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PRESS RELEASE

Attorney General Frosh Joins Coalition Suing to Stop Federal Rule Allowing Discrimination in Providing Health Care

U.S. HHS Final Rule Seeks to Allow Refusal to Provide Necessary Health Care on Basis of "Religious, Moral, Ethical, or Other" Beliefs

BALTIMORE, MD (May 21, 2019) – Maryland Attorney General Brian E. Frosh has joined a coalition of 23 cities, states, and municipalities filing a lawsuit today against the U.S. Department of Health and Human Services challenging a Final Rule issued by the Department. This Rule expands the ability of businesses and individuals to refuse to provide necessary health care based on "religious beliefs or moral convictions."

The lawsuit, filed in the Southern District of New York, seeks to enjoin the Final Rule and prevent it from going into effect. The suit follows a comment letter filed in March 2018 by a coalition of state attorneys general urging that the rule be withdrawn.

"Marylanders have a right to quality care that is delivered based on medical needs, not based upon personal preferences of health providers," said Attorney General Frosh. "This rule is illegal and unconstitutional."

The lawsuit alleges that the Final Rule, which is set to take effect in July 2019, is illegal and will undermine the delivery of health care by giving a wide range of health care institutions and individuals a right to refuse care, based on the provider's own personal views. The Rule as it stands drastically expands the number of providers eligible to make such refusals, ranging from medical transport providers to emergency room doctors, receptionists, and customer service representatives at insurance companies. Additionally, the Rule makes this right of refusal absolute and categorical: no matter what reasonable steps a health provider or employer makes to accommodate the views of an objecting individual, if the individual rejects a proposed accommodation, a provider or employer is left with no recourse.

The Final Rule will also allow businesses to object to employee insurance coverage for procedures the business considers objectionable, allow individual health care personnel to object to informing patients about their medical options or referring them to providers of those options, and create devastating consequences that fall particularly hard on marginalized patients, including LGBTQ patients, who already confront discrimination in obtaining health care.

The lawsuit further alleges that the risk of noncompliance is the termination of billions of dollars in federal health care funding. If HHS determines, in its sole discretion, that states or cities have

failed to comply with the Final Rule—through their own actions or the actions of thousands of sub-contractors who deliver health services—the federal government could terminate funding to those states and cities. States and cities rely on those funds for countless programs to promote the public health of their residents, including Medicaid, the Children's Health Insurance Program, HIV/AIDS and STD prevention and education, and substance abuse and mental health treatment.

The lawsuit argues that this drastic expansion of refusal rights, and the draconian threat of termination of federal funds, violates the federal Administrative Procedure Act and the Spending Clause and separation of powers principles in the U.S. Constitution.

In addition to Maryland, the lawsuit was joined by the attorneys general of Colorado, Connecticut, Delaware, the District of Columbia, Hawaii, Illinois, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New Mexico, New York, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia, Wisconsin, and the City of New York, the City of Chicago, and Cook County, Illinois.