



Presidential Advisory Council on HIV/AIDS

PACHA 1557 Rule Resolution

Whereas, members of PACHA met with the Department of Health And Human Services (HHS) Office of Civil Rights (OCR) on September 24, 2019 to express concerns that proposed rule changes to Section 1557 of the Affordable Care Act being considered by HHS OCR could allow for discrimination against lesbian, gay, bisexual, and transgender (LGBT) persons in healthcare settings;

Whereas, HHS OCR provided a written follow-up response to our meeting on October 8, 2019 affirming OCR's assertion that "discrimination has no place in our Nation's healthcare system";

Whereas, the United States Supreme Court ruled on June 15, 2020, that Title VII of the Civil Rights Act of 1964 prohibits employment discrimination on the basis of sexual orientation or gender identity affirming that discrimination against members of the LGBT community "on the basis of sex" is against the law;

Whereas, the Administration's *Ending the HIV Epidemic (EHE)* initiative will be more successful if members of communities with greater vulnerability to HIV, especially LGBT+ communities, have access to vital health care services, including HIV prevention and treatment services, that are free of stigma and discrimination;

Whereas, implementing OCR's proposed changes could open a window for healthcare providers to discriminate against LGBT patients, which would have a deleterious impact on the health of these communities and undermine the success of the *EHE*;

Be it resolved, in light of the recent Supreme Court ruling and our prior conversations with OCR, PACHA urges the Secretary to apply the same definition of discrimination "on the basis of sex" to healthcare and not move forward with implementing OCR's rule changes to Section 1557 of the Affordable Care Act that are slated to go into effect on August 18, 2020.

Be it further resolved, that if OCR implements this rule change and people are denied care based on actual or perceived sexual orientation or gender identity, OCR should have a clearly defined system for reporting such instances.

Passed on August 6, 2020