

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

_____)	
WHITMAN-WALKER)	
CLINIC, INC., <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 1:20-cv-01630-JEB
)	
U.S. DEPARTMENT OF HEALTH)	
AND HUMAN SERVICES, <i>et al.</i> ,)	
)	
Defendants.)	
_____)	

JOINT STATUS REPORT

The parties, by and through undersigned counsel, respectfully submit this Joint Status Report pursuant to the Court’s Order dated September 3, 2021, ECF No. 77. Defendants report that, since briefing on Plaintiffs’ motion to lift the stay, the United States Department of Health and Human Services (“HHS”) Office for Civil Rights has continued its diligent efforts and made further progress in its proceedings reconsidering the challenged rule and promulgating a new Section 1557 Rule. HHS continues to anticipate issuing a Notice of Proposed Rulemaking no later than April 2022. Plaintiffs represent that they have no insight into Defendants’ internal process beyond Defendants’ representation that they anticipate issuing a Notice of Proposed Rulemaking no later than April 2022.

Consistent with this Court’s order in *Chinatown Service Center, et al. v. HHS, et. al.*, the parties request that Defendants be ordered to provide an update on HHS’s proposed rulemaking at the end of every other month, with the first update due on January 31, 2022. See Memorandum Opinion and Order, *Chinatown Service Center, et al. v. HHS*, No. 21-CV-331-JEB, ECF No. 23 at 4 (D.D.C. Oct. 13, 2021). Defendants do not join Plaintiffs in their argument below.

Plaintiffs' Statement

The parties' request that Defendants be ordered to provide updates at the end of every other month should not be construed as an agreement by Plaintiffs to an indefinite stay past April 2022. The agreed-upon request is made without prejudice to Plaintiffs' ability to reopen proceedings if the Notice of Proposed Rulemaking fails to address each aspect of the 2020 Revised Rule that Plaintiffs have challenged in the instant case, Defendants fail to meet the above timeline, or changed circumstances warrant it. *See* Mem. & Order on Mot. to Remand, *Bos. All. of Gay, Lesbian, Bisexual & Transgender Youth v. United States Dep't of Health & Hum. Servs.*, No. CV 20-11297-PBS (D. Mass. Oct. 29, 2021) (ECF No. 83), at 2-3 (noting that Defendants "cannot guarantee anything other than that the new final rule 'may resolve or moot some or all of the claims that remain subject to review in this litigation'" and granting stay "until the end of April 2022") (emphasis in original).

Dated: November 3, 2021

Respectfully submitted,

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

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