

117TH CONGRESS
1ST SESSION

H. R. 5742

To prohibit discrimination in health care and require the provision of equitable health care, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 26, 2021

Mr. SCHIFF (for himself, Mr. KHANNA, Ms. NORTON, Mr. GRIJALVA, Ms. SCANLON, Mrs. BEATTY, Ms. LEE of California, Mrs. DEMINGS, Ms. SEWELL, Mr. TAKANO, Ms. BASS, Ms. BUSH, Mr. THOMPSON of Mississippi, Mrs. HAYES, Mr. LEVIN of Michigan, Mr. COOPER, Ms. BLUNT ROCHESTER, Mrs. CAROLYN B. MALONEY of New York, Mrs. WATSON COLEMAN, Mr. JOHNSON of Georgia, Mr. QUIGLEY, Mr. SMITH of Washington, and Mr. CARSON) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To prohibit discrimination in health care and require the provision of equitable health care, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Equitable Health Care
5 for All Act”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) In 1966, Dr. Martin Luther King, Jr., said
4 “Of all the forms of inequality, injustice in health
5 care is the most shocking and inhuman because it
6 often results in physical death.”.

7 (2) Inequity in health care remains a persistent
8 and devastating reality for many communities, but,
9 in particular, communities of color.

10 (3) The provision of inequitable health care has
11 complex causes, many stemming from systemic in-
12 equality in access to health care, housing, nutrition,
13 economic opportunity, education, and other factors.

14 (4) Health care outcomes for Black commu-
15 nities in particular lag far behind those of the popu-
16 lation as a whole.

17 (5) Dr. Anthony Fauci, Director of the Na-
18 tional Institute of Allergy and Infectious Diseases,
19 said on April 7, 2020, the coronavirus outbreak is
20 “shining a bright light” on “unacceptable” health
21 disparities in the Black community.

22 (6) A contributing factor in health disparities is
23 explicit and implicit bias in the delivery of health
24 care, resulting in inferior care and poorer outcomes
25 for some patients on the basis of factors including

1 race, national origin, sex (including sexual orienta-
2 tion or gender identity), disability, age, or religion.

3 (7) The National Academy of Medicine (for-
4 merly known as the “Institute of Medicine”) issued
5 a report in 2002 titled “Unequal Treatment”, find-
6 ing that racial and ethnic minorities receive lower-
7 quality health care than Whites do, even when insur-
8 ance status, income, age, and severity of condition is
9 comparable.

10 (8) Just as Congress has sought to eliminate
11 bias, both explicit and implicit, in employment, hous-
12 ing, and other parts of our society, the elimination
13 of bias and the legacy of structural racism in health
14 care is of paramount importance.

15 **SEC. 3. DATA COLLECTION AND REPORTING.**

16 (a) REQUIRED REPORTING.—

17 (1) IN GENERAL.—The Secretary of Health and
18 Human Services, in consultation with the Director of
19 Civil Rights and Health Equity, the Director of the
20 National Institutes of Health, the Administrator of
21 the Center for Medicare & Medicaid Services, the
22 Director of the Agency for Healthcare Research and
23 Quality, the Deputy Assistant Secretary for Minority
24 Health, and the Director of the Centers for Disease
25 Control and Prevention, shall by regulation require

1 all health care providers and facilities that are re-
2 quired under other provisions of law to report data
3 on specific health outcomes to the Department of
4 Health and Human Services in aggregate form, to
5 disaggregate such data by demographic characteris-
6 tics, including by race, national origin, sex (including
7 sexual orientation and gender identity), disability,
8 and age, as well as any other factor that the Sec-
9 retary determines would be useful for determining a
10 pattern of provision of inequitable health care.

11 (2) PROPOSED REGULATIONS.—Not later than
12 90 days after the date of enactment of this Act, the
13 Secretary of Health and Human Services shall issue
14 proposed regulations to carry out paragraph (1).

15 (b) REPOSITORY.—The Secretary of Health and
16 Human Services shall—

17 (1) not later than 1 year after the date of en-
18 actment of this Act, establish a repository of the
19 disaggregated data reported pursuant to subsection
20 (a);

21 (2) subject to paragraph (3), make the data in
22 such repository publicly available; and

23 (3) ensure that such repository does not contain
24 any data that is individually identifiable.

