COMPOUNDING REPRODUCTIVE HEALTH RESTRICTIONS:

An Attack on Reproductive Justice in Wisconsin

BACKGROUND

In 2021, researchers in Columbia University's Global Health Justice and Governance (GHJG) Program began a qualitative study to understand the effects of the Title X Gag Rule in Maine, Wisconsin, and North Carolina. Title X is a federal grant program that provides affordable birth control and preventive health services to people with low incomes who are underinsured or uninsured. Implemented by the Trump Administration in August 2019, the Title X Gag Rule banned healthcare providers who participate in the program from providing abortion counseling or referrals. In November 2021, new regulations implemented by the Biden Administration reversed these restrictions (Guttmacher Institute).

We wanted to understand how, if at all, the Title X Gag Rule compounds other socioeconomic and political trends that threaten sexual and reproductive health, rights, and justice in already marginalized communities. In partnership with Maine Family Planning, the Foundation for Black Women's Wellness, and SisterSong, GHJG conducted key informant interviews with 36 clinical, advocacy, and community-based organizations in Maine, Wisconsin, and North Carolina. Interviewees included sexual and reproductive health service providers that do and do not receive Title X funding, as well as local non-governmental organizations that promote health equity and reproductive justice by providing referrals and direct services at the community level and advocating for structural change. This brief presents findings and future advocacy directions gleaned from interviews in Wisconsin.

POLITICAL CONTEXT:
YEARS OF REPUBLICAN CONTROL

From 2011 to 2018, Republicans had unified control over the governorship and state legislature of Wisconsin. Advocates described those years, under the leadership of Governor Scott Walker, as being "uniformly hostile" toward sexual and reproductive health and rights (SRHR). The period saw the enactment of several outright restrictions on abortion, as well as attacks on SRH providers. In November 2018, Wisconsin elected a Democratic governor, Tony Evers, but the state's Senate and Assembly remained Republican-controlled and overwhelmingly opposed to legislation that protects SRHR. Despite new Democratic leadership, many anti-abortion laws remain in effect. This has contributed to the limited accessibility of abortion in the state, with many patients being forced to travel long distances – or to other states – to access care, as shown by the figures on page 3.

The years under the Walker Administration and the current divided state government has allowed gaps in SRH care and egregious health disparities to persist. Today, Wisconsin has the highest infant mortality rate among Black women in the U.S., and the state's maternal mortality rate is five times higher for Black women than for white women (Wisconsin DHS). Almost one-third of pregnancies in the state are unwanted or wanted later, and 24% of women who could become pregnant are not using contraceptives (Guttmacher Institute). Covid-19 further exacerbated these challenges in accessing care: from May 2020 to May 2021, 30% of patients said they experienced delays in receiving sexual and reproductive healthcare due to the pandemic (Guttmacher Institute).

ADVOCACY LANDSCAPE:
STRIVING FOR CHANGE IN A POLARIZED STATE

Advocates described how, despite the presence of a progressive governor, efforts to address these longstanding health disparities have faltered due to the state's political divisions. One advocate discussed the challenges in passing new legislation focused on reducing maternal and infant health disparities:

[The governor] really took into account the suggestions and needs of Black families and birthing people in the state, but when the last governor didn't get reelected, ***the Republicans in the state moved to strip the governor of a lot of powers, and our state is also really heavily gerrymandered, so [his efforts] didn't go anywhere.*** *Word on the street – well, yeah, word on the street was that some people were supportive but at the end of the day, Republicans got their caucus in line and got rid of everything.*

Although Wisconsin's Democratic governor has publicly announced his intention to veto any legislation attempting to restrict abortion access, Republican state legislators continue to introduce anti-choice bills each year (AP News). Advocates in the state see these bills as intentional distractions from the real health policies needed in Wisconsin:

Instead of focusing on expanding Medicaid and BadgerCare, instead of helping to disrupt the maternal-child health disparities where we are the worst in the nation when it comes to infant mortality of Black moms and babies, ***instead of extending postpartum Medicare coverage, instead of doing all these evidence-based policies, [Republicans are] introducing born alive bills, and they're introducing today sex selection-type bills that the governor will have to veto.***

