

# United States Senate

September 23, 2022

Secretary Xavier Becerra  
U.S. Department of Health & Human Services  
Hubert H. Humphrey Building  
200 Independence Avenue, S.W.  
Washington, D.C. 20201

Dear Secretary Becerra,

We write today to express our ardent opposition to the U.S. Department of Health and Human Services' (HHS) disregard for the rule of law, which puts unaccompanied children, who are entrusted to the agency's care, in danger.

The unaccompanied children who come to our border must be treated with dignity and respect. When the U.S. Department of Homeland Security (DHS) refers these children to HHS Office of Refugee Resettlement (ORR) for care, US law rightly prioritizes their safety while ORR searches for placement with vetted sponsors.

Instead of providing care for each child, HHS has created and depended upon Field Guidance #21,<sup>1</sup> which directs providers to promote and facilitate abortions for pregnant minors in violation of federal law. Since 1976, Congress has included the Hyde Amendment, which restricts HHS from funding elective abortion, on annual appropriations bills that fund the agency. *Azar v. Garza*<sup>2</sup> is not license for federal staff to use taxpayer dollars, facilities, staff, and other resources to circumvent any state laws that protect life or federal prohibitions on funding abortions.

Field Guidance #21 directs ORR staff to submit requests to transfer pregnant minors to ORR facilities in other states in order to circumvent state laws that protect unborn life. The guidance even notes that ground transportation to abortion clinics in neighboring states may be most appropriate in cases where the pregnant minor is past the gestational age in which she can fly safely. We are astounded that we have to explain the horror of driving a pregnant minor, whose unborn child is well past the point of viability, to a state where a provider will perform an elective late-term abortion. Driving a pregnant minor to another state for a late-term abortion is not a legal use of taxpayer dollars.

It is our understanding that these policies around transportation would require federal personnel to use federally-owned, leased, or contracted vehicles to transport pregnant unaccompanied minors to abortion clinics, wait in the parking lot during the procedure, and then drive the unaccompanied minor back to the ORR facility – all on the taxpayers' dime. Depending on the specific ORR facility and state laws concerning abortion, Field Guidance #21 may even require federally-funded transportation that would cross state lines, require hours-long travel, and require overnight accommodations. This is an illegal and offensive use of taxpayer dollars.

Additionally, it is our understanding that ORR facilitates the distribution of dangerous chemical abortion drugs within federal facilities.<sup>3</sup> To allow vulnerable children in your care<sup>3</sup> to receive dangerous chemical abortion drugs without direct medical supervision within federal facilities is not only a violation of the clear federal funding restrictions placed on ORR

---

<sup>1</sup> Administration for Children & Families, Office of Refugee Resettlement, *Field Guidance #21*, October 1, 2021.

<sup>2</sup> *Azar v. Garza*, 54 U.S. \_\_\_\_ (2018).

<sup>3</sup> Administration for Children & Families, Office of Refugee Resettlement, *Policy Memorandum: Medical Services Requiring Heightened ORR Involvement*, September 29, 2020.

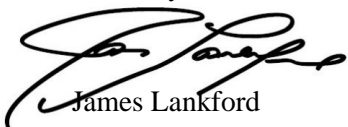
facilities, but also a complete dereliction of the duty to ensure the safety of children in your care.<sup>4</sup> The possible side effects of self-administered chemical abortion drugs include abdominal pain, heavy bleeding, fever, infection, and incomplete abortions that require surgical intervention. No child should take these drugs, especially without a licensed doctor's supervision.<sup>5</sup>

ORR has the responsibility to ensure the safety of some of the world's most vulnerable children. It is deeply concerning that in a time of such uncertainty and fear, they are entrusted to an agency that prioritizes its pro-abortion agenda over the health and safety of the children in its custody. A child's referral to ORR is an opportunity to treat them with care while searching for appropriate, vetted sponsors, not an opportunity to encourage the taking of unborn life. Every life is worthy of protection, born or unborn.

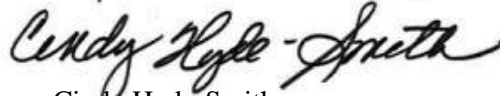
We urge you to swiftly reverse these illegal and horrific policies. Further, we ask that you thoroughly respond to each of the following questions no later than October 17, 2022.

1. How many abortions has HHS ORR facilitated for unaccompanied minors in its custody? Please include a breakdown of chemical abortions and surgical abortions and whether such abortion took place at an ORR facility.
2. How much federal funding has HHS spent on facilitating abortions for minors including, staff time, transportation and accommodation costs? Please provide a breakdown of the costs by type.
3. Please provide a list of all states and localities where HHS ORR has transported pregnant unaccompanied minors in order to facilitate their access to abortion.

Sincerely,



James Lankford  
United States Senator



Cindy Hyde-Smith  
United States Senator



James M. Inhofe  
United States Senator



Roger Marshall, M.D.  
United States Senator



Roger F. Wicker  
United States Senator



Mike Braun  
United States Senator



Steve Daines  
United States Senator

CC:

January Contreras  
Assistant Secretary, Administration for Children and Families

Andrea Chapman  
Acting Director, Office of Refugee Resettlement

<sup>4</sup> Administration for Children & Families, Office of Refugee Resettlement, *ORR Unaccompanied Children Program Policy Guide: Section 3*, July 19, 2022.

<sup>5</sup> FDA Medication Guide ID: 3909592, Mifeprex.