

May 24, 2019

Sent Via Email and Fax

The Honorable Alex Azar
Department of Health and Human Services
200 Independence Ave. SW
Washington, DC 20201

Dear Secretary Azar,

The undersigned health professional associations representing providers of all disciplines and patients across the country are deeply concerned with the Department's announcement today of plans to weaken nondiscrimination protections for lesbian, gay, bisexual, transgender, and questioning (LGBTQ) individuals under Section 1557 of the Affordable Care Act. We oppose these efforts and express our strong support for providing the strongest nondiscrimination protections available for LGBTQ people.

Section 1557's nondiscrimination protections assist some of the populations that have been most vulnerable to discrimination, including LGBTQ people, and help provide those populations equal access to healthcare and health coverage.¹ Federal courts, including in the context of Section 1557, have recognized repeatedly over many years that sex discrimination includes discrimination based on gender identity. The subsequent regulations promulgated under Section 1557 further clarify that discrimination based on gender identity and sex stereotyping is prohibited in healthcare coverage and access.

Despite advances in acceptance for LGBTQ people, stigma and discrimination continue to be the greatest problems facing sexual and gender minorities. In fact, many LGBTQ people develop an internalized shame that can contribute to problems with self-acceptance, anxiety, depression, difficulty forming intimate relationships, and being open about their sexual orientation or gender identity. The literature on the "minority stress model" highlights the impact of social prejudice, isolation and invisibility as the primary factors leading to an increased health burden and greater risk of mental health issues, homelessness and unemployment.² LGBTQ patients also have higher rates of suicide with 40 percent of transgender people reporting attempting suicide.^{3,4} Additionally, the risk of physical conditions is also exacerbated with increased rates of tobacco use, HIV and AIDS, and weight problems.²

¹ 81 Fed. Reg. 31435 (May 18, 2016).

² Hatzenbuehler, M. L., Mclaughlin, K. A., Keyes, K. M., & Hasin, D. S. (2010). The Impact of Institutional Discrimination on Psychiatric Disorders in Lesbian, Gay, and Bisexual Populations: A Prospective Study. *American Journal of Public Health*, 100(3), 452-459.

³ Grant et al. (2011). *Injustice at every turn: A report of the National Transgender Discrimination Survey*. Washington, DC; National Center for Transgender Equality and National Gay and Lesbian Task Force.

http://www.thetaskforce.org/static_html/downloads/reports/reports/ntds_full.pdf

⁴ James, S. E., Herman, J. L., Rankin, S., Keisling, M., Mottet, L., & Anafi, M. (2016). *The Report of the 2015 U.S. Transgender Survey*. Washington, DC: National Center for Transgender Equality.

LGBTQ patients are already more likely to delay getting necessary medical care. In the latest Report of the 2015 U.S. Transgender Survey, nearly one in four respondents reported not seeing a doctor when they needed to for fear of being mistreated. For those that had sought health services in the last year, respondents reported having at least one negative experience, such as refusal of treatment or having to teach the provider about transgender people.⁴ Moreover, the lack of data in national surveys and administrative claims make it a challenge to comprehensively study disparities in this population, and more research is needed to enhance clinical care.⁵

The data that we do have indicates that discrimination has detrimental impacts on the physical and mental health of the LGBTQ population.⁶ To reduce the cost of health care and achieve our goal of creating a healthier nation, the specific needs of LGBTQ patients must be examined and effectively addressed.

All the undersigned associations have adopted policies or otherwise support addressing the specific health concerns of LGBTQ people, including opposition to discrimination in health care and insurance coverage based on an individual's sexual orientation or gender identity. As part of that commitment, our organizations support public and private health insurance coverage for treatment of gender dysphoria when medically necessary.

In sum, we stand firmly behind Section 1557's gender identity protections and oppose any modifications to the rule that would weaken those protections and thereby jeopardize the health and well-being of LGBTQ populations.

We urge you to reconsider plans to revise the Section 1557 regulations and ensure HHS adopts strategies to focus on better access to health services and improved health outcomes for the millions of LGBTQ people in the United States.

Sincerely,

American Academy of Nursing
American Academy of PAs
American Academy of Pediatrics
American Academy of Psychiatry and The Law
American Association for Geriatric Psychiatry
American College Health Association
American College of Physicians
American Medical Association
American Medical Student Association
American Medical Women's Association
American Nurses Association
American Pediatric Surgical Association

⁵ Reisner et al. (2016). Global Health Burden and Needs of Transgender Populations: A Review. *The Lancet*, 388, 412-436.

⁶ Hatzenbuehler ML, McLaughlin, KA, Keyes, KM, Hasin, DS. (2010). The Impact of Institutional Discrimination on Psychiatric Disorders in Lesbian, Gay, and Bisexual Populations: A Prospective Study. *American Journal of Public Health*, 100(3), 452-459.

American Psychiatric Association
American Psychological Association
American Public Health Association
Association of American Medical Colleges
Association of Nurses in AIDS Care
Doctors for America
Endocrine Society
GLMA: Health Professionals Advancing LGBTQ Equality
HIV Medicine Association
LBGT Physician Assistant Caucus
National Association of Social Workers
National Council for Behavioral Health
National Council of Asian Pacific Islander Physicians
Society for Adolescent Health and Medicine
Society of General Internal Medicine
Society of Physician Assistants in Pediatrics
The Association of Gay and Lesbian Psychiatrists
United States Professional Association for Transgender Health
World Professional Association for Transgender Health