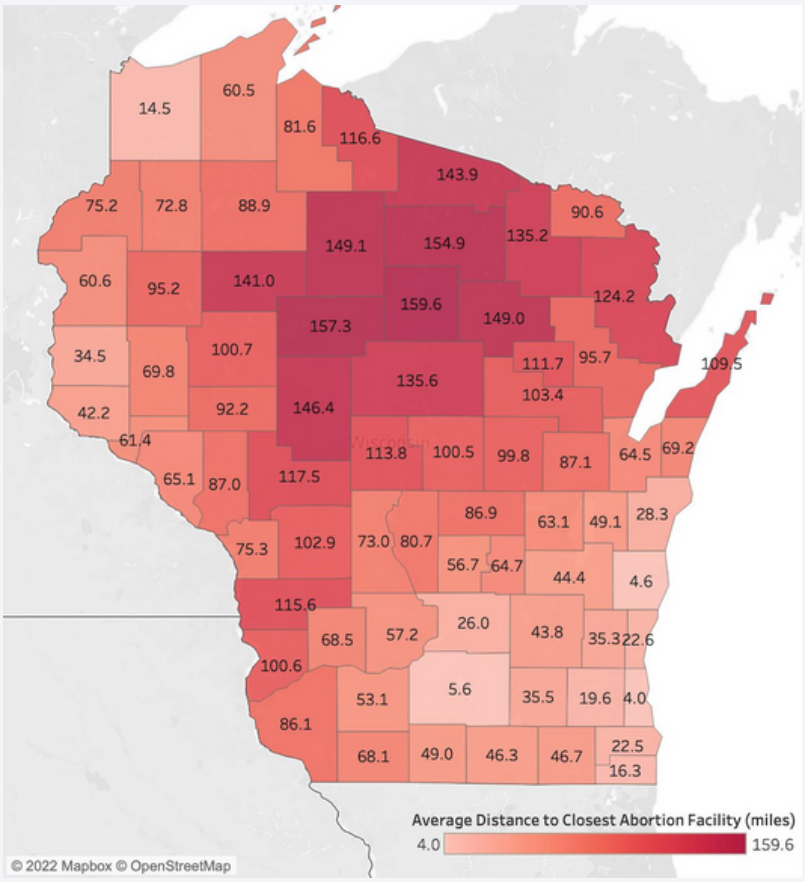
Advocates also described another, more discreet tactic used by Republican lawmakers to water down progressive policymaking, which they referred to as "billjacking":

We saw this year where Republicans, again, who have – continue to have the majority in our state, I don't know if they're trying to look moderate or what they're doing, but ***they're billjacking Democratic bills, introducing them and tweaking them so that they're not as strong as the Democratic version, but they're still introducing them.*** *It's this interesting dynamic we have in the 2020/21 legislative session.*

