NOS. 20-429, 20-454, 20-539

IN THE
Supreme Court of the United States

AMERICAN MEDICAL ASSOCIATION, ET AL.,
Petitioners,
v.
XAVIER BECERRA, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL.,
Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

OREGON, ET AL.,
Petitioners,
v.
XAVIER BECERRA, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL.,
Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

XAVIER BECERRA, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL.,
Petitioners,
v.
MAYOR AND CITY COUNCIL OF BALTIMORE,
Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit

REPLY OF AAPLOG, CMDA, AND CMA IN SUPPORT OF MOTION TO INTERVENE OR TO PRESENT ORAL ARGUMENT AS AMICI CURIAE

KRISTEN K. WAGGONER
JOHN J. BURSCH
COUNSEL OF RECORD
DAVID A. CORTMAN
KEVIN H. THERIOT
RORY T. GRAY
ERIN MORROW HAWLEY
ALLIANCE DEFENDING FREEDOM
440 First Street, N.W., Suite 600
Washington, D.C. 20001
(616) 450-4235
jbursch@ADFlegal.org

TABLE OF CONTENTS

INTRODUCTION 1

ARGUMENT 2

I. This Court has discretion to relax or modify Rule 46.1's application and it should do so under the exceptional circumstances here. 2

II. AAPLOG, CMDA, CMA, and their members will be harmed if the Court dismisses these cases under Rule 46.1. 3

III. Mootness is not a valid concern nor a reason to apply Rule 46.1 uncritically before ruling on the motions to intervene. 7

IV. Allowing AAPLOG, CMDA, and CMA to intervene would not alter the legal issues at play. 10

CONCLUSION 12

TABLE OF AUTHORITIES

Cases

American Farm Lines v. *Black Ball Freight Service*,
397 U.S. 532 (1970) 2

Chevron U.S.A. Inc. v. *Natural Resource Defense Council, Inc*,
467 U.S. 837 (1984) 10

DHS v. *Regents of the University of California*,
140 S. Ct. 1891 (2020) 6

Friends of the Earth, Inc. v. *Laidlaw Environment Services (TOC), Inc.*,
528 U.S. 167 (2000) 7

Kamen v. *Kemper Financial Services, Inc.*,
500 U.S. 90 (1991) 11

Kisor v. *Wilkie*,
139 S. Ct. 2400 (2019) 9, 10

Knox v. *Service Employees International Union, Local 1000*,
567 U.S. 298 (2012) 8, 9

Lebron v. *National Railroad Passenger Corp.*,
513 U.S. 374 (1995) 11

Little Sisters of the Poor Saints Peter & Paul Home v. *Pennsylvania*,
140 S. Ct. 2367 (2020) 6

Mayor of Baltimore v. *Azar*,
973 F.3d 258 (4th Cir. 2020) 7

Rust v. *Sullivan*,
500 U.S. 173 (1991) 1, 10

Trinity Lutheran Church of Columbia, Inc. v. *Comer*,
137 S. Ct. 2012 (2017) 8

Trump v. *Hawaii*,
138 S. Ct. 2392 (2018) 7

Statutes

42 U.S.C. 300a-6 10

5 U.S.C. 706 9

Rules

Supreme Court Rule 46.1 .... passim

Regulations

Compliance with Statutory Program Integrity Requirements, 84 Fed. Reg. 7714 (Mar. 4, 2019) 3, 4, 6, 8

Protecting Statutory Conscience Rights in Health Care, 84 Fed. Reg. 23,170 (May 21, 2019) 5

Constitutional Provisions

U.S. Const. article III, § 3 .... 2, 8

INTRODUCTION

The United States now lauds the "status quo" that just five months ago led to its urgent appeal for this Court's review. Federal Parties' Resp. in Opp'n to the Mots. For Leave to Intervene (Federal Opp'n) at 10, 14–15. Yet, legally speaking, nothing has changed. The 2019 Rules are still on the books. The circuit conflict over whether those Rules violate the Administrative Procedure Act (APA) remains. And the meaning of Title X and other federal statutes continues to differ based on where one lives, creating—in the United States' own words—an "untenable situation." Pet. for a Writ of Cert. at 33, *Azar* v. *Mayor & City Council of Balt.* (20-454). As the United States previously explained, this Court's review is essential to reverse a Fourth Circuit en banc decision that "is plainly incorrect and defies *Rust* [v. *Sullivan*, 500 U.S. 173 (1991)], creates a square conflict with the contrary conclusion of the en banc Ninth Circuit, and requires HHS to allow federal funds to be used to promote abortion in contravention of an Act of Congress." *Id.* at 11.

