**LCAO Sign-On Letter**

Since 1980, the Leadership Council of Aging Organizations (LCAO) has been the country’s preeminent coalition representing tens of millions of older Americans. Comprised of 72 national nonprofit organization members, LCAO focuses on the well-being of America’s older population and is committed to representing their interests in the policy-making arena. LCAO serves as a source of information about issues affecting older persons and provides leadership and vision as America meets the challenges and opportunities presented by its aging society.

Today we write to oppose the current effort by the Department of Health and Human Services (HHS) to reopen and roll back the landmark regulation implementing Section 1557 of the Affordable Care Act (ACA). The 1557 rule is critically important to protecting older Americans not only from age discrimination but also from discrimination based on race, color, national origin, limited English proficiency, disability, or sex, including discrimination on the basis of gender identity or sex stereotypes. We recognize that certain aspects of the rule require new sub-regulatory guidance but we are deeply concerned that any reopening of this rule would put all of the rule’s protections for patients and consumers at risk of being weakened.

HHS has stated in court documents that it has drafted a proposed rule to reopen and repeal portions of the 1557 implementing rule, just months after the rule’s effective date. This move is at odds with LCAO’s vision of recognizing the diversity of America’s older population and working to ensure that no older person is a victim of discrimination. Section 1557 is a landmark civil rights law. The Department’s implementing rule was six years in development, with multiple public comment periods and broad support from medical professionals, public health experts, and consumer advocates. The rule clarifies Section 1557’s critical protections with regard to age discrimination, language and disability access, and its unique protections against sex discrimination in health care, including discrimination against LGBT Americans.

We are especially concerned that the Department appears poised to roll back its recognition that Section 1557 prohibits discrimination against LGBT individuals and their loved ones. LGBT older adults face pronounced health disparities compared to their non-LGBT peers. HIV disproportionately impacts the LGBT community(FN) and it is affecting an increasing number of older adults (FN). The National Institutes of Health (NIH) and National Institute on Aging (NIA)-funded Aging and Health Report outlines a number of other disparities, including: lesbian, gay and bisexual (LGB) older adults face higher rates of disability and mental health challenges; older bisexual and gay men face higher rates of physical health challenges; bisexual and lesbian older women have higher obesity rates and higher rates of cardiovascular disease; and transgender older adults face greater risk of suicidal ideation, disability, and depression compared to their peers(FN). There is substantial evidence that discrimination in health care contributes to these disparities by LGBT older adults being denied care, provided inadequate care, or being afraid to seek care for fear of mistreatment (FN). Transgender older adults particularly suffer from discrimination in coverage of medically necessary care related to gender transition, as well as in coverage of lifesaving tests and treatments typically associated with one gender.

We are gravely concerned for both consumers and providers with respect to the Limited English Proficiency (LEP) provision requiring translation services by providers of a minimum of the fifteen most prominent languages within the state. Repeal of this section of the rule would mean a step backward from our ever-increasing diverse elderly and disabled populations. Strict interpretation, however, could force small, single site providers out of business because of excessive costs, thereby creating barriers to access for consumers in need of home and community based services (HCBS).

We believe the LEP concerns of both consumers and providers can be effectively and adequately addressed by providing new sub-regulatory guidance in lieu of repeal. LEP guidance has not been updated since 2003, long before the new rule became effective. Some possible solutions that will support increased healthcare access for LEP populations while also protecting providers from undue costs include:

* Requiring interpretation and translation of predominant languages spoken at the county level, where providers may be more likely to have access to local, community-based organizations that can assist with interpretation and translation needs;
* Providing more in-language resources from HHS that can be used “out of the box” by solo practitioners and small providers; and/or
* Increasing federal funding to providers specifically to support language access requirements as established by Section 1557.

The mission of the Department’s Office for Civil Rights is “to improve the health and well-being of people across the nation” and “to ensure that people have equal access to and the opportunity to participate in and receive services from HHS programs without facing unlawful discrimination.” In accord with that mission, we strongly urge you to leave the Section 1557 implementing rule in place, defend it in court, and provide sub-regulatory guidance to address the concerns it has engendered.