

**July 20, 2020**

**ATTORNEY GENERAL RAOUL FILES LAWSUIT AGAINST FEDERAL GOVERNMENT FOR ALLOWING HEALTH CARE DISCRIMINATION**

**Chicago** — Attorney General Kwame Raoul today joined a coalition of 21 attorneys general in filing a lawsuit to stop a new federal rule that makes it easier for health care providers and insurance companies to discriminate against certain vulnerable and protected classes of Americans.

In a lawsuit filed against the U.S. Department of Health and Human Services (HHS), HHS Secretary Alex Azar, and the head of HHS's Office of Civil Rights, Roger Severino, Raoul and the coalition argue that the new rule emboldens providers and insurers to discriminate against LGBTQ+ individuals, those with limited English proficiency, and women, among others, by stripping express protections for these groups in HHS regulations that implement the nondiscrimination provision of the Patient Protection and Affordable Care Act (ACA). This provision of the ACA prohibits discrimination based on race, color, national origin, sex, disability, or age by health programs or facilities that receive federal funds, but the federal government is seeking to undermine many of those protections.

"The department's dangerous rule will eliminate protections that prohibit discrimination and remove barriers to health care for populations more likely to experience discrimination in health care – LGBTQ individuals, women, people with disabilities, and those who are not proficient speaking English," Raoul said. "I will continue to oppose policies motivated by prejudices that hinder access to critical health care services."

HHS issued regulations implementing Section 1557 of the ACA in 2016, making clear that discrimination on the basis of gender identity, nonconformity to sex stereotypes and pregnancy status are forms of sex discrimination prohibited by the statute. Specifically, Section 1557 prohibits discrimination by any health care program, including providers and insurers, against individuals on the basis of race, color, national origin, sex, disability, or age. Federal courts have also held that the statute's prohibitions on sex discrimination protect transgender and other LGBTQ+ individuals from discrimination.

Despite numerous failed legislative and legal battles to repeal and dismantle the ACA, the federal government's new rule would now eliminate many of the express protections contained in the Section 1557 regulations, unlawfully exclude many health insurers from the scope of Section 1557, and allow for denials of insurance coverage. Raoul and the coalition also argue that the new rule would impose unreasonable barriers and impede timely access to health care for Americans, in violation of Section 1554 of the ACA.

Before the rule was finalized, Raoul and the coalition previously called on the federal government to withdraw the rule by submitting a comment letter to HHS last August, as well as by sending a letter to HHS this past April, at the start of the COVID-19 pandemic, in an effort to stop the further exacerbation of the strain on the nation's health care system.

In the lawsuit filed today in the U.S. District Court for the Southern District of New York, Raoul and the coalition argue that HHS has unlawfully ignored the harms that the new rule will impose on vulnerable populations, including LGBTQ+ individuals, individuals with limited English proficiency, and women, as well as other protected classes. The coalition additionally contends that HHS has failed to justify why it abandoned its prior policy, which, among other things, explicitly prohibited discrimination in health care and required health entities to provide meaningful language assistance services to individuals with limited English proficiency, including notifying them of their rights to translation and interpretation services. The

lawsuit finally alleges that the federal government was motivated by animus toward the LGBTQ+ community in issuing this rule.

Raoul and the coalition specifically argue that the new rule is arbitrary, capricious and contrary to law under the Administrative Procedure Act (APA), and that it violates the equal protection guarantee of the Fifth Amendment.

Joining Raoul in the lawsuit are the attorneys general of California, Colorado, Connecticut, Delaware, the District of Columbia, Hawaii, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New Mexico, New York, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia and Wisconsin.