The only thing that has changed is the party in power. For over 30 years, the meaning of Title X's static text has shifted back and forth based solely on whether a Democrat or Republican administration is in office. It is time for the carousel ride to end. The rule of law requires an answer to the important questions presented, and the American Association of Pro-Life Obstetricians & Gynecologists (AAPLOG), the Christian Medical and Dental Associations (CMDA), and the Catholic Medical Association (CMA) have standing to defend the 2019 Rules. This Court should reject the United States' postcertiorari maneuverings, grant the motions to intervene, and schedule these cases for oral arguments at the earliest opportunity.

ARGUMENT

I. This Court has discretion to relax or modify Rule 46.1's application and it should do so under the exceptional circumstances here.

The parties do not claim that Rule 46.1 is jurisdictional. Nor do they question this Court's discretion "to relax or modify its procedural rules adopted for the orderly transaction of business . . . when in a given case the ends of justice require it." *Am. Farm Lines* v. *Black Ball Freight Serv.*, 397 U.S. 532, 539 (1970). They simply ask this Court to apply Rule 46.1 reflexively without considering the extraordinary circumstances presented here. Federal Opp'n 11–12; Br. for Oregon, et al. in Opp'n to Mots. for Leave to Intervene (States Opp'n) at 4–5; Am. Medical Ass'n, et al. Opp'n to Motions for Leave to Intervene (AMA Opp'n) at 5–6.

But Rule 46.1 cannot erase the United States' cogent logic explaining the urgent need for this Court's review, this Court's grant of its petition for certiorari along with two others raising like questions about Title X, and the federal government's subsequent attempt to evade this Court's review—after a change in administration—by stipulating to the dismissal of all three cases *after* AAPLOG, CMDA, and CMA moved to intervene, and the State of Ohio and 18 other states did the same. The United States offers no convincing explanation for its refusal to defend the 2019 Rules' legality under the APA. Nor could it, as the federal government's actions are fundamentally at odds with the United States' institutional interests and the Department of Justice's duty to defend and uphold existing federal law, interests and duties that transcend the policies of those who happen to hold power at any given moment. U.S. Const. article III, § 3.

For the reasons stated by the State of Ohio and 18 other states, this Court should not reward the federal government's gamesmanship. Resolving longstanding disagreements about what Title X does—or does not—require is just as essential now as it was when the United States filed its petition for a writ of certiorari.

II. AAPLOG, CMDA, CMA, and their members will be harmed if the Court dismisses these cases under Rule 46.1.

The parties contend that dismissing these cases under Rule 46.1 will not harm AAPLOG, CMDA, CMA, and their members. That is incorrect for four reasons.

First, AAPLOG, CMDA, and CMA filed their intervention motion *before* the parties entered a stipulated dismissal. That stipulation is merely a litigation maneuver designed to foreclose the medical associations' ability to defend the 2019 Rules. Dismissal will deprive the medical associations of any opportunity to have their intervention motion considered. And if this Court allows the medical associations to intervene, the parties will lack the uniformity that Rule 46.1 requires, preserving the 2019 Rules and their conscience protections until the final promulgation of a new rule and any court orders enjoining that rule are finally resolved.

Second, the United States has expressed its intention to rescind the 2019 Rules and effectively return to the 2000 rule, Fed. Opp'n 9, which mandates that Title X "providers provide counseling on and referral for abortion, if requested by the client," Compliance with Statutory Program Integrity Requirements, 84 Fed. Reg. 7714, 7777 (Mar. 4, 2019). The Department of Health and Human Services (HHS) recently found the 2000 rule to be "inconsistent with the conscience protection embodied in the

Church, Coats-Snowe, and Weldon Amendments." *Id.* at 7777–78. The 2019 Rules remedy these defects by eliminating "the requirement that Title X projects provide abortion counseling and referral," which "add[s] clarity to extant conscience protections, making it easier for [AAPLOG, CMDA, CMA's members] to participate" in the Title X program even if they felt "unable to do so in the past." *Id.* at 7778.

