

**NEWS ALERT****HEALTH CARE**

## Texas District Court Preliminarily Enjoins Partial Enforcement of Section 1557

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In May of last year, the United States Department of Health and Human Services (“HHS”) enacted regulations implementing Section 1557 of the Affordable Care Act. These regulations aimed to enhance language assistance and prohibit discrimination in health programs or activities on the basis of race, color, national origin, sex (including gender identity), age and disability.

However, just before we rang in 2017, the United States District Court for the Northern District of Texas, in *Franciscan Alliance, Inc. et al v. Burwell*, issued an order that includes a preliminary injunction on HHS. Specifically, the Court’s order preliminarily enjoins HHS, on a nationwide basis, from enforcing its Section 1557 regulations as they relate to prohibiting discrimination in health care programs based on gender identity and termination of pregnancy. The Court stated that “for more than forty years after the passage of Title IX in 1972, no federal court or agency had concluded sex should be defined to include gender identity.” In so doing, the Court ruled that the Section 1557 regulations were contrary to law under the Administrative Procedure Act. Further, the Court found that the plaintiffs in the case demonstrated a substantial likelihood of success that the Section 1557 regulations violated the Religious Freedom Restoration Act, and, thus, it granted the injunction.

HHS issued a statement on January 3, 2017, stating that while it is disappointed with the Court’s order, it will continue to enforce the other provisions of the Section 1557 regulations to the fullest extent consistent with the Court’s order. Our Health Care Group will continue to monitor HHS’ enforcement of Section 1557.

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