1 **SEC. 4. REQUIRING EQUITABLE HEALTH CARE IN THE HOS-**
2 **PITAL VALUE-BASED PURCHASING PRO-**
3 **GRAM.**

4 (a) EQUITABLE HEALTH CARE AS VALUE MEASURE-
5 MENT.—Section 1886(b)(3)(B)(viii) of the Social Security
6 Act (42 U.S.C. 1395ww(b)(3)(B)(viii)) is amended by
7 adding at the end the following new subclause:

8 “(XIII)(aa) Effective for payments beginning with
9 fiscal year 2024, in expanding the number of measures
10 under subclause (III), the Secretary shall adopt measures
11 that relate to equitable health care furnished by hospitals
12 in inpatient settings.

13 “(bb) In carrying out this subclause, the Secretary
14 shall solicit input and recommendations from individuals
15 and groups representing communities of color and other
16 protected classes and ensure measures adopted pursuant
17 to this subclause account for social determinants of health,
18 as defined in section 7(e)(10) of the Equitable Health
19 Care for All Act.

20 “(cc) For purposes of this subclause, the term ‘equi-
21 table health care’ refers to the principle that high-quality
22 care should be provided to all individuals and health care
23 treatment and services should not vary on account of the
24 real or perceived race, national origin, sex (including sex-
25 ual orientation and gender identity), disability, or age of
26 an individual, as well as any other factor that the Sec-

1 retary determines would be useful for determining a pat-
 2 tern of provision of inequitable health care.”.

3 (b) INCLUSION OF EQUITABLE HEALTH CARE MEAS-
 4 URES.—Section 1886(o)(2)(B) of the Social Security Act
 5 (42 U.S.C. 1395ww(o)(2)(B)) is amended by adding at the
 6 end the following new clause:

7 “(iv) INCLUSION OF EQUITABLE
 8 HEALTH CARE MEASURES.—Beginning in
 9 fiscal year 2024, measures selected under
 10 subparagraph (A) shall include the equi-
 11 table health care measures described in
 12 subsection (b)(3)(B)(viii)(XIII).”.

13 **SEC. 5. PROVISION OF INEQUITABLE HEALTH CARE AS A**
 14 **BASIS FOR PERMISSIVE EXCLUSION FROM**
 15 **MEDICARE AND STATE HEALTH CARE PRO-**
 16 **GRAMS.**

17 Section 1128(b) of the Social Security Act (42 U.S.C.
 18 1320a–7(b)) is amended by adding at the end the fol-
 19 lowing new paragraph:

20 “(18) PROVISION OF INEQUITABLE HEALTH
 21 CARE.—

22 “(A) IN GENERAL.—Subject to subpara-
 23 graph (B), any health care provider that the
 24 Secretary determines has engaged in a pattern
 25 of providing inequitable health care (as defined

1 in section 7(e)(7) of the Equitable Health Care
2 for All Act) on the basis of race, national ori-
3 gin, sex (including sexual orientation and gen-
4 der identity), disability, or age of an individual.

5 “(B) EXCEPTION.—For purposes of car-
6 rying out subparagraph (A), the Secretary shall
7 not exclude any health care provider from par-
8 ticipation in the Medicare program under title
9 XVIII of the Social Security Act or the Med-
10 icaid program under title XIX of such Act if
11 the exclusion of such health care provider would
12 result in increased difficulty in access to health
13 care services for underserved or low-income
14 communities.”.

15 **SEC. 6. OFFICE FOR CIVIL RIGHTS AND HEALTH EQUITY OF**
16 **THE DEPARTMENT OF HEALTH AND HUMAN**
17 **SERVICES.**

18 (a) NAME OF OFFICE.—Beginning on the date of en-
19 actment of this Act, the Office for Civil Rights of the De-
20 partment of Health and Human Services shall be known
21 as the “Office for Civil Rights and Health Equity” of the
22 Department of Health and Human Services. Any ref-
23 erence to the Office for Civil Rights of the Department
24 of Health and Human Services in any law, regulation,
25 map, document, record, or other paper of the United

1 States shall be deemed to be a reference to the Office for
2 Civil Rights and Health Equity.

3 (b) HEAD OF OFFICE.—The head of the Office for
4 Civil Rights and Health Equity shall be the Director for
5 Civil Rights and Health Equity, to be appointed by the
6 President. Any reference to the Director of the Office for
7 Civil Rights of the Department of Health and Human
8 Services in any law, regulation, map, document, record,
9 or other paper of the United States shall be deemed to
10 be a reference to the Director for Civil Rights and Health
11 Equity.