The parties assert that HHS has an *unwritten policy* of exempting conscientious objectors like AAPLOG, CMDA, and CMA's members from performing abortion counseling or referrals. Fed. Opp'n 6, 15–16; States Opp'n 18–19; AMA Opp'n 12–13. That is cold comfort—that HHS might ignore its own regulatory requirement that even conscientious objectors provide abortion counseling is no legal reason to deny review. There is no guarantee that enforcement policy will continue. An unwritten rule that officials may rescind on a whim or ignore in the promised rule change leaves AAPLOG, CMDA, and CMA's members worse off than the 2019 regulation's clear and binding elimination of any Title X duty to provide abortion counseling or referral.

More important, pro-life medical professionals are usually forced to promote or assist with abortion by their *employers*, not the state. HHS's unwritten exemption for conscientious objectors is of little practical benefit and lacks the strong deterrent effect of the 2019 Rules. Contrary to the parties' assertions, the mere existence of conscience statutes with no private right of action, like the Church Amendment, has never prevented employers from forcing pro-life medical professionals to assist with abortion or stopped employers from discriminating against medical professionals for their pro-life views. Protecting Statutory Conscience Rights in Health Care, 84 Fed.

Reg. 23,170, 23,176, 23,178–79, 23,187 & n.55, 23,228–29 & n.149 & 153 (May 21, 2019); Br. of Amicus Curiae AAPLOG at 8–13, *New York* v. *U.S. Dep't of Health & Human Servs.*, Nos. 19-4254, 20-31, 20-32, 20-41 (2d Cir. 2020).

That is why HHS issued an added final rule protecting healthcare providers' conscience rights. 84 Fed. Reg. 23,170. But the new administration is unlikely to defend that rule, which most (if not all) of the plaintiff States have sought to enjoin. *New York* v. *U.S. Dep't of Health & Human Servs.*, Nos. 19-4254, 20-31, 20-32, 20-41 (2d Cir.); *City & Cnty. of S.F.* v. *Azar*, Nos. 20-15398, 20-15399, 20-16045, 20-35044 (9th Cir.). It is the height of disingenuity for the plaintiff States to contend that the statutory conscience rights of AAPLOG, CMDA, and CMA's members are adequately protected—by an unwritten exemption—when those same States have sought to undermine those rights at every turn in this litigation and a variety of other contexts. After notice-and-comment rulemaking, HHS rightly concluded more was required.

Third, if this Court grants a Rule 46.1 dismissal, the Fourth Circuit's decision is a ready means for litigants to quickly enjoin the 2019 Rules' application in North Carolina, South Carolina, Virginia, and West Virginia. District courts in those jurisdictions are bound to follow the Fourth Circuit's misguided logic and other courts may find the Fourth Circuit's ruling persuasive. The parties' argument that the 2019 Rules will only cease to operate in Maryland rings hollow. Any time the government refuses to defend conscience rights, it puts AAPLOG, CMDA, and CMA's members at risk.

This particular abdication is likely to cost some members who work at Title X clinics their jobs. AAPLOG has physician members who currently provide prenatal

and other medical care at Title X clinics in Virginia and West Virginia. Suppl. Decl. of Christina M. Francis, M.D. at 1 (Addendum A). And the Commonwealth of Virginia is one of the States challenging the 2019 Rules in this litigation. If the Court dismisses these three cases, it is nearly certain that Virginia will file suit in federal district court and quickly obtain a permanent injunction against the 2019 Rules' enforcement, putting AAPLOG's prenatal-care-physician members and others at serious risk of losing their employment. West Virginia could file a similar lawsuit.

