

February 18, 2020

U.S. Department of Health and Human Services
Center for Faith and Opportunity Initiatives
Hubert H. Humphrey Building
Room 747D
200 Independence Ave. SW
Washington, DC 20201

Submitted online: <http://www.regulations.gov>

RE: Ensuring Equal Treatment of Faith-Based Organizations (RIN 0991-AC13)

The Fenway Institute is the research arm of Fenway Health, a federally qualified health center and Ryan White Part C clinic in Boston, MA that serves 32,000 patients each year. About half of our patients are LGBTQIA+, 4,000 are transgender or nonbinary, and 2,200 are people living with HIV. The Fenway Institute works to make life healthier for LGBTQIA+ people, people living with HIV, and the larger community. We do this through research and evaluation, education and training, and policy analysis.

We are writing to strongly oppose HHS's proposed rule called "Ensuring Equal Treatment of Faith-Based Organizations (RIN 0991-AC13)." We believe that this proposed rule would unfairly favor taxpayer-funded religious organizations and expand religious exemptions that allow for discrimination against LGBTQ people in health care and services.

If finalized, the proposed rule will undermine access to critical services, such as homeless youth programs, sex education programs, food assistance, refugee support programs, substance abuse programs, foster care and adoption services, assistance for trafficked youth, and countless others. HHS is the largest grant-making agency, so this broad rule would potentially cause millions of Americans to lose access to the critical services that they need.

The rule eliminates key protections for participants while inviting discrimination by the government-funded health service providers under the guise of religious freedom. This is especially detrimental to LGBT people, who already face widespread discrimination in health care, such as being verbally or physically harassed or being denied treatment altogether. This discrimination acts as a barrier to seeking necessary routine and emergency care. For example, a 2009 Lambda Legal survey of 4,916 LGBT people across the U.S. found that 56% of lesbian, gay and bisexual people, and 70% of transgender people, reported experiencing discrimination in health care.¹ The 2015 U.S. Transgender Survey of nearly 28,000 transgender people found that in the last year, 33% of respondents had experienced anti-transgender discrimination in health care, and 23% of respondents chose to forego necessary health care due to fear of discrimination.² A 2017 survey of a nationally representative probability sample of 489 LGBT

¹ Lambda Legal. (2010.) *When Health Care Isn't Caring: Lambda Legal's Survey of Discrimination against LGBT People and People with HIV*. New York: Lambda Legal.

² James SE, Herman JL, 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.

adults found that roughly 1 in 6 (18%) reported avoiding medical care, even when necessary, because of concerns that they would be discriminated against.³

Anti-LGBT discrimination is a major contributor to LGBT health disparities. For example, LGBT people, especially youth, are disproportionately burdened by depressive symptoms and suicidality.^{4,5} Black and Latino gay and bisexual men experience striking disparities in the domestic HIV epidemic.⁶ LGBT elders may have greater need of elder services due to social isolation and increased rates of disability, but may be less likely to access these services due to fear of anti-LGBT discrimination.⁷

This proposed rule is discriminatory and dangerous. In America, no one's ability to get vital services should depend on whether they share the religious beliefs of government-funded organizations. We urge HHS to withdraw this harmful rule in its entirety.

Sincerely,

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³ National Public Radio, Harvard T.H. Chan School of Public Health. (2017, November). "Discrimination in America: Experiences and Views of LGBTQ Americans." Funded by the Robert Wood Johnson Foundation. Available online at: <https://www.npr.org/documents/2017/nov/npr-discrimination-lgbtq-final.pdf>

⁴ Kann L, McManus T, Harris W et al. (June 2018). Youth Risk Behavior Surveillance—United States, 2017. *MMWR Surveill. Summ.* 2018; 67(8). <https://www.cdc.gov/healthyyouth/data/yrbs/pdf/2017/ss6708.pdf>.

⁵ 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.

⁶ CDC (2018), HIV among African American Gay and Bisexual Men. <https://www.cdc.gov/hiv/group/msm/bmsm.html>. Accessed January 22, 2018.

⁷ Stein, G., & Almack, K. (2012). Care near the end of life: The concerns, needs and experiences of LGBT elders. In Ward, R., Rivers, I., Sutherland, M. (eds.), *Lesbian, gay, bisexual and transgender ageing: Biographical approaches for inclusive care and support*. London: Jessica Kingsley Publishers. 114-134.

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