

Congress of the United States
Washington, DC 20515

August 13, 2019

The Honorable Alex M. Azar II
Secretary of Health and Human Services
U.S. Department of Health and Human Services
Attention: Section 1557 NPRM, RIN 0945-AA11
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Secretary Azar:

We write in support of the U.S. Department of Health and Human Services (HHS) proposed rule, *Nondiscrimination in Health and Health Education Programs or Activities*, RIN 0945-AA11. This proposed rule modifies the 2016 final rule implementing Section 1557 of the Affordable Care Act (ACA). It is vitally important to maintain integrity in the interpretation and application of all statutes within the federal regulation process.

The ACA's nondiscrimination provision, Section 1557, was intended to prohibit discrimination in HHS-funded elements of the health care sector based on race, color, national origin, disability, age, and sex. The previous administration, however, expanded the scope of Section 1557 beyond established federal law. Federal courts have already found that this expanded redefinition violates the Administrative Procedure Act (APA). We appreciate and strongly urge the finalization of the proposed rule's restoration to reflect federal law as written.

The expanded interpretation of Section 1557 imposes an ideologically-driven mandate on nearly every medical professional in America, including physicians, hospitals, nursing homes, counselors, health insurers, and many institutions of higher education with health programs. The proposed rule must be finalized so that medical professionals are not forced to set aside best medical judgement, expertise, and experience to continue operating. We rely on medical professionals to provide the best care for their patients, but we are concerned that the heavy-handed approach taken by the Obama Administration could lead to a decrease in access and quality of care for all Americans. We strongly support the proposed rule's regard for the sacrosanct doctor-patient relationship and respect for our skilled health care community and workforce.

Additionally, Section 1557 referenced four longstanding federal civil rights statutes: Title VI of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; and the Age Discrimination Act of 1975. When interpreting Section 1557, the previous administration maintained the reference to each of these laws but failed to incorporate all the associated exemptions.

The 2016 final rule prohibited discrimination against the termination of pregnancy but failed to clarify whether this provision could be interpreted to require insurance plans and health care professionals to cover abortion services. This can no longer be disputed under Section 86.18 of the proposed rule. We appreciate that Section 86.18 places additional language into the regulation to protect individuals, hospitals, institutions, programs, and activities receiving federal funds from being forced to perform or pay for an abortion. The proposed rule incorporates Title IX's exemptions in the regulations and applies these to Section 1557. We urge HHS to maintain this clarifying language in the final rule.

Not only were we pleased to see the inclusion of necessary exemptions but also the connection between these protections and enforcement of Section 1557. We applaud the revision of Section 92.6, which incorporates much-needed religious freedom and conscience protections, as provided for in the Religious Freedom Restoration Act (RFRA); the Church amendments; the Coats-Snowe amendment; and the Hyde, Helms, and Weldon appropriations amendments.

These rule changes are critically important to protect all Americans from being forced to perform or facilitate medical procedures that directly contradict strongly held religious, moral, academic, and scientific principles. We appreciate the Department's efforts to restore integrity, choice, and respect for the network of health care providers across our country, and we urge HHS to finalize this proposed rule.

Sincerely,



Steve Daines
U.S. Senator



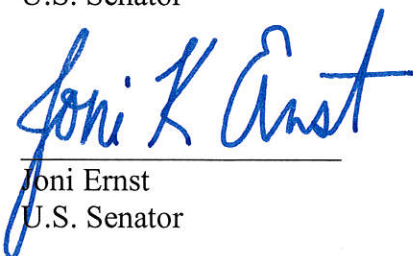
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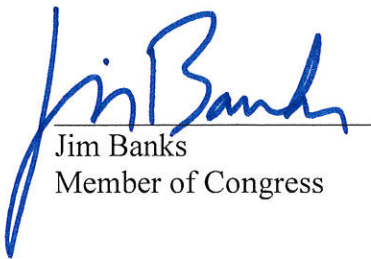
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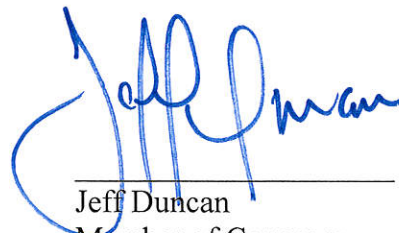
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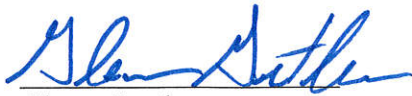
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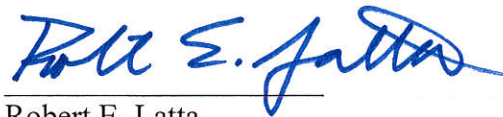
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