

December 19, 2019

Submitted electronically at [www.regulations.gov](http://www.regulations.gov)

RE: Office of the Assistant Secretary for Financial Resources; Health and Human Services Grants Regulation (RIN 0991-AC16)

We are submitting public comment on behalf of the Fenway Institute at Fenway Health, a federally qualified health center in Boston, MA that serves 32,000 patients each year. The Fenway Institute works to make life healthier for those who are lesbian, gay, bisexual, and transgender (LGBT), people living with HIV, and the larger community. We do this through research and evaluation, education and training, and policy analysis. We strongly oppose the proposed rule by the Department of Health and Human Services (HHS) titled “Office of the Assistant Secretary for Financial Resources; Health and Human Services Grants Regulation (RIN 0991-AC16).”

If finalized, this proposed rule would remove regulatory provisions that explicitly prohibit organizations that receive HHS grant funding from discriminating on the basis of sexual orientation, gender identity, sex, and religion. Under this dangerous and exceptionally broad proposed rule, LGBT people, women, people of minority faiths, and non-religious people could face discrimination by a wide range of health and social service agencies that receive funding from HHS. This would put the health and well-being of millions of Americans at risk.

HHS awards more than \$500 billion in grant funding every year to provide critical services to millions of Americans. HHS grantees include organizations that provide a wide array of health and social services, including health care at federally funded community health centers, HIV and STI testing and prevention, refugee resettlement, elder care programs, childcare and after-school programs, community meal programs, and adoption and foster care services. These programs are vital to millions of Americans, especially for marginalized communities, including LGBT people, who already experience pervasive discrimination that acts as a barrier to accessing care and services.<sup>1</sup>

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.<sup>2,3</sup> Black and Latino gay and bisexual men experience striking disparities in the domestic HIV epidemic.<sup>4</sup> LGBT elders may have greater need of elder services due to social

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<sup>1</sup> 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.

<sup>2</sup> 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>.

<sup>3</sup> 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.

<sup>4</sup> CDC (2018), HIV among African American Gay and Bisexual Men. <https://www.cdc.gov/hiv/group/msm/bmsm.html>. Accessed January 22, 2018.

isolation and increased rates of disability, but may be less likely to access these services due to fear of anti-LGBT discrimination.<sup>5</sup>

These disparities will be worsened if this proposed rule goes into effect. Under this rule, LGBT people in need of medical care could be turned away from federally funded health centers and clinics. After-school programs like Head Start could refuse to serve LGBT youth. Senior service centers could refuse to serve LGBT elders. The rule also extends beyond LGBT people, and it could also allow, for example, Catholic adoption agencies to refuse to place children with qualified and loving Muslim parents or single women. This rule would create a broad license to discriminate for agencies like Miracle Hill Ministries in South Carolina, a nonprofit homeless and foster care agency that received a special waiver from HHS to continue to receive federal grant funding even when they refused to place children with prospective parents who were Jewish.

The programs funded by HHS should be available to all eligible people in need, regardless of their sexual orientation, gender identity, sex, or religion. This proposed rule would allow agencies to use taxpayer dollars to discriminate against already vulnerable and marginalized communities. This is completely contradictory to the mission of HHS to improve the health and well-being of all Americans, including LGBT people, women, and people of minority faiths. At a time of rising intolerance here and around the world, the last thing we should be doing is making it easier to discriminate based on religion, sex, or other factors. Increasing discrimination against LGBT people will also undermine President Trump's Ending the Epidemic Initiative. We strongly urge HHS to reconsider this proposed rule.

Sincerely,

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<sup>5</sup> 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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