

# Advocates vow to fight Trump rollback of transgender protections

By Nathaniel Weixel - 05/27/19 07:30 AM EDT

Transgender and public health advocates are ready to fight the Trump administration over a new proposed policy that seeks to roll back transgender health protections.

The proposed rule from the Department of Health and Human Services, which was released Friday ahead of a long holiday weekend, would rewrite an Obama-era policy that prohibited health discrimination based on sex.

The proposal faced immediate backlash, and advocacy groups signaled they are gearing up for a potential court fight.

“The ACLU refuses to allow the Trump administration to try to drag us backwards and roll back these essential, life-saving protections against discrimination,” said Louise Melling, deputy legal director with the American Civil Liberties Union.

“We will fight to make sure that who you are and the care you need will not be treated as a pre-existing condition ever again. Should HHS finalize this discriminatory rule, we will see them in court,” Melling said in a statement.

The Obama administration expanded the Affordable Care Act’s definition of sex discrimination to include gender identity, but those rules were blocked by a federal judge in 2016.

The Trump administration’s proposed definition, advocates said, will make it easier for doctors, hospitals and insurance companies to deny care or coverage to transgender patients, as well as women who have had abortions.

The rule is wide-ranging, and impacts hospitals, doctors and clinics that accept federal reimbursement. It also impacts insurance companies that participate in the health insurance exchanges.

Roger Severino, director of the HHS civil rights office, said the proposal was not intended to put patients at risk, and that the agency does not condone discrimination.

"We believe in the inherent human dignity of all people," Severino said on a call with reporters. "That goal is not changed by this rule."

Jocelyn Samuels, who ran the HHS civil rights office until the beginning of 2017, said she is concerned that no matter what the regulation says, rhetoric from the administration could make providers believe they have the right to deny treatment to LGBT people.

There are “very real repercussions” for the health and well-being of LGBT people, said Samuels, who is now the executive director of the Williams Institute, an independent think tank at UCLA Law.

Mara Keisling, executive director for the National Center for Transgender Equality (NCTE), said the proposal will “abandon two million Americans who already face significant barriers to accessing adequate and life-saving health care.”

“It’s about the right of every American to be treated with dignity when they walk into an emergency room, meet a new doctor, or find the right insurance plan,” Keisling said. “If permitted, this rule will

promote ignorance and hate that no American should have to face while seeking care.”

A group of religious hospitals and providers first challenged the expanded ObamaCare non-discrimination provisions in 2016, arguing they could be forced to give treatment that violates their religious beliefs, like transition-related care.

Advocates said transgender people already face barriers to care, and the proposal will make the situation even worse.

The Center for American Progress, a liberal think tank, obtained complaints filed to HHS relating to sexual orientation and gender identity discrimination through a Freedom of Information Act request in 2018.

The group found the majority of complaints were by transgender individuals who were refused health coverage or care simply because of their gender identity, not because they were seeking specific transition-related care.

[President Trump](#) repeatedly pledged support for the LGBTQ community on the campaign trail in 2016, and has sought to portray himself as an ally of the community during his time in office.

Yet he has consistently sided with religious conservatives and signed off on policies that would narrowly define gender and erode protections for transgender individuals.

For example, the Department of Housing and Urban Development proposed a rule that would allow federally funded shelters to turn away transgender people for religious reasons.

The administration also finalized rules making it easier for health workers and institutions to deny treatment to people if it would violate their religious or moral beliefs.

In addition, the military’s transgender ban took effect earlier this month, despite objections from advocacy groups and medical experts.

Advocates said they are concerned that the latest proposal is adding to the string of policies that could jeopardize the gains made in ensuring transgender individuals receive equal access to care.

“The Trump-Pence Administration is sanctioning blatant discrimination in health care by attempting to reverse the landmark health care rights law,” said Fatima Goss Graves, president and CEO of the National Women’s Law Center. “We are prepared to protect and defend patients against this dangerous attempt to reverse their rights.”

Any potential lawsuits won’t happen for some time. The proposal will need to go through the traditional notice-and-comment rulemaking process, and until a final rule is published, current law will remain in effect.

Keisling said the transgender community should make sure their voices are heard.

“Today, transgender people all over the country are terrified that the president is coming for their healthcare,” Keisling said. “It absolutely matters that this a proposed rule, but the fear, the anger, the feeling marginalized, starts today from this proposed rule.”