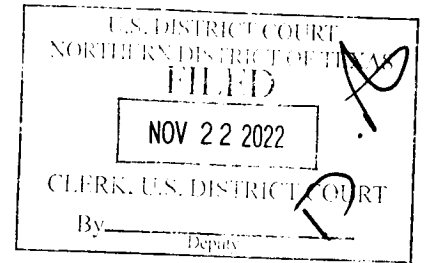


IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION



SUSAN NEESE, *et al.*,

Plaintiffs,

v.

XAVIER BECERRA, in his official
capacity as the Secretary of the United
States Department of Health and Human
Services, *et al.*,

Defendants.

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2:21-CV-163-Z

ORDER

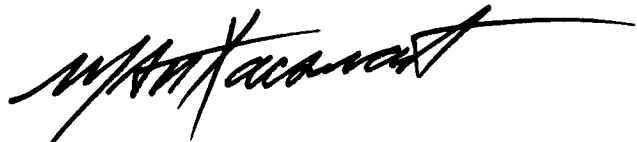
On October 14, 2022, the Court granted Plaintiffs’ Motion for Class Certification. *See* ECF Nos. 44, 65. The Court certifies the following class under Federal Rule of Civil Procedure 23(b)(2): All health-care providers subject to Section 1557 of the Affordable Care Act (“ACA”). Plaintiffs Susan Neese and James Hurly are appointed class representatives. The Court appoints Jonathan F. Mitchell to serve as class counsel under Rule 23(g).

The class claims are:

1. Whether Defendant Becerra’s interpretation of Section 1557 of the ACA, which appears in his Notification of Interpretation and Enforcement of May 10, 2021, is inconsistent with the statutory definition of “sex” discrimination; and
2. Whether the prohibition on “sex” discrimination in Section 1557 of the ACA encompasses only situations in which a provider would have acted differently toward an identically situated member of the opposite biological sex.

SO ORDERED.

November 22, 2022



MATTHEW J. KACSMARYK
UNITED STATES DISTRICT JUDGE