

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

WHITMAN-WALKER CLINIC, INC., *et al.*,

*Plaintiffs,*

v.

U.S. DEPARTMENT OF HEALTH AND  
HUMAN SERVICES, *et al.*,

*Defendants.*

Case No. 1:20-cv-01630 (JEB)

**PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION OR, IN THE  
ALTERNATIVE, A STAY PENDING JUDICIAL REVIEW  
PURSUANT TO 5 U.S.C. § 705**

Plaintiffs Whitman-Walker Clinic, Inc. d/b/a Whitman-Walker Health; The TransLatin@ Coalition; Los Angeles LGBT Center; Bradbury-Sullivan LGBT Community Center; American Association of Physicians for Human Rights d/b/a GLMA: Health Professionals Advancing LGBTQ Equality; AGLP: The Association of LGBTQ Psychiatrists; Dr. Sarah Henn; Dr. Randy Pumphrey; Dr. Robert Bolan; and Dr. Ward Carpenter (collectively, “plaintiffs”) bring this motion for preliminary relief pursuant to Federal Rule of Civil Procedure 65 and Local Rule 65.1 or for an order pursuant to 5 U.S.C. § 705, postponing the effective date, enforcement, and implementation of the final agency action entitled, Nondiscrimination in Health and Health Education Programs or Activities, Delegation of Authority, 85 Fed. Reg. 37,160 (June 19, 2020) (to be codified at 42 C.F.R. pts. 438, 440, & 460 and 45 C.F.R. pts. 86, 92, 147, 155, & 156) (the “Revised Rule”), promulgated by the U.S. Department of Health and Human Services (“HHS”); Alex M. Azar II, in his official capacity as Secretary of HHS; Roger Severino, in his official capacity as Director, Office of Civil Rights, HHS; and Seema Verma, in her official capacity as Administrator for the Centers of Medicare and Medicaid Service, HHS.

The accompanying Memorandum of Points and Authorities demonstrates plaintiffs are entitled to relief because: the Revised Rule violates the Administrative Procedure Act, the Equal Protection Guarantee and Due Process Clause of the Fifth Amendment, and the Free Speech and Establishment Clauses of the First Amendment to the United States Constitution; the Revised Rule will cause irreparable harm; and the equities and public interest weigh in plaintiffs' favor.

This motion is accompanied by a Memorandum of Points and Authorities; the declarations and exhibits in support of Naseema Shafi, CEO of Whitman-Walker Health; Dr. Sarah Henn, Chief Health Officer of Whitman-Walker Health; Dr. Randy Pumphrey, Senior Director of Behavioral Health at Whitman-Walker Health; Bamby Salcedo, President and CEO of the TransLatin@ Coalition; Arianna Inurritegui-Lint, Executive Director of Arianna's Center; Darrel Cummings, Chief of Staff of the Los Angeles LGBT Center; Dr. Robert Bolan, Chief Medical Officer and Director of Clinical Research for the Los Angeles LGBT Center; Dr. Ward Carpenter, Co-Director of Health Services for the Los Angeles LGBT Center; Adrian Shanker, Founder and Executive Director of the Bradbury-Sullivan LGBT Community Center; Hector Vargas, Executive Director of GLMA; Roy Harker, Executive Director of AGLP; Dr. Deborah Fabian, Member of GLMA; Dr. Randi Ettner; Elena Rose Vera, Executive Director of the Trans Lifeline; and Carrie Davis, Chief Community Officer of The Trevor Project; and a proposed Order.

Pursuant to Local Rule 65.1(d), plaintiffs respectfully request an expedited hearing on the motion. The Revised Rule is scheduled to go into effect on August 18, 2020. In the absence of injunctive relief or a stay of the effective date, plaintiffs, their members, and the patients and individuals whom they serve, as well as similarly-situated LGBTQ patients, health care providers, and LGBTQ organizations nationwide, will suffer direct, immediate, and irreparable harm,

particularly in light of the national emergency caused by the global coronavirus (COVID-19) pandemic.

Pursuant to Local Rule 7(m), counsel for plaintiffs consulted with counsel for defendants in advance of filing this motion. Plaintiffs sought defendants' consent for a stay of the effective date of the Revised Rule pending judicial review in lieu of filing this motion. Defendants informed plaintiffs they are considering plaintiffs' request, but defendants were not able to provide a response before plaintiffs determined it was necessary to move forward with the motion in light of the effective date.

Dated: July 9, 2020

LAMBDA LEGAL DEFENSE  
AND EDUCATION FUND, INC.

By: /s/ Omar Gonzalez-Pagan

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*\* Motion for pro hac vice granted.*

*\*\* Application for admission to U.S. District  
Court for the District of Columbia forthcoming.*

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