12 **SEC. 7. PROHIBITING DISCRIMINATION IN HEALTH CARE.**

13 (a) PROHIBITING DISCRIMINATION.—

14 (1) IN GENERAL.—No health care provider
15 may, on the basis, in whole or in part, of race, sex
16 (including sexual orientation and gender identity),
17 disability, age, or religion, subject an individual to
18 the provision of inequitable health care.

19 (2) NOTICE OF PATIENT RIGHTS.—The Sec-
20 retary shall provide to each patient a notice of a pa-
21 tient’s rights under this section.

22 (b) ADMINISTRATIVE COMPLAINT AND CONCILIATION
23 PROCESS.—

24 (1) COMPLAINTS AND ANSWERS.—

1 (A) IN GENERAL.—An aggrieved person
2 may, not later than 1 year after an alleged vio-
3 lation of subsection (a) has occurred or con-
4 cluded, file a complaint with the Director alleg-
5 ing inequitable provision of health care by a
6 provider described in subsection (a).

7 (B) COMPLAINT.—A complaint submitted
8 pursuant to subparagraph (A) shall be in writ-
9 ing and shall contain such information and be
10 in such form as the Director requires.

11 (C) OATH OR AFFIRMATION.—The com-
12 plaint and any answer made under this sub-
13 section shall be made under oath or affirmation,
14 and may be reasonably and fairly modified at
15 any time.

16 (2) RESPONSE TO COMPLAINTS.—

17 (A) IN GENERAL.—Upon the filing of a
18 complaint under this subsection, the following
19 procedures shall apply:

20 (i) COMPLAINANT NOTICE.—The Di-
21 rector shall serve notice upon the com-
22 plainant acknowledging receipt of such fil-
23 ing and advising the complainant of the
24 time limits and procedures provided under
25 this section.

1 (ii) RESPONDENT NOTICE.—The Di-
2 rector shall, not later than 30 days after
3 receipt of such filing—

4 (I) serve on the respondent a no-
5 tice of the complaint, together with a
6 copy of the original complaint; and

7 (II) advise the respondent of the
8 procedural rights and obligations of
9 respondents under this section.

10 (iii) ANSWER.—The respondent may
11 file, not later than 60 days after receipt of
12 the notice from the Director, an answer to
13 such complaint.

14 (iv) INVESTIGATIVE DUTIES.—The Di-
15 rector shall—

16 (I) make an investigation of the
17 alleged inequitable provision of health
18 care; and

19 (II) complete such investigation
20 within 180 days (unless it is impracti-
21 cable to complete such investigation
22 within 180 days) after the filing of
23 the complaint.

24 (B) INVESTIGATIONS.—

1 (i) PATTERN OR PRACTICE.—In the
2 course of investigating the complaint, the
3 Director may seek records of care provided
4 to patients other than the complainant if
5 necessary to demonstrate or disprove an
6 allegation of inequitable provision of health
7 care or to determine whether there is a
8 pattern or practice of such care.

9 (ii) ACCOUNTING FOR SOCIAL DETER-
10 MINANTS OF HEALTH.—In investigating
11 the complaint and reaching a determina-
12 tion on the validity of the complaint, the
13 Director shall account for social deter-
14 minants of health and the effect of such
15 social determinants on health care out-
16 comes.

17 (iii) INABILITY TO COMPLETE INVES-
18 TIGATION.—If the Director is unable to
19 complete (or finds it is impracticable to
20 complete) the investigation within 180
21 days after the filing of the complaint (or,
22 if the Secretary takes further action under
23 paragraph (6)(B) with respect to a com-
24 plaint, within 180 days after the com-
25 mencement of such further action), the Di-

1 rector shall notify the complainant and re-
2 spondent in writing of the reasons in-
3 volved.

4 (iv) REPORT TO STATE LICENSING
5 AUTHORITIES.—On concluding each inves-
6 tigation under this subparagraph, the Di-
7 rector shall provide to the State licensing
8 authorities that were notified under sub-
9 paragraph (A), information specifying the
10 results of the investigation.

