



July 25, 2019

Submitted via electronic record at www.regulations.gov

Secretary Alex Azar
Department of Health and Human Services
Hubert H. Humphrey Building, Room 509F,
200 Independence Avenue SW,
Washington, DC 20201

Re: Section 1557 NPRM, RIN 0945-AA11, “Nondiscrimination in Health and Health Education Programs or Activities”

Dear Secretary Azar:

I am writing to register the National Health Care for the Homeless Council's strong opposition to the Department of Health and Human Services (HHS) proposed rule on “Nondiscrimination in Health and Health Education Programs or Activities” published in the federal registrar on June 14th, 2019 (RIN 0945-AA11).

The National Health Care for the Homeless Council (NHCHC) is a membership organization representing HHS-funded Health Care for the Homeless (HCH) health centers and other organizations providing health care to people experiencing homelessness. Our members offer a wide range of services to include comprehensive primary care, mental health and addiction treatment, medical respite care, supportive services in housing, case management, outreach, and health education, regardless of an individual's insurance status or ability to pay. Nationally, 300 HCH programs serve over 1 million patients in 2,000+ locations across the country. As a network of providers caring for very vulnerable adults, children, and families, we are extremely concerned about the impact this rule would have on our patient's ability to access the care they need. We work every day to meet our patients where they are so they have a chance at escaping homelessness. For the reasons detailed below, we strongly urge HHS not to move forward with this proposed rule and instead create more inclusive policies that reflect HHS's mission to enhance and protect the health and well-being of Americans.

The proposed rule threatens LGBT and vulnerable patients' access to health care.

This rule allows insurance companies and providers to deny care to LGBT people and makes it harder for others, including people with Limited English Proficiency (LEP) and those with chronic health conditions such as HIV, to exercise their rights if they experience discrimination. These populations are at an increased risk of homelessness and already struggle to find places where they can receive the comprehensive, culturally competent, and trauma-informed care they need. Further, the often co-occurring psychosocial needs and numerous other barriers (e.g. lack of ID or transportation) that people experiencing homelessness face make it challenging to engage and access treatment. While the HCH model of care treats clients holistically by providing a full range of care wherever possible, our providers report that LGBT and other vulnerable patients often feel as though they have nowhere safe to go and cannot get insurance coverage for needed services. Compromising access to care in the ways outlined in this proposed rule make an already challenging situation increasingly difficult.

The proposed rule diminishes our ability to provide quality care.

As a network of clinics and providers serving low-income and homeless patients, we are concerned about how the religious exemptions in this proposal will encourage employees to refuse to perform essential job functions. When providers refuse to provide care it creates a judgmental environment that alienates patients. This compromises our ability to create trusting relationships that are needed to improve health and wellbeing. We know that many of our patients experiencing homelessness, particularly those who identify as LGBT, already face enormous personal, emotional, and logistical barriers to engaging in consistent care and finding providers they trust.¹ This proposal expands a provider's ability to refuse to provide care and makes treating high-risk patients more complicated. This then compromises our ability to provide quality care while also forcing patients to go untreated or seek care in emergency rooms or other high-cost venues.

“Even now we hear about all types of discrimination happening with our LGBT patients, everything from mis-gendering to blatant denials of coverage. These experiences are traumatizing for our patients and make it harder for us to engage them in care.”

- Administrator from Callen-Lorde Community Health Center in New York City, NY

The proposed rule is a violation of civil and human rights.

The nondiscrimination protections in Section 1557 of the Health Care Rights Law ensure that our patients can access the same care as other patients. The protections are a basic, fundamental measure to allow patients to get the care they need. Like every law that provides civil rights, this must be upheld and enforced so that no one suffers from discrimination when they need medical attention. As an organization committed to ending homelessness and alleviating its consequences, we believe in the human right to health care. Health care services and programs should be more broadly available in the best interest of society, not stigmatized and truncated as proposed in this rule.

¹ National Health Care for the Homeless Council. [Serving Transgender and Gender Nonconforming Persons: Establishing and Improving Models of Care for Those without Homes](#). September 2016.

"I work with patients who identify as transgender and they deal with co-occurring traumas because of family disownment and sexual violence. They all express a general fear of going to the doctor. This has been a problem and I fear this rule will make things worse."

- Behavioral Health Therapist at Health Care for the Homeless in Baltimore, MD

The proposed rule will increase homelessness and create poor health outcomes.

Access to comprehensive health care, no matter sexual or gender identity or any other factor, is critical to maintaining healthy communities and preventing and ending homelessness. As designed, this proposed rule will make it easier for insurers, hospitals, and providers to deny access to care and further alienate already vulnerable populations. More service sites, trainings, and resources that specialize in care for LGBT, LEP, and other vulnerable patients with chronic conditions are greatly needed so that our society can improve outcomes and reduce disparities. HHS should clarify how they are going to address current poor health outcomes for these populations and focus on improving, not reducing, access to care.

In conclusion, the National Health Care for the Homeless Council opposes the proposed rule. If finalized, this rule would threaten LGBT patients' access to care, compromise quality care, and increase homelessness. Proposed changes that allow discrimination and undo hard-fought provisions to protect and provide health care services is an unconscionable departure from our nation's commitment to civil and human rights and the mission of HHS. We urge HHS to withdraw this proposed rule.

If you would like to discuss these comments further, please contact Barbara DiPietro, PhD, Senior Director of Policy, at 443-703-1346 or at bdipietro@nhchc.org.

Sincerely,



G. Robert Watts
CEO