Finally—and perhaps most critically—HHS commonly cites judicial decisions as sustaining its "reasoned analysis" for a new rule, *DHS* v. *Regents of the Univ. of Cal.*, 140 S. Ct. 1891, 1913 (2020), or "satisfactory explanation" for a regulatory change, *Little Sisters of the Poor Saints Peter & Paul Home* v. *Pennsylvania*, 140 S. Ct. 2367, 2383 (2020) (quotation omitted). *E.g.*, 84 Fed. Reg. at 7721, 7725, 7732, 7748. This Court has approved that practice, at least as far as its own decisions are concerned. *Little Sisters*, 140 S. Ct. at 2376–77, 2382–84. The parties recognize that President Biden adamantly opposes the 2019 Rules. Fed. Opp'n 3, 8; States Opp'n 3; AMA Opp'n 3–4, 6. Notwithstanding the APA's requirements and AAPLOG, CMDA, and CMA members' reliance interests, *DHS* v. *Regents*, 140 S. Ct. at 1913, they treat HHS's rescission of the 2019 Rules and effective reinstatement of the 2000 rule as if it has already happened, Fed. Opp'n 3, 9, 17; States Opp'n 3; AMA Opp'n 1–2, 4–6.

When AAPLOG, CMDA, CMA, and others submit comments to HHS supporting retention of the 2019 conscientious protections, the agency will doubtless reject their concerns *based on the very Fourth Circuit ruling at issue here*, which wrongly asserts that federal statutes like the Church Amendments, Coats-Snowe

Amendment, and Weldon Amendment are "of no moment." *Mayor of Balt.* v. *Azar*, 973 F.3d 258, 279 (4th Cir. 2020) (en banc). In other words, the ruling under review is sure to be one of HHS's principal reasons for dismissing and running roughshod over the medical associations' and their members' concerns about conscience rights during the APA process. Allowing the Fourth Circuit's decision to stand by virtue of a contrived Rule 46.1 stipulated dismissal would distort the APA's deliberative process, provide HHS with a ready excuse to ignore federal conscience protections in multiple contexts, and directly harm all AAPLOG, CMDA, and CMA members who work or who may in the future seek employment at any Title X clinic nationwide.[1]

III. Mootness is not a valid concern nor a reason to apply Rule 46.1 uncritically before ruling on the motions to intervene.

No one argues these cases are moot. The parties simply *predict* mootness at some future point when HHS attempts to replace the 2019 Rules with the 2000 rule or a similar conscience-crushing regime. Federal Opp'n 2–3, 17–18; AMA Opp'n 1–2, 5–6. But if the mere possibility of future mootness precluded this Court from placing a case on its oral argument calendar, the docket would be astonishingly light. HHS

[1] The plaintiff States contend that AAPLOG, CMDA, and CMA must demonstrate independent standing to intervene even though the parties have already invoked this Court's jurisdiction and persuaded the Court to grant their petitions for a writ of certiorari. States Opp'n 11, 15–16. Regardless of whether this is correct, the medical associations have independent standing. As just explained, allowing the Fourth Circuit's en banc decision to stand creates imminent, real-world harms to the medical associations' members. *Trump* v. *Hawaii*, 138 S. Ct. 2392, 2416 (2018). The Fourth Circuit's decision to strike down the 2019 Rules and the United States' refusal to defend the rules have "direct and appreciable legal consequences" for the medical associations' and their members' conscience rights and employment opportunities nationwide. And a decision from this Court upholding the 2019 Rules' legality would significantly increase AAPLOG, CMDA, and CMA's members' likelihood of preserving their conscience rights and jobs. Moreover, no doubt exists that the medical associations have standing to bring suit on behalf of their members where, as here, "[their] members would otherwise have standing to sue in their own right, the interests at stake are germane to [their] purpose, and neither the claim asserted nor the relief requested requires the participation of individual members." *Friends of the Earth, Inc.* v. *Laidlaw Env't Servs. (TOC), Inc.*, 528 U.S. 167, 181 (2000).

may plan to skuttle the 2019 Rules. Yet it remains to be seen whether the federal government will succeed in effectuating a replacement rule, especially one that directly contradicts the plain text of Title X, in the face of court challenges that are likely to keep HHS's proposed rule tied up in court for years. If recent experience has taught anything, it is that the federal government cannot simply snap its fingers to reverse a thoughtful and properly promulgated administrative rule.

