

March 11, 2022

**Via email: [rachel.levine@hhs.gov](mailto:rachel.levine@hhs.gov); [lisa.pino@hhs.gov](mailto:lisa.pino@hhs.gov)**

Admiral Rachel L. Levine, MD  
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U.S. Department of Health & Human Services  
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Washington, D.C. 20201

Lisa Pino  
Director  
Office for Civil Rights  
U.S. Department of Health & Human Services  
200 Independence Avenue, S.W.  
Washington, D.C. 20201

**Re: Request for Meeting on Anticipated Section 1557 Rulemaking**

Dear Admiral Levine and Director Pino:

We are a diverse group of stakeholder organizations that are requesting to meet with you and your staff to discuss serious concerns about the anticipated proposed rule, “Nondiscrimination in Health Programs and Activities,” under Section 1557 of the Affordable Care Act.

The 2022 Spring Unified Agenda for HHS indicated that the agency would be issuing a Notice of Proposed Rulemaking in April 2022 that would significantly expand the scope of Section 1557’s application under the current rule which was finalized in 2020.

This proposal follows court filings in *Whitman-Walker Clinic, Inc. v. U.S. Department of Health and Human Services*<sup>1</sup> where HHS revealed that it was reconsidering the 2020 final rule and has been consulting with select activist groups on making drastic amendments. In support, it cited a 73-page Memorandum from the Leadership Conference on Civil and Human Rights Health Care Task Force dated June 8, 2021, that recommended gutting critical portions of the 2020 regulations.

The memorandum’s policy prescriptions are extreme. They include:

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<sup>1</sup> No. 1:20-cv-01630-JEB (D.D.C. Aug. 13, 2021).

- Redrafting the definition of discrimination “on the basis of sex” under Section 1557 to include: “pregnancy, false pregnancy, termination of pregnancy, or recovery therefrom, childbirth or related medical conditions, reproductive health decisions, sexual orientation, gender identity, gender expression, gender transition, transgender status, sex stereotypes, and sex characteristics (including intersex traits).” This redefinition is prohibited by court injunctions to the contrary.<sup>2</sup>
- Expanding the scope of application of Section 1557 to cover Medicare Part B direct funding recipients, all the activities and operations of organizations receiving even one cent of federal health funding (as well as their subcontractors), all employees of covered entities, and all health insurance plans including short-term limited duration plans.
- Forcing health care professionals to provide services that violate their conscience or sincerely held religious beliefs by eliminating application of Title IX’s religious and abortion neutrality provisions and explicitly prohibiting religious, abortion, and moral exemptions.<sup>3</sup>
- Forcing medical professionals to perform or assist in experimental transgender surgeries and cross-sex hormone treatments on adults and children even where contrary to their medical judgment.
- Requiring insurance plans, certain employers, and beneficiaries to pay for experimental transgender surgeries and cross-sex hormone treatments on adults and children.

If adopted, these policies would be devastating for people—most especially children—struggling with gender identity issues. It would require dangerous and harmful treatments on physically healthy individuals that in many cases will lead to permanent sterility without off-setting mental health benefits. Under cover of “anti-discrimination” the proposal would upend centuries of scientific understanding of what it means to be a man or a woman with respect to medicine and biology. Further, religious health care professionals and entities, as well as those who have scientific and medical objections to transition treatments, would be required to perform them.

Since HHS has willingly consulted with select activist groups listed in the memorandum, we ask that before issuing any proposed rule, HHS pay us the same courtesy and allow us to meet with you to voice our concerns about these devastating policy suggestions before it is too late.

Sincerely,

Ryan T. Anderson, Ph.D.  
 President  
 The Ethics and Public Policy Center

Louis Brown  
 Executive Director  
 Christ Medicus Foundation

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<sup>2</sup> *Franciscan Alliance, Inc. v. Azar*, 414 F. Supp. 3d 928 (N.D. Tex. 2019); *Religious Sisters of Mercy v. Azar*, No. 3:16-CV-00386, 2021 WL 191009 (D.N.D. Jan. 19, 2021).

<sup>3</sup> *See id.*

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