



Presidential Advisory Council on HIV/AIDS

PACHA 1557 Rule Resolution

DRAFT

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

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

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

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

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

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

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

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30 August 4, 2020: **DRAFT**