This Court should view the United States' "postcertiorari maneuvers designed to insulate a decision from review . . . with a critical eye." *Knox* v. *Serv. Emps. Int'l Union, Local 1000*, 567 U.S. 298, 307 (2012). Even more skepticism is warranted when the government strives to moot its *own* granted petition for a writ of certiorari and abdicates its duty to "take Care that the Laws be faithfully executed." U.S. Const. article III, § 3.

Even if the federal government does eventually succeed in replacing the 2019 Rules, the current situation is akin to a party voluntarily ceasing its challenged practice. *E.g.*, *Knox*, 567 U.S. at 307–08; *Trinity Lutheran Church of Columbia, Inc.* v. *Comer*, 137 S. Ct. 2012, 2019 n.1 (2017). Mootness does not occur in that setting unless it is "absolutely clear that the allegedly wrongful behavior could not reasonably be expected to recur." *Trinity Lutheran*, 137 S. Ct. at 2019 n.1. But for decades, Republican administrations have sought to promulgate something like the 1988 or 2019 Rules, and Democrat administrations have sought to promulgate something like the 2000 rule. 84 Fed. Reg. at 7720–22. So it is practically certain the 2019 Rules will reappear. For that reason, these cases are unlikely to become moot.

"[A]s long as the parties have a concrete interest, however small, in the outcome of the litigation, the case is not moot." *Knox*, 567 U.S. at 307–08 (quotation omitted). Here, the parties and prospective intervenors retain a *substantial* interest in resolving the legal questions raised in the United States' petition, including, for example, whether (1) federal law requires Title X clinics to treat abortion the same as childbirth or adoption, (2) the federal government's failure to fund abortion referrals creates unreasonable barriers to appropriate medical care or violates medical ethics, and (3) whether Congress implicitly abrogated *Rust* v. *Sullivan* in an appropriations rider or ancillary Affordable Care Act provision. Pet. for a Writ of Cert. at 14, 16–19, 20–24, 31, *Azar* v. *Mayor & City Council of Balt.* (20-454).

The United States' claim that answering these questions will have no impact on the new rule's legality, Fed. Opp'n 3, is not credible. The federal government acknowledges that litigating these cases before this Court could "seriously disrupt the agency's rulemaking" for a reason. Fed. Opp'n 17 (quotation omitted). If HHS's proposed rule is contrary to Title X's plain language, it is—by definition—"not in accordance with law." 5 U.S.C. 706. Accordingly, this Court's decision about what Title X and related statutes require will cabin HHS's rule. And this Court is unlikely to abdicate its constitutional responsibility and defer to HHS's construction of Title X's language, as the United States claims. Fed. Opp'n 19.

The Court has repudiated its willingness to declare many (if not most) laws ambiguous and insisted that courts resort "to all the standard tools of interpretation" before finding a law genuinely ambiguous. *Kisor* v. *Wilkie*, 139 S. Ct. 2400, 2414–15 (2019). No textual analysis proceeds *Rust* v. *Sullivan's* swift conclusion that 42 U.S.C.

300a-6—which forthrightly declares "[n]one of the funds appropriated under this subchapter shall be used in programs where abortion is a method of family planning"—is ambiguous, 500 U.S. 173, 184 (1991). So *Rust* is no longer good law on that point; indeed, five Justices in *Kisor* put the constitutionality of deference to an agency's statutory interpretation under *Chevron U.S.A. Inc.* v. *Natural Res. Def. Council, Inc*, 467 U.S. 837 (1984), in serious doubt. *Kisor*, 139 S. Ct. at 2425 (Roberts, J., concurring); *id.* at 2446 n.114 (Gorsuch, J., concurring in the judgment); *id.* at 2449 (Kavanaugh, J., concurring in the judgment). This Court will no longer allow unelected bureaucrats to rewrite a statute's plain language on a whim.

Accordingly, the parties cannot show that these cases are moot or trivial. Granting the motions to intervene will ensure that these cases are briefed and argued by truly adverse parties with a personal stake in the outcome. The existing parties' (self-fulfilling) mootness prophesies are a distraction from the important questions presented, which deserve this Court's answer after decades of confusion.

