed. Reg. 25,502 (to be codified at 42 C.F.R. pt 59) does not go into effect and federal family planning funds are made available to the providers funded out of account 05-95-90-902010-5530, the unused portion of general funds appropriated to that account for the purpose of replacing lost federal funds shall lapse to the general fund.

As you know, the funds appropriated to the NHFPP in the recently enacted budget were increased over the amounts included in the last budget. Where the total funds for NHFPP in FY 2019 were \$1.7 M (\$595,000 of which were state general funds), the total funds appropriated for NHFPP in FY 2020 were \$3,492,168 (\$2,096,699 of that being state general funds). Nevertheless, HB 3 established no new NHFPP class line, nor was the NHFPP appropriation accompanied by any Class Note directing what was to be done with the funds. This is obviously why DHHS grounded its request on the premise that the appropriation was made in HB 4 Section 229 - the trailer bill, not the budget.

On its face, Section 229 is not an appropriation. Rather, it is a provision dealing with the *lapse* of unused NHFPP funds under the conditions stated (i.e., the federal rule does not go into effect and federal family planning funds are made available to the providers funded out of account 5530.) Moreover, while FIS 19-322 relies on the language in Section 229 regarding the presumed lack of availability of the federal funds, it is indisputable that the federal family planning funds ARE in fact available to class 5530 providers. This is true not just with respect to the providers who remain in the Title X program; it is also true even as applied to the entities that withdrew from the Title X program, because the decision by those entities not to accept the funds under the conditions on offer indisputably has no impact on the availability of those funds. That is why it is also the case that no federal funds have been "lost" here. In any event, it seems beyond dispute that this authorization was not unambiguously stated in either HB 3 or HB 4.

Thank you for your courteous consideration of our views.

Very truly yours,

A handwritten signature in black ink, appearing to read "RED", is written over the typed name and title of the sender.

Robert E. Duan Jr., Esq.
Director of the Office of Public Policy