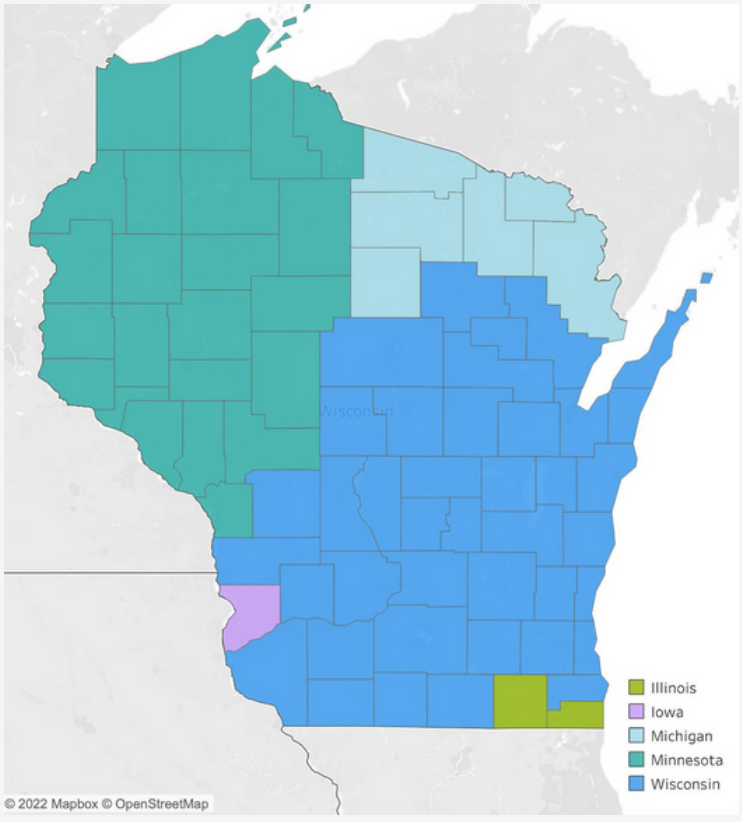
Underlining all of the strategies outlined above is a fundamental disrespect of pregnant people, their healthcare, and their wellbeing. This general attitude is pervasive in the legislature and demonstrates a broader ideology about social safety net programs and the people who would benefit from them.

I would say it's more so the attitudes. It's not necessarily direct in a way that a person could name a date and a time and say this is exactly when things changed, but it's attitudes about doula care being covered on Medicaid or BadgerCare, those attitudes and beliefs at the state legislature level are kind of hostile... ***The attitudes that pregnant people don't deserve their children and they don't deserve specialized care and they don't deserve the attentive compassion of a doula is more on the surface than it used to be.***

AVERAGE TRAVEL DISTANCE TO CLOSEST ABORTION PROVIDER



STATE OF CLOSEST ABORTION FACILITY



Source: Caitlin Myers, 2021. County-by-month travel distances to nearest abortion provider, Vintage June 1, 2021. Retrieved from https://doi.org/10.17605/OSF.10/8DG7R

A PROGRESSION OF POLICIES THAT IMPEDE THE REALIZATION OF REPRODUCTIVE JUSTICE FOR WISCONSINITES

This hostility to SRHR can be seen in the numerous government restrictions on family planning and abortion care adopted since 2011.

Title V: Attacks on SRH Funding Before the Gag Rule

In 2011, Republican Governor Scott Walker made Planned Parenthood ineligible for funding from the Women's Health Block Grant, a state program supported by the federal Title V Maternal and Child Health program and Wisconsin state funds. This policy change removed over $1 million in funding from Planned Parenthood of Wisconsin and led to the closure of five health centers in less densely populated areas of the state. According to advocates, a community health provider has not stepped into any of these communities to replace the services that Planned Parenthood offered. Further, clinical organizations that continued to receive this state funding were barred from referring to abortion providers. As a result, several clinical organizations in Wisconsin had already experienced abortion-related restrictions on SRH funding.

This policy change served to worsen not only abortion access in Wisconsin, but access to other essential SRH services – including contraception – as well. As one respondent summarized, state policymaking fits into a broader anti-SRHR agenda in the state:

> *[A]ccess to contraception in Wisconsin right now is limited by at least three factors: one, harmful state policies; two, harmful state and federal decisions regarding funding; and three, historical mistreatment and present-day mistreatment that does not enable marginalized communities to feel welcome, safe, and cared for.*

Expanding the Scope of State-level TRAP Laws

During the Walker Administration, Wisconsin passed a series of laws and regulations targeting abortion providers. These TRAP laws include a 20-week abortion ban, laws mandating an ultrasound and a 24-hour waiting period, and new regulations requiring that only a physician can provide a medication abortion. Today, there are only four abortion providers in Wisconsin, all in the southeastern part of the state. Additionally, Wisconsin has an existing criminal abortion ban that predates *Roe v. Wade* that could go into effect if federal abortion protections are overturned by the Supreme Court.

