

# Congress of the United States

Washington, DC 20515

November 30, 2023

The Honorable Denis McDonough  
Secretary of Veterans Affairs  
810 Vermont Avenue, NW  
Washington, DC 20420

Dear Secretary McDonough:

We, the undersigned Members of Congress, write to insist that the Department of Veterans Affairs (VA) urgently grant the recent petition for rulemaking requesting that VA promulgate regulations under Section 1557 of the Patient Protection and Affordable Care Act (ACA). We believe that our Nation's heroes are entitled to the same antidiscrimination protections as civilians using other federal health programs. It is of utmost importance that the VA act without delay.

The U.S. Department of Health and Human Services (HHS) previously issued regulations implementing the antidiscrimination protections of Section 1557 for other federal health programs it funds or operates.<sup>1</sup> However, VA's failure to do the same places veterans at risk of discrimination every day. We appreciate the critically important health care that the VA provides, but unfortunately, minority veterans frequently experience discrimination when seeking care at VA facilities.

Discrimination based on a veteran's sex, including sexual orientation and gender identity, remains particularly widespread within the VA health care system. Recent studies show that one in four women veterans experienced harassment when seeking care at VA facilities.<sup>2</sup> Women and LGBTQI+ veterans report the highest rates of harassment, disrespect, and substandard care.<sup>3</sup> Adopting regulations under Section 1557 is a clear and necessary means to preventing mistreatment.

Moreover, based on troubling reports from across the country, some VA medical providers may believe they have the right to refuse or deny care to certain individuals based solely on these providers' personal beliefs. These attitudes and the culture they create disproportionately affect

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<sup>1</sup> See, e.g., 87 Fed. Reg. 47824 (Aug. 4, 2022); 85 Fed. Reg. 37160 (June 19, 2020); 81 Fed. Reg. 31376 (May 18, 2016).

<sup>2</sup> Ruth Klap, et al., *Prevalence of Stranger Harassment of Women Veterans at Veterans Affairs Medical Centers and Impacts on Delayed and Missed Care*, 29-2 WOMEN'S HEALTH ISSUES 107, 107 (2019).

<sup>3</sup> Alison B. Hamilton, et al., *Factors Related to Attrition from VA Health Care Use: Findings from the National Survey of Women Veterans*, 28 J. GEN. INTERN. MED. S510, S513 (2013); Serena MacDonald, MD, et al., *Experiences of Perceived Gender-Based Discrimination Among Women Veterans: Data from the ECUUN Study* (published 58 MED. CARE 483 (2020)) (manuscript at 3), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7607520/pdf/nihms-1641136.pdf>; cf. *LGBT Women Veterans Report Missing Needed Health Care Due to Concerns About Interacting with Other Veterans*, U.S. DEP'T VETERANS AFFS. (2018), <https://www.hsrd.research.va.gov/research/citations/PubBriefs/articles.cfm?RecordID=917>.

all minority veterans, including racial, ethnic, gender, and sexual minorities.<sup>4</sup> Promulgating antidiscrimination rules under Section 1557 is essential to ensuring that VA providers may not engage in such discriminatory practices.

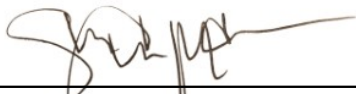
Recently, fourteen veteran and civil rights groups submitted a petition for rulemaking requesting that VA disseminate regulations under Section 1557.<sup>5</sup> The petition asks that VA clarify Section 1557's antidiscrimination protections and that enforcement mechanisms apply to every health program or activity administered by VA. Additionally, the petition requests that the VA specify the forms of discrimination prohibited by Section 1557 and the remedies available for violations, mirroring HHS's approach in their own proposed regulations.<sup>6</sup>

While granting the petition and promulgating these regulations may not resolve all of the healthcare challenges facing women, LGBTQI+, and other minority veterans, it is a crucial first step toward providing these veterans with healthcare free of discrimination. VA must provide a clear, unambiguous, and enforceable message to its health care facilities and programs about the behaviors that constitute discrimination to ensure that minority veterans have safe and affirming experiences when seeking care.

The VA's mission is to provide and care for those who bore the battle – without exception. We urge you to act promptly on the petition for rulemaking and work collaboratively with veterans' rights groups to ensure that VA respects all who wore the uniform.


We look forward to your timely response and the opportunity to work together to achieve a VA that embodies equality, dignity, and respect for all veterans.

Sincerely,



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Sheila Cherfilus-McCormick  
Member of Congress



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Richard Blumenthal  
United States Senator

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<sup>4</sup> See, e.g., Jo Yurcaba, *More Than 1 in 8 LGBTQ People Live in States Where Doctors Can Refuse to Treat Them*, NBC NEWS (July 28, 2022 8:40 AM EDT), <https://www.nbcnews.com/nbc-out/out-health-and-wellness/1-8-lgbtq-people-live-states-doctors-can-refuse-treat-rcna39161> (“Advocates worry that the growing number of laws that expand religious rights for health care providers could be interpreted as a ‘license to discriminate.’”).