11 (C) REPORT.—

12 (i) FINAL REPORT.—On completing
13 each investigation under this paragraph,
14 the Director shall prepare a final investiga-
15 tive report.

16 (ii) MODIFICATION OF REPORT.—A
17 final report under this subparagraph may
18 be modified if additional evidence is later
19 discovered.

20 (3) CONCILIATION.—

21 (A) IN GENERAL.—During the period be-
22 ginning on the date on which a complaint is
23 filed under this subsection and ending on the
24 date of final disposition of such complaint (in-
25 cluding during an investigation under para-

1 graph (2)(B)), the Director shall, to the extent
2 feasible, engage in conciliation with respect to
3 such complaint.

4 (B) CONCILIATION AGREEMENT.—A con-
5 ciliation agreement arising out of such concilia-
6 tion shall be an agreement between the re-
7 spondent and the complainant, and shall be
8 subject to approval by the Director.

9 (C) RIGHTS PROTECTED.—The Director
10 shall approve a conciliation agreement only if
11 the agreement protects the rights of the com-
12 plainant and other persons similarly situated.

13 (D) PUBLICLY AVAILABLE AGREEMENT.—

14 (i) IN GENERAL.—Subject to clause
15 (ii), the Secretary shall make available to
16 the public a copy of a conciliation agree-
17 ment entered into pursuant to this sub-
18 section unless the complainant and re-
19 spondent otherwise agree, and the Sec-
20 retary determines, that disclosure is not re-
21 quired to further the purposes of this sub-
22 section.

23 (ii) LIMITATION.—A conciliation
24 agreement that is made available to the
25 public pursuant to clause (i) may not dis-

1 close individually identifiable health infor-
2 mation.

3 (4) FAILURE TO COMPLY WITH CONCILIATION
4 AGREEMENT.—Whenever the Director has reason-
5 able cause to believe that a respondent has breached
6 a conciliation agreement, the Director shall refer the
7 matter to the Attorney General to consider filing a
8 civil action to enforce such agreement.

9 (5) WRITTEN CONSENT FOR DISCLOSURE OF
10 INFORMATION.—Nothing said or done in the course
11 of conciliation under this subsection may be made
12 public, or used as evidence in a subsequent pro-
13 ceeding under this subsection, without the written
14 consent of the parties to the conciliation.

15 (6) PROMPT JUDICIAL ACTION.—

16 (A) IN GENERAL.—If the Director deter-
17 mines at any time following the filing of a com-
18 plaint under this subsection that prompt judi-
19 cial action is necessary to carry out the pur-
20 poses of this subsection, the Director may rec-
21 ommend that the Attorney General promptly
22 commence a civil action under subsection (d).

23 (B) IMMEDIATE SUIT.—If the Director de-
24 termines at any time following the filing of a
25 complaint under this subsection that the public

1 interest would be served by allowing the com-
2 plainant to bring a civil action under subsection
3 (c) in a State or Federal court immediately, the
4 Director shall certify that the administrative
5 process has concluded and that the complainant
6 may file such a suit immediately.

7 (7) ANNUAL REPORT.—Not later than 1 year
8 after the date of enactment of this Act, and annually
9 thereafter, the Director shall make publicly available
10 a report detailing the activities of the Office for Civil
11 Rights and Health Equity under this subsection, in-
12 cluding—

13 (A) the number of complaints filed and the
14 basis on which the complaints were filed;

15 (B) the number of investigations under-
16 taken as a result of such complaints; and

17 (C) the disposition of all such investiga-
18 tions.

19 (c) ENFORCEMENT BY PRIVATE PERSONS.—

20 (1) IN GENERAL.—

21 (A) CIVIL ACTION.—

22 (i) IN SUIT.—A complainant under
23 subsection (b) may commence a civil action
24 to obtain appropriate relief with respect to
25 an alleged violation of subsection (a), or

1 for breach of a conciliation agreement
2 under subsection (b), in an appropriate
3 district court of the United States or State
4 court—

5 (I) not sooner than the earliest
6 of—

7 (aa) the date a conciliation
8 agreement is reached under sub-
9 section (b);

10 (bb) the date of a final dis-
11 position of a complaint under
12 subsection (b); or

13 (cc) 180 days after the first
14 day of the alleged violation; and

15 (II) not later than 2 years after
16 the final day of the alleged violation.