These efforts to restrict access to abortion and SRHR have intensified in recent years. In 2021, Republican legislators introduced a bill that would prohibit medical residents in the University of Wisconsin system, which encompasses the state's public universities, from receiving training in abortion care (AP). The bill ultimately failed to pass. However, as one primary care provider in Wisconsin described, the bill was emblematic of the intensified attacks on abortion seen in recent years:

> *I'm part of the training program for our family medicine residents, and for almost the last 10 years – when I was a resident, it was a little bit hard to get abortion [training], to me, but it was not impossible. Shortly after I finished residency, there's just been a lot of scrutiny from the state legislature about is state money being funneled to abortion training – abortion and abortion training through the residency programs.* ***The OB-GYN department has had to fight several fights, including one that they are currently in again, because it's come up again in the legislature, that they are again trying to preclude all abortion training and residency programs, saying that that is just state funding going to abortion.***

The onslaught of anti-choice bills introduced in the statehouse have the intended effect of undermining the accessibility of accurate SRH information and services. As this respondent described, confusion and stigma drive services even further out of reach:

Part of it is just the confusion, and then not knowing the state of any given program, and then not knowing if, again, you can get access to what you might need for services. ***I do think that we have had a targeted political war on general reproductive healthcare and family planning****... We've seen this hostile, toxic environment as long as I've been around that has, again, I think, created a level of stigmatism or sensitivity or shyness around accessing and knowing the full range of services and information available around reproductive health in Wisconsin.*

Wisconsin's Role in the Larger Region

Despite its restrictions, Wisconsin still serves as a "safe haven" for some individuals seeking abortion care. Wisconsin's requirement that *any* first-degree relative over the age of 26 – not just a parent – consent to the procedure for those under 18 motivates some patients to specifically seek care in the state. Patients can travel long distances to access an abortion, as described by this healthcare provider in Wisconsin:

In the past year or so it's come up several times now, but we see people driving here from Missouri, which is – they've gone through multiple states... Wisconsin allows consent for minors to be by an adult relative over the age of 26, so it doesn't have to be a parent. It could be an aunt or a grandparent. It has to be a first-degree relative, so it has to be like an aunt or a grandparent, or a brother or sister. It's happened probably three or four times where I've had people driving from Missouri, and I'm like, really? You passed through Illinois. Why would you do that? It's because Wisconsin is where they can come if your sister's – if you've got these sister road trips where a 24-year-old sister is driving her 16- or 17-year-old sister here for an abortion because she can consent for her sister's abortion.

TITLE X IN WISCONSIN:
IMPACTS ON SRH PATIENTS AND PROVIDERS ACROSS THE STATE

In Wisconsin, Title X, the federal family planning program, helped SRH providers prioritize serving low-income patients. Providers used Title X funds to expand SRH services to new facilities, hire additional healthcare staff, provide services on a sliding-fee scale, and support community education sessions focused on reproductive healthcare. After the Trump Administration implemented the rule change, the Wisconsin Department of Health Services (DHS) became the sole recipient of Title X funds in the state.

The Gag Rule impacted clinical organizations, patients, and advocates throughout the state. The most immediate disruptions were experienced by the state's SRH providers. One clinical facility, previously a Title X subgrantee, merged with Planned Parenthood to stay open, while the loss of Title X funds contributed to the closure of another clinic in the state. Former grantees had to work to rapidly restructure their sliding-fee scale and redouble efforts to sign eligible patients up for Medicaid. Though providers were largely able to continue providing low-cost services, many feared that some patients, especially young people and those with low incomes, would delay or skip needed care if they had to pay fees, even if lowered:

I think some of those [patients formerly supported by Title X funds] who came back in [after the implementation of the Title X Gag Rule] and for the first time had a charge that they needed to pay for may have stayed that day and said, 'Okay. Yep. You can send me a bill,' but I'm not sure that those patients necessarily came back to us, because now they viewed us as a place where they needed to pay full price if they weren't at 100 percent of federal poverty [eligible for Medicaid], right? I think there's maybe a little bit of a gap there. We also heard from some centers that some folks around the college age group came back in and said, 'Oh, if I have to pay, I don't know, I should probably talk to my parents. I think maybe I have insurance through them still, I'm not sure.' Whereas a decision in the past might've been based on the accessibility of the service, ease of scheduling with us and ability to get services when they need and want them, they may be now taking a step back and saying, 'Oh, I need to figure out what my coverage is with my parents and then figure out where I can go with that coverage.'

