

### **Background Information on Proposed Rule Change on Section 1557 of ACA**

- [Section 1557](#) of the ACA forbids sex discrimination in federally-funded health programs and activities.
- ***When the Obama Administration [issued regulations](#) implementing section 1557, it defined “discrimination on the basis of sex” to include “termination of pregnancy.”*** The suggestion that health care entities receiving taxpayer funds must provide abortion contradicted the abortion-related provisions of the ACA and other provisions of law.
- ***When the Obama Administration issued regulations implementing section 1557, it further defined “discrimination on the basis of sex” to include “gender identity.”*** The suggestion that health care entities and insurers receiving taxpayer funds must provide or cover “gender transition” procedures contradicted statutory protections on which the relevant portion of section 1557 was based.
- ***The regulatory definition of sex to include abortion and “gender identity” was enjoined by a federal district court the day before it was scheduled to go fully into effect.*** States and health care providers challenged the regulations in *Franciscan Alliance v. Burwell*, and the federal district court in that case issued a nationwide preliminary injunction preventing its enforcement. The court held that the regulatory definition of “sex” was likely unlawful. The federal government did not appeal.
- ***In addition to eliminating the definition of sex, consistent with the court order, the proposed regulations clarify that recipients of federal taxpayer funds are not required to provide or pay for abortion.*** The proposed regulations also state that the government’s enforcement of the nondiscrimination requirements must be consistent with the First Amendment to the U.S. Constitution, the Religious Freedom Restoration Act, and other statutory provisions relating to abortion, religious liberty, and conscience.