17 (ii) STATUTE OF LIMITATIONS.—The
18 computation of such 2-year period shall
19 not include any time during which an ad-
20 ministrative proceeding (including inves-
21 tigation or conciliation) under subsection
22 (b) was pending with respect to a com-
23 plaint under such subsection.

24 (B) BARRING SUIT.—If the Director has
25 obtained a conciliation agreement under sub-

1 section (b) regarding an alleged violation of
2 subsection (a), no action may be filed under
3 this paragraph by the complainant involved
4 with respect to the alleged violation except for
5 the purpose of enforcing the terms of such an
6 agreement.

7 (2) RELIEF WHICH MAY BE GRANTED.—

8 (A) IN GENERAL.—In a civil action under
9 paragraph (1), if the court finds that a viola-
10 tion of subsection (a) or breach of a conciliation
11 agreement has occurred, the court may award
12 to the plaintiff actual and punitive damages,
13 and may grant as relief, as the court deter-
14 mines to be appropriate, any permanent or tem-
15 porary injunction, temporary restraining order,
16 or other order (including an order enjoining the
17 defendant from engaging in a practice violating
18 subsection (a) or ordering such affirmative ac-
19 tion as may be appropriate).

20 (B) FEES AND COSTS.—In a civil action
21 under paragraph (1), the court, in its discre-
22 tion, may allow the prevailing party, other than
23 the United States, a reasonable attorney's fee
24 and costs. The United States shall be liable for

1 such fees and costs to the same extent as a pri-
2 vate person.

3 (3) INTERVENTION BY ATTORNEY GENERAL.—

4 Upon timely application, the Attorney General may
5 intervene in a civil action under paragraph (1), if
6 the Attorney General certifies that the case is of
7 general public importance.

8 (d) ENFORCEMENT BY THE ATTORNEY GENERAL.—

9 (1) COMMENCEMENT OF ACTIONS.—

10 (A) PATTERN OR PRACTICE CASES.—The
11 Attorney General may commence a civil action
12 in any appropriate district court of the United
13 States if the Attorney General has reasonable
14 cause to believe that any health care provider
15 covered by subsection (a)—

16 (i) is engaged in a pattern or practice
17 that violates such subsection; or

18 (ii) is engaged in a violation of such
19 subsection that raises an issue of signifi-
20 cant public importance.

21 (B) CASES BY REFERRAL.—The Director
22 may determine, based on a pattern of com-
23 plaints, a pattern of violations, a review of data
24 reported by a health care provider covered by
25 subsection (a), or any other means, that there

1 is reasonable cause to believe a health care pro-
2 vider is engaged in a pattern or practice that
3 violates subsection (a). If the Director makes
4 such a determination, the Director shall refer
5 the related findings to the Attorney General. If
6 the Attorney General finds that such reasonable
7 cause exists, the Attorney General may com-
8 mence a civil action in any appropriate district
9 court of the United States.

10 (2) ENFORCEMENT OF SUBPOENAS.—The At-
11 torney General, on behalf of the Director, or another
12 party at whose request a subpoena is issued under
13 this subsection, may enforce such subpoena in ap-
14 propriate proceedings in the district court of the
15 United States for the district in which the person to
16 whom the subpoena was addressed resides, was
17 served, or transacts business.

18 (3) RELIEF WHICH MAY BE GRANTED IN CIVIL
19 ACTIONS.—

20 (A) IN GENERAL.—In a civil action under
21 paragraph (1), the court—

22 (i) may award such preventive relief,
23 including a permanent or temporary in-
24 junction, temporary restraining order, or
25 other order against the person responsible

1 for a violation of subsection (a) as is nec-
2 essary to assure the full enjoyment of the
3 rights granted by this subsection;

4 (ii) may award such other relief as the
5 court determines to be appropriate, includ-
6 ing monetary damages, to aggrieved per-
7 sons; and

8 (iii) may, to vindicate the public inter-
9 est, assess punitive damages against the
10 respondent—

11 (I) in an amount not exceeding
12 \$500,000, for a first violation; and

13 (II) in an amount not exceeding
14 \$1,000,000, for any subsequent viola-
15 tion.