Several respondents noted how the Gag Rule weakened the provision of sexual and reproductive healthcare across the state. One provider discussed how the continued lack of coordination between major SRH providers in Wisconsin creates challenges for patients. A former Title X grantee described being unsure of where to refer patients seeking Title X services following the rule change, since Wisconsin DHS did not publicize which of their clinics were Title X sites:

I think it's still not always clear to us that there's a place [for patients to receive Title X services]. If a patient comes to the clinic in Waukesha, we can't say, 'Oh, you can go over to the health department and get all of these same services under the Title X grant free over at the health department,' because that's not the case. Most health departments, from our understanding, don't necessarily provide all of those services on a sliding-fee scale.

Disproportionate Impacts on Already Marginalized Communities

Multiple respondents noted how the Title X Gag Rule impacted Wisconsin's Hispanic and Latinx community, including youth and people who are undocumented. Providers noted that before the Gag Rule, Planned Parenthood was a trusted source of culturally concordant healthcare, especially for teens. However, respondents noted that they were referring less to Planned Parenthood due to the difficulty in keeping up with policy changes that impact what services are available, and the cost of those services.

These SRH policy changes also occurred in the midst of the Trump Administration's negative rhetoric about immigrant communities and harsh immigration policies, which respondents noted caused increased stress and anxiety for youth and their families. This was reiterated by a clinical respondent, who noted that their number of patients from this community has decreased:

I would say the biggest [change] – in general, we were providing a lot of contraceptives for people and Title X, of course, was covering the cost for many people. ***Especially, I think, the population that has been affected probably the most for us is our Hispanic population.*** *We have a pretty large Hispanic population in one of the counties that we serve and they were getting a lot of help from Title X funding.*

Now that that's changed, they're having to pay more for their services and we're still seeing some of that Hispanic population, but I think it has definitely gone down... I think it has also affected a lot of our younger people who maybe didn't wanna use their private health insurance because they weren't comfortable talking to their parents about birth control yet... Even with Medicaid and being able to sign people up for that family planning program, there are instances where things get accidentally – their parents accidentally get an [Explanation of Benefits] that says, "Hey, your kid was at [clinic name] for STD testing." With Title X, if somebody had those concerns, Title X was that safety net and that's gone now.

The Future of Title X in Wisconsin

In 2021, under the Biden Administration, HHS issued new regulations for Title X that reversed the Gag Rule. These regulations removed the requirement for physical and financial separation between abortion-related services and Title X-funded services and allowed Title X recipients to once again refer and council patients on abortion.

Looking forward, many respondents were uncertain about whether their organization would attempt to again receive Title X funds. Current and former grantees noted the administrative and regulatory difficulties in receiving Title X funds, and the program's flat funding and existing prohibition on the use of funds to cover abortion services were persistent sticking points. Former grantees ultimately discussed wanting to examine how the loss of funds impacted their patient volume before making a decision about whether to rejoin. One respondent, who has worked in sexual and reproductive healthcare for almost 20 years, summarized the uncertainty and challenges that come with relying on the Title X program:

I feel like all those years, there's always something we're worried about from a political standpoint. It feels like for the patients who were using the Title X funding, if it wasn't something that – I don't want to say yo-yoed back and forth, but if it wasn't like, "Oh, it's safe for four years. Oh, now it's under attack again," that would be much more reassuring, if the politics could come out of it, right? ***That's a huge wish, but if the politics could come out of it, that would make it a lot easier to deliver the care.***

THE WAY FORWARD:
COMMUNITY VOICES FROM THE FIELD

Ultimately, in order to make progress in achieving reproductive justice, organizations agree that they need to coalesce around the following four fundamental principles that will shift power back to communities and advocates.

