



SRNT

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July 8, 2019

The Honorable Alex Azar
Department of Health and Human Services
200 Independence Ave. SW
Washington, DC 20201

Re: Ensuring nondiscrimination protections for lesbian, gay, bisexual, transgender, and queer/questioning (LGBTQ) individuals under Section 1557 of the Affordable Care Act

Dear Secretary Azar,

We are writing to express our strong opposition to the Department of Health and Human Services' (HHS) proposed regulations to remove nondiscrimination protections for lesbian, gay, bisexual, transgender, and queer/questioning (LGBTQ) individuals under Section 1557 of the Affordable Care Act. We support providing the strongest nondiscrimination protections available for LGBTQ people.

The landmark Section 1557 of the Affordable Care Act specifically prohibits discrimination on the basis of sex in health care settings and when obtaining health insurance. In 2016, HHS promulgated regulations interpreting the protections in Section 1557 to include protections against discrimination on the basis of gender identity and sexual orientation. The proposed new HHS regulations would reverse these extremely important nondiscrimination protections for LGBTQ individuals by removing sexual orientation and gender identity nondiscrimination language from rules governing the health insurance exchanges, Qualified Health Plans, Medicaid, and other covered entities. This is especially troubling because the LGBTQ community is less likely to have health insurance and more likely to experience barriers to healthcare access because of discrimination and bias in health care settings.¹

Through the work of many of our society members and community partners, we know that cigarette smoking and other forms of commercial tobacco use disproportionately affect the

¹ Quinn GP, Sutton SK, Winfield B, et al. Lesbian, Gay, Bisexual, Transgender, Queer/Questioning (LGBTQ) Perceptions and Health Care Experiences. *J Gay Lesbian Soc Serv.* 2015;27(2):246-261.

health of LGBTQ individuals. Lesbians and bisexual women's rates of cigarette smoking are, respectively, 3 to 5 times higher than heterosexual women. Gay men smoke cigarettes at twice the rate compared with heterosexual men. Transgender adults smoke cigarettes at twice the rate compared with cisgender adults.^{2 3} A primary driver of this health disparity is the industry's abhorrent targeting of the LGBTQ community, referred to as "Project SCUM" (subculture urban marketing), that preys on the LGBTQ's community's desire to feel pride and belonging.⁴

Because of these disparities, access to healthcare and health insurance can be pivotal in successful cessation from commercial tobacco use. The Affordable Care Act was instrumental in expanding access to tobacco cessation treatment and helping vulnerable populations quit smoking.⁵ Thus, the proposed action by the HHS would likely contribute to widening tobacco-related health disparities among the LGBTQ community.

Furthermore, the lack of access to culturally appropriate and supportive health care and treatment is likely to increase tobacco use among LGBTQ people because research demonstrates that commercial tobacco use is closely related to an individual's environment and their experiences regarding the social determinants of health. The LGBTQ community encounters sexual orientation and gender minority stigma, healthcare discrimination, and stress at the individual, interpersonal, community, and policy levels and these realities contribute to their increased commercial tobacco use.^{6 7} Removing protections for the LGBTQ community threatens progress towards a world free of the harms created by the tobacco industry.

The Society for Research on Nicotine and Tobacco (SRNT) is an international organization with a mission to stimulate the generation and dissemination of new knowledge concerning nicotine in all its manifestations - from molecular to societal. Among our shared values are respect for the worth and dignity of individuals, inclusiveness and social justice, respect for pluralism and diversity, and respect for all persons, regardless of race, religion, gender, sexual orientation, abilities, age or national origin. SRNT believes that the proposed HHS regulations to weaken nondiscrimination protections for LGBTQ individuals in Section 1557 of the Affordable Care Act are inconsistent with our shared mission and values, and will widen tobacco-related health disparities among vulnerable populations including LGBTQ individuals.

² Buchting FO, Emory KT, Scout, et al. Transgender Use of Cigarettes, Cigars, and E-Cigarettes in a National Study. *American Journal of Preventive Medicine*. 2017;53(1):e1-e7.

³ Wheldon CW, Kaufman AR, Kasza KA, Moser RP. Tobacco Use Among Adults by Sexual Orientation: Findings from the Population Assessment of Tobacco and Health Study. *LGBT Health*. 2018;5(1):33-44.

⁴ Stevens P, Carlson LM, Hinman JM. An analysis of tobacco industry marketing to lesbian, gay, bisexual, and transgender (LGBT) populations: strategies for mainstream tobacco control and prevention. *Health Promot Pract*. 2004;5(3 suppl):129S-134S.

⁵ Bailey SR, Marino M, Ezekiel-Herrera D, et al. Tobacco Cessation in Affordable Care Act Medicaid Expansion States versus Non-Expansion States. *Nicotine Tob Res*. May 2019 (In press, online). doi:[10.1093/ntr/ntz087](https://doi.org/10.1093/ntr/ntz087)

⁶ Pachankis JE, Hatzenbuehler ML, Starks TJ. The influence of structural stigma and rejection sensitivity on young sexual minority men's daily tobacco and alcohol use. *Social Science & Medicine*. 2014;103:67-75.

⁷ Hatzenbuehler ML, Jun H-J, Corliss HL, Austin SB. Structural stigma and cigarette smoking in a prospective cohort study of sexual minority and heterosexual youth. *Ann Behav Med*. 2014;47(1):48-56.

We strongly urge you to reconsider plans to revise Section 1557 of the Affordable Care Act and to ensure the HHS adopts policies that will improve access to tobacco treatment services and improved health outcomes for millions of LGBTQ people in the United States.

Sincerely,

Suzanne Colby, President