<sup>5</sup> The petitioners include the Minority Veterans Association, Black Veterans Project, Connecticut Veterans Legal Center, Iraq and Afghanistan Veterans of America, Modern Military Association of America, National Center for Transgender Equality, National Veterans Council for Legal Redress, National Veterans Legal Services Program, Protect Our Defenders, Service Women’s Action Network, Swords to Plowshares, Transgender American Veterans Association, Veterans Advocacy Project, and Vietnam Veterans of America.

<sup>6</sup> 87 Fed. Reg. 47824 (Aug. 4, 2022).



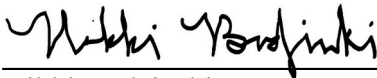
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Adriano Espaillat  
Member of Congress



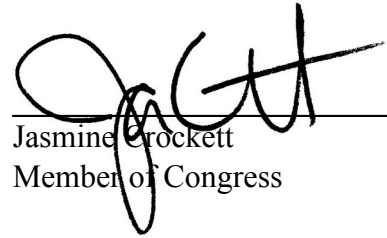
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Julia Brownley  
Member of Congress



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Nikki Budzinski  
Member of Congress



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Jasmine Crockett  
Member of Congress



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Dwight Evans  
Member of Congress



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André Carson  
Member of Congress



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Troy Carter  
Member of Congress



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Eleanor Holmes Norton  
Member of Congress



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Pramila Jayapal  
Member of Congress



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Jeanne Shaheen  
United States Senator

*Kathy Castor*

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Kathy Castor  
Member of Congress

*Dan Goldman*

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Dan Goldman  
Member of Congress

*Steve Cohen*

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Steve Cohen  
Member of Congress

*Chris Coons*

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Christopher A. Coons  
United States Senator

*Sheldon Whitehouse*

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Sheldon Whitehouse  
United States Senator

*Adam B. Schiff*

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Adam B. Schiff  
Member of Congress

*Morgan McGarvey*

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Morgan McGarvey  
Member of Congress

*Valerie P. Foushee*

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Valerie P. Foushee  
Member of Congress

*James P. McGovern*

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James P. McGovern  
Member of Congress

*Frank J. Mrvan*

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Frank J. Mrvan  
Member of Congress

*Nanette Diaz Barragan*

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Nanette Diaz Barragan  
Member of Congress

*Mark Pocan*

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Mark Pocan  
Member of Congress

*Kevin Mullin*

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Kevin Mullin  
Member of Congress

*Bernard Sanders*

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Bernard Sanders  
United States Senator

*Chris Pappas*

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Chris Pappas  
Member of Congress

*Mark Takano*

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Mark Takano

*Sherrod Brown*

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Sherrod Brown  
United States Senator

*Mike Levin*

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Mike Levin  
Member of Congress

*Dick Durbin*

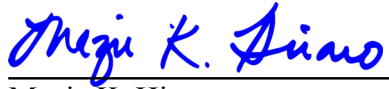
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Richard J. Durbin  
United States Senator

*Chris R. Deluzio*

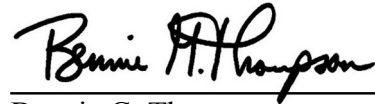
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Chris Deluzio  
Member of Congress



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Mazie K. Hirono  
United States Senator



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Bennie G. Thompson  
Member of Congress



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Shri Thanedar  
Member of Congress



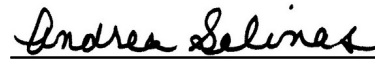
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Jonathan L. Jackson  
Member of Congress



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Frederica S. Wilson  
Member of Congress



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Andrea Salinas  
Member of Congress



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Zoe Lofgren  
Member of Congress



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Peter Welch  
United States Senator



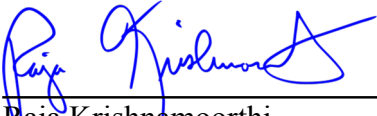
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Alma S. Adams, Ph.D.  
Member of Congress



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Jason Crow  
Member of Congress



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Raja Krishnamoorthi  
Member of Congress



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Dina Titus  
Member of Congress



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Delia C. Ramirez  
Member of Congress



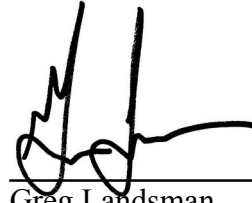
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Rosa L. DeLauro  
Member of Congress



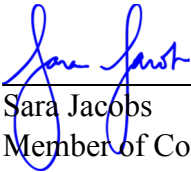
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Colin Z. Allred  
Member of Congress



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Greg Landsman  
Member of Congress




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Sara Jacobs  
Member of Congress



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Mike Thompson  
Member of Congress



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Lloyd Doggett  
Member of Congress