

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.	)	
_____	)	

**UPDATE ON STATUS OF PROPOSED RULEMAKING**

Pursuant to this Court’s Minute Orders dated August 3, 2022, and November 30, 2022, Defendants submit this update on the status of the proposed rulemaking. The United States Department of Health and Human Services (“HHS”) Office for Civil Rights published a proposed rule implementing Section 1557 of the Affordable Care Act in the Federal Register on August 4, 2022. Nondiscrimination in Health Programs and Activities, 87 Fed. Reg. 47,824 (Aug. 4, 2022). HHS is moving as quickly as possible to consider the more than 85,000 comments submitted on the proposed rule and to issue a final rule that addresses those comments and the many complex issues covered by the rulemaking.

It is difficult for HHS to predict with accuracy the time period for finalizing the rule given the multiple levels of intra and inter-agency review required, as well as the potential for unforeseen circumstances to interfere with the agency’s plans. Nonetheless, in a related action, on June 27, 2023, undersigned counsel represented to this Court that HHS aspires to issue a final rule not later than this winter. Moreover, undersigned counsel represented that HHS aspires to submit the rule to the Office of Information and Regulatory Affairs for final clearance before the end of this calendar year.

Dated: July 31, 2023

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

MICHELLE R. BENNETT  
Assistant Director, Federal Programs Branch

Respectfully submitted,

*/s/ Liam C. Holland*  
LIAM C. HOLLAND  
Trial Attorney  
United States Department of Justice  
Civil Division, Federal Programs Branch  
1100 L Street, N.W.  
Washington, DC 20005  
Tel: (202) 514-4964  
Fax: (202) 616-8470  
Email: [Liam.C.Holland@usdoj.gov](mailto:Liam.C.Holland@usdoj.gov)

*Attorneys for Defendants*