16 (B) FEES AND COSTS.—In a civil action
17 under this subsection, the court, in its discre-
18 tion, may allow the prevailing party, other than
19 the United States, a reasonable attorney's fee
20 and costs. The United States shall be liable for
21 such fees and costs to the extent provided by
22 section 2412 of title 28, United States Code.

23 (4) INTERVENTION IN CIVIL ACTIONS.—Upon
24 timely application, any person may intervene in a
25 civil action commenced by the Attorney General

1 under paragraphs (1) and (2) if the action involves
2 an alleged violation of subsection (a) with respect to
3 which such person is an aggrieved person (including
4 a person who is a complainant under subsection (b))
5 or a conciliation agreement to which such person is
6 a party.

7 (e) DEFINITIONS.—In this section:

8 (1) AGGRIEVED PERSON.—The term “aggrieved
9 person” means—

10 (A) a person who believes that the person
11 was or will be injured in violation of subsection
12 (a); or

13 (B) the personal representative or estate of
14 a deceased person who was injured in violation
15 of subsection (a).

16 (2) DIRECTOR.—The term “Director” refers to
17 the Director for Civil Rights and Health Equity of
18 the Department of Health and Human Services.

19 (3) DISABILITY.—The term “disability” has the
20 meaning given such term in section 3 of the Ameri-
21 cans with Disabilities Act of 1990 (42 U.S.C.
22 12102).

23 (4) CONCILIATION.—The term “conciliation”
24 means the attempted resolution of issues raised by
25 a complaint, or by the investigation of such com-

1 plaint, through informal negotiations involving the
2 complainant, the respondent, and the Secretary.

3 (5) CONCILIATION AGREEMENT.—The term
4 “conciliation agreement” means a written agreement
5 setting forth the resolution of the issues in concilia-
6 tion.

7 (6) INDIVIDUALLY IDENTIFIABLE HEALTH IN-
8 FORMATION.—The term “individually identifiable
9 health information” means any information, includ-
10 ing demographic information collected from an indi-
11 vidual—

12 (A) that is created or received by a health
13 care provider covered by subsection (a), health
14 plan, employer, or health care clearinghouse;

15 (B) that relates to the past, present, or fu-
16 ture physical or mental health or condition of,
17 the provision of health care to, or the past,
18 present, or future payment for the provision of
19 health care to, the individual; and

20 (C)(i) that identifies the individual; or

21 (ii) with respect to which there is a reason-
22 able basis to believe that the information can be
23 used to identify the individual.

24 (7) PROVISION OF INEQUITABLE HEALTH
25 CARE.—The term provision of inequitable health

1 care means the provision of any health care service,
2 by a health care provider in a manner that—

3 (A) fails to meet a high-quality care stand-
4 ard, meaning the health care provider fails to—

5 (i) avoid harm to patients as a result
6 of the health services that are intended to
7 help the patient;

8 (ii) provide health services based on
9 scientific knowledge to all and to all pa-
10 tients who benefit;

11 (iii) refrain from providing services to
12 patients not likely to benefit;

13 (iv) provide care that is responsive to
14 patient preferences, needs, and values; and

15 (v) avoids waits or delays in care; and

16 (B) is discriminatory in intent or effect
17 based at least in part on a basis specified in
18 subsection (a).

19 (8) RESPONDENT.—The term “respondent”
20 means the person or other entity accused in a com-
21 plaint of a violation of subsection (a).

22 (9) SECRETARY.—The term “Secretary” means
23 the Secretary of Health and Human Services.

24 (10) SOCIAL DETERMINANTS OF HEALTH.—The
25 term “social determinants of health” means condi-

1 tions in the environments in which individuals live,
2 work, attend school, and worship, that affect a wide
3 range of health, functioning, and quality-of-life out-
4 comes and risks.

5 (f) **RULE OF CONSTRUCTION.**—Nothing in this sec-
6 tion shall be construed as repealing or limiting the effect
7 of title VI of the Civil Rights Act of 1964 (42 U.S.C.
8 2000b et seq.), section 1557 of the Patient Protection and
9 Affordable Care Act (42 U.S.C. 18116), section 504 of
10 the Rehabilitation Act of 1973 (29 U.S.C. 794), or the
11 Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.).