1) Dismantling Upstream Threats to Democracy that Disenfranchise Communities

"The reason why [our state legislature] is impossible is because of the power that was not just gained by the supermajority in 2011, but ***by the insulation of that power through gerrymandering, redistricting, and voter suppression.*** *While you would expect a women's health advocacy organization like ours to be focused on individual policies, we really, again, are looking down from 30,000 feet up, recognizing that any given policy that's evidence-based is not gonna go anywhere as long as our democracy system is broken."*

"The way we've done advocacy forever just doesn't have the same results because of all the other broken systems due to lack of community power and accountability and familiarity with the players. We're asking ourselves... ***What is the greatest use of our sacred time, energy, and resources? Is it a podcast, which we are involved in? Is it getting people registered to vote and weighing in on gerrymandering and trying to get fair maps so that we can actually have a shot at passing things? Is it, again, continuing to encourage people to recognize the power of state legislatures and get more than seven percent of Wisconsinites to know who their state legislators are? We don't know that answer."***

2) Educating and Building Power at the Community Level

"One priority that we haven't done [because] the pandemic shifted it a bit, we were preparing to provide... citizen education around policy development. I think that's really important. ***We need to make sure that women impacted by policy – like women, low-income women – [are provided with] information and education.*** *[So they understand] how their vote and their voice make a difference, and how they can engage in the political process, particularly in policy-making, as well."*

"One of the pivots we made in 2011 and in the last decade has been, instead of hitting our heads against the wall in our state legislature, which is a very skewed, very manipulated environment where it's next to impossible to get anything positive, proactive, [and] evidence-based passed in our state, ***we really looked at where can we spend the time and energy helping build power in the communities and look at opportunities outside of the state legislature,*** *whether it's ensuring confidentiality and privacy of a dependent insured in a healthcare/hospital system, [or] whether it's a right to a dignified place to breastfeed at work."*

3) Dismantling Racism and Pushing Back Against the Whitewashing of Data

"People here talk a lot about addressing systemic racism, but they don't really wanna confront what that means. I have pushed back quite a bit in my writing and in conversations with leadership about their emphasis on antiracist and implicit bias training because the evidence is not there. In fact, the evidence suggests that it makes white men more resentful of marginalized groups when it's poorly done. I think I have really, on a personal level, focused on trying to get people to understand how racism and all the other "isms," [like] ableism, manifest in these really subtle – well, they're not subtle for those of us who are marginalized – but they manifest in these really subtle ways that we have to address. That includes in the family planning world. I try to put [forward the question]: who is at the table? ***I try to push for making sure that a wider group of people do science so that the science is better.*** *I try to think about how we're conducting searches so that we are making sure that we get the most talented people at the table.* ***Those are the kind of systemic changes and really for people to confront how racism shows up in all of those things."***

*"****Our state often gets whitewashed when it comes to data****. If you look at us as a whole, as a 72-county state, we don't look so bad in terms of healthcare coverage or around maternal-child health, but actually drilling down and recognizing the disparities, that's really, really important to us."*

4) Prioritizing Lived Experiences and Community Partnership, Shifting from the Over-Reliance on Formal Data and Research

"The data and the evidence is one thing, but the lived experiences and the consequences to those, again, in the marginalized areas of Wisconsin, that has to go hand in hand. *I'm a total data policy person. [But] we're working on a birth equity package of legislation right now, and we're pulling together all the facts of how horrible it is in Wisconsin, and sadly, the powers that be in our state, they simply don't give a shit – once the umbilical cord's cut, they're no longer pro-life."*

"It doesn't matter – the data on COVID, the data on reproductive rights, the data on immigration – whatever it is, it's not compelling [to] the people in charge right now. ***I continue to urge academic and the data sources to connect with community-based organizations and advocacy organizations like ours and try and figure out what story we need to tell."***