

HHS Cuts Healthcare Anti-Discrimination Protections During Pandemic

Changes to the Health Care Rights Law removes protections for the LGBTQ community, non-English speakers, and others

Last Friday, in the midst of Pride month and on the fourth anniversary of the tragic [anti-LGBTQ+ Pulse nightclub hate crime](#), the U.S. Department of Health and Human Services (HHS) released their final rule [amending the civil rights provision of the Affordable Care Act \(Section 1557\)](#), which formerly protected patients from discrimination in health care—effectively providing Federal support for discrimination against the LGBTQ+ community, individuals living with HIV, non-English speakers, and women.

Legal Council for Health Justice is appalled by the unconscionable actions of this Administration to strip people of their rights to meaningfully access the care and services they need to live dignified lives simply because of who they are. We strongly urge Illinois state agencies, providers, and hospitals to reject the new allowances under this rule, and continue to increase access to safe, responsive, linguistically competent, and non-judgmental care for all Illinoisans. Furthermore, we join advocates across the nation in demanding the Administration recall this rule and increase access to care for all our nation's individuals, children, and families.

Often referred to as the Health Care Rights Law, Section 1557 was the first national statute to ban sex discrimination in health care and rule implementing the statute banned discrimination against transgender and gender non-conforming people, as well as discrimination based on pregnancy or use of abortion care. The recent changes to the rule decimate the statute's anti-discriminatory intent. According to analysis from the National Women's Law Center, the new rule specifically:

- Eliminates any recognition that the ACA prohibits discrimination against LGBTQ+ people.
- Eliminates any recognition that the ACA prohibits discrimination based on pregnancy or having had an abortion.
- Eliminates any recognition that the ACA prohibits discrimination based on sex stereotypes.
- Eliminates 10 unrelated HHS rules that prohibit anti-LGBTQ+ discrimination in specific programs.
- Eliminates all requirements for providers and insurers to notify limited English proficient individuals of their right to interpretation and translated material.
- Eliminates all requirements for providers and insurers to notify patients of their rights and grievance procedures.
- Eliminates any recognition that the law prohibits benefit designs that discriminate, for example, against people with HIV.
- Drastically limits the types of health care plans and providers covered by the law.

This rule directly affects the health and well-being of our clients from the most underserved populations who already faced barriers to receiving care before this change was announced last week. As the nation continues to reckon with the COVID-19 pandemic, safe and ready access to potentially life-saving health care is even more critical. Legal Council stands against the bias, bigotry, and cruelty that this rule upholds and that this administration has come to epitomize.

Further reading:

- [Read Legal Council's comment opposing the changes to Section 1557's anti-discrimination rule when they were first proposed in 2019.](#)