12 **SEC. 8. FEDERAL HEALTH EQUITY COMMISSION.**

13 (a) **ESTABLISHMENT OF COMMISSION.**—

14 (1) **IN GENERAL.**—There is established the
15 Federal Health Equity Commission (hereinafter in
16 this section referred to as the “Commission”).

17 (2) **MEMBERSHIP.**—

18 (A) **IN GENERAL.**—The Commission shall
19 be composed of—

20 (i) 8 voting members appointed under
21 subparagraph (B); and

22 (ii) the nonvoting, ex officio members
23 listed in subparagraph (C).

24 (B) **VOTING MEMBERS.**—Not more than 4
25 of the members described in subparagraph

1 (A)(i) shall at any one time be of the same po-
2 litical party. Such members shall have recog-
3 nized expertise in and personal experience with
4 racial and ethnic health inequities, health care
5 needs of vulnerable and marginalized popu-
6 lations, and health equity as a vehicle for im-
7 proving health status and health outcomes.
8 Such members shall be appointed to the Com-
9 mission as follows:

10 (i) Four members of the Commission
11 shall be appointed by the President.

12 (ii) Two members of the Commission
13 shall be appointed by the President pro
14 tempore of the Senate, upon the rec-
15 ommendations of the majority leader and
16 the minority leader of the Senate. Each
17 member appointed to the Commission
18 under this clause shall be appointed from
19 a different political party.

20 (iii) Two members of the Commission
21 shall be appointed by the Speaker of the
22 House of Representatives upon the rec-
23 ommendations of the majority leader and
24 the minority leader of the House of Rep-
25 resentatives. Each member appointed to

1 the Commission under this clause shall be
2 appointed from a different political party.

3 (C) EX OFFICIO MEMBER.—The Commis-
4 sion shall have the following nonvoting, ex offi-
5 cio members:

6 (i) The Director for Civil Rights and
7 Health Equity of the Department of
8 Health and Human Services.

9 (ii) The Deputy Assistant Secretary
10 for Minority Health of the Department of
11 Health and Human Services.

12 (iii) The Director of the National In-
13 stitute on Minority Health and Health Dis-
14 parities.

15 (iv) The Chairperson of the Advisory
16 Committee on Minority Health established
17 under section 1707(c) of the Public Health
18 Service Act (42 U.S.C. 300u–6(c)).

19 (3) TERMS.—The term of office of each mem-
20 ber appointed under paragraph (2)(B) of the Com-
21 mission shall be 6 years.

22 (4) CHAIRPERSON; VICE CHAIRPERSON.—

23 (A) CHAIRPERSON.—The President shall,
24 with the concurrence of a majority of the mem-
25 bers of the Commission appointed under para-

1 graph (2)(B), designate a Chairperson from
2 among the members of the Commission ap-
3 pointed under such paragraph.

4 (B) VICE CHAIRPERSON.—

5 (i) DESIGNATION.—The Speaker of
6 the House of Representatives shall, in con-
7 sultation with the majority leaders and the
8 minority leaders of the Senate and the
9 House of Representatives and with the
10 concurrence of a majority of the members
11 of the Commission appointed under para-
12 graph (2)(B), designate a Vice Chairperson
13 from among the members of the Commis-
14 sion appointed under such paragraph. The
15 Vice Chairperson may not be a member of
16 the same political party as the Chair-
17 person.

18 (ii) DUTY.—The Vice Chairperson
19 shall act in place of the Chairperson in the
20 absence of the Chairperson.

21 (5) REMOVAL OF MEMBERS.—The President
22 may remove a member of the Commission only for
23 neglect of duty or malfeasance in office.

24 (6) QUORUM.—A majority of members of the
25 Commission appointed under paragraph (2)(B) shall

1 constitute a quorum of the Commission, but a lesser
2 number of members may hold hearings.

3 (b) DUTIES OF THE COMMISSION.—

4 (1) IN GENERAL.—The Commission shall—

5 (A) monitor and report on the implementa-
6 tion of this Act; and

7 (B) investigate, monitor, and report on
8 progress towards health equity and the elimi-
9 nation of health disparities.