IV. Allowing AAPLOG, CMDA, and CMA to intervene would not alter the legal issues at play.

The United States suggests that prospective intervenors should not be allowed to intervene because it never previously argued that statutory language *required* the 2019 Rules' construction of Title X. Fed. Opp'n 18–19. But if the federal government did not make this contention, it came awfully close. Pet. for a Writ of Cert. at 12, *Azar* v. *Mayor & City Council of Balt.* (20-454) (arguing that "compliance with the statute was more important than any costs Title X recipients might incur to continue obtaining federal funding"); *id.* at 20 (citing "HHS's judgment that the abortion-

referral prohibition and physical-separation requirement reflected the best reading of Section 1008"); *id.* at 21 (asserting that "[w]hen a statute requires an agency to take a particular approach, it must do so on that basis alone").

In any case, no one disputes that the United States preserved its claim that the 2019 Rules comport with the relevant statutory language and do not violate the APA. Nothing prevents the prospective intervenors from making "any argument in support of [those] claim[s]," including that statutory language requires the 2019 Rules' interpretation of federal law. *Lebron* v. *Nat'l R.R. Passenger Corp.*, 513 U.S. 374, 379 (1995) (quotation omitted). The prospective intervenors are not limited "to the precise arguments . . . made below." *Ibid.* (quotation omitted). Nor is this Court constrained by the parties' arguments. It may disregard "the particular legal theories advanced by the parties" and "identify and apply the proper construction of governing law." *Kamen* v. *Kemper Fin. Servs., Inc.*, 500 U.S. 90, 99 (1991).

Until the 2019 Rules are changed through an appropriate APA process, the United States has a duty to defend and uphold them. That is precisely why the United States sought review from the Fourth Circuit's erroneous ruling in the first instance. That the United States would now beg this Court to let that adverse ruling stand—and encourage the Court to ignore whether Title X's plain language *requires* the 2019 Rules' construction—vividly illustrates why this Court should hear and decide this dispute on the merits now.

CONCLUSION

AAPLOG, CMDA, and CMA respectfully request that the Court grant the motions to intervene and reject the existing parties' Rule 46.1 stipulated dismissal. If the existing parties later persuade this Court the cases are moot, there is ample time to dismiss them. But terminating the cases now would reward the United States' postcertiorari maneuvers, encourage the Executive Branch to abdicate its responsibility to defend federal law, and insulate troubling lower court decisions from review for purely political reasons. AAPLOG, CMDA, and CMA echo Ohio and 18 other States' willingness to brief and argue these cases as quickly as the Court desires.

Respectfully submitted,

s/ John J. Bursch

KRISTEN K. WAGGONER
JOHN J. BURSCH
COUNSEL OF RECORD
DAVID A. CORTMAN
KEVIN H. THERIOT
RORY T. GRAY
ERIN MORROW HAWLEY
ALLIANCE DEFENDING FREEDOM
440 First Street, N.W., Suite 600
Washington, D.C. 20001
(616) 450-4235
jbursch@ADFlegal.org

March 22, 2021

ADDENDUM A

NOS. 20-429, 20-454, 20-539

IN THE
Supreme Court of the United States

AMERICAN MEDICAL ASSOCIATION, ET AL.,
Petitioners,
v.
XAVIER BECERRA, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL.,
Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

OREGON, ET AL.,
Petitioners,
v.
XAVIER BECERRA, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL.,
Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

XAVIER BECERRA, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL.,
Petitioners,
v.
MAYOR AND CITY COUNCIL OF BALTIMORE,
Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit

SUPPLEMENTAL DECLARATION OF CHRISTINA M. FRANCIS, M.D. IN SUPPORT OF INTERVENTION

KRISTEN K. WAGGONER
JOHN J. BURSCH
COUNSEL OF RECORD
DAVID A. CORTMAN
KEVIN H. THERIOT
RORY T. GRAY
ERIN MORROW HAWLEY
ALLIANCE DEFENDING FREEDOM
440 First Street, N.W., Suite 600
Washington, D.C. 20001
(616) 450-4235
jbursch@ADFlegal.org

I, Christina M. Francis, M.D. under penalty of perjury and pursuant to 28 U.S.C. § 1746, declare:

AAPLOG has members who currently provide prenatal care and other medical services at Title X clinics in Virginia and West Virginia.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 22, 2021.

s/ Christina M. Francis, M.D.
Christina M. Francis, M.D.,
AAPLOG Board Chair