10 (2) ANNUAL REPORT.—The Commission
11 shall—

12 (A) submit to the President and Congress
13 at least one report annually on health equity
14 and health disparities; and

15 (B) include in such report—

16 (i) a description of actions taken by
17 the Department of Health and Human
18 Services and any other Federal agency re-
19 lated to health equity or health disparities;
20 and

21 (ii) recommendations on ensuring eq-
22 uitable health care and eliminating health
23 disparities.

24 (c) POWERS.—

25 (1) HEARINGS.—

1 (A) IN GENERAL.—The Commission or, at
2 the direction of the Commission, any sub-
3 committee or member of the Commission, may,
4 for the purpose of carrying out this section, as
5 the Commission or the subcommittee or mem-
6 ber considers advisable—

7 (i) hold such hearings, meet and act
8 at such times and places, take such testi-
9 mony, receive such evidence, and admin-
10 ister such oaths; and

11 (ii) require, by subpoena or otherwise,
12 the attendance and testimony of such wit-
13 nesses and the production of such books,
14 records, correspondence, memoranda, pa-
15 pers, documents, tapes, and materials.

16 (B) LIMITATION ON HEARINGS.—The
17 Commission may hold a hearing under subpara-
18 graph (A)(i) only if the hearing is approved—

19 (i) by a majority of the members of
20 the Commission appointed under sub-
21 section (a)(2)(B); or

22 (ii) by a majority of such members
23 present at a meeting when a quorum is
24 present.

1 (2) ISSUANCE AND ENFORCEMENT OF SUB-
2 POENAS.—

3 (A) ISSUANCE.—A subpoena issued under
4 paragraph (1) shall—

5 (i) bear the signature of the Chair-
6 person of the Commission; and

7 (ii) be served by any person or class
8 of persons designated by the Chairperson
9 for that purpose.

10 (B) ENFORCEMENT.—In the case of contu-
11 macy or failure to obey a subpoena issued
12 under paragraph (1), the United States district
13 court for the district in which the subpoenaed
14 person resides, is served, or may be found may
15 issue an order requiring the person to appear at
16 any designated place to testify or to produce
17 documentary or other evidence.

18 (C) NONCOMPLIANCE.—Any failure to
19 obey the order of the court may be punished by
20 the court as a contempt of court.

21 (3) WITNESS ALLOWANCES AND FEES.—

22 (A) IN GENERAL.—Section 1821 of title
23 28, United States Code, shall apply to a witness
24 requested or subpoenaed to appear at a hearing
25 of the Commission.

1 (B) EXPENSES.—The per diem and mile-
2 age allowances for a witness shall be paid from
3 funds available to pay the expenses of the Com-
4 mission.

5 (4) POSTAL SERVICES.—The Commission may
6 use the United States mails in the same manner and
7 under the same conditions as other agencies of the
8 Federal Government.

9 (5) GIFTS.—The Commission may accept, use,
10 and dispose of gifts or donations of services or prop-
11 erty.

12 (d) ADMINISTRATIVE PROVISIONS.—

13 (1) STAFF.—

14 (A) DIRECTOR.—There shall be a full-time
15 staff director for the Commission who shall—

16 (i) serve as the administrative head of
17 the Commission; and

18 (ii) be appointed by the Chairperson
19 with the concurrence of the Vice Chair-
20 person.

21 (B) OTHER PERSONNEL.—The Commis-
22 sion may—

23 (i) appoint such other personnel as it
24 considers advisable, subject to the provi-
25 sions of title 5, United States Code, gov-

1 erning appointments in the competitive
2 service, and the provisions of chapter 51
3 and subchapter III of chapter 53 of that
4 title relating to classification and General
5 Schedule pay rates; and

6 (ii) may procure temporary and inter-
7 mittent services under section 3109(b) of
8 title 5, United States Code, at rates for in-
9 dividuals not in excess of the daily equiva-
10 lent paid for positions at the maximum
11 rate for GS-15 of the General Schedule
12 under section 5332 of title 5, United
13 States Code.

14 (2) COMPENSATION OF MEMBERS.—

15 (A) NON-FEDERAL EMPLOYEES.—Each
16 member of the Commission who is not an offi-
17 cer or employee of the Federal Government
18 shall be compensated at a rate equal to the
19 daily equivalent of the annual rate of basic pay
20 prescribed for level IV of the Executive Sched-
21 ule under section 5315 of title 5, United States
22 Code, for each day (including travel time) dur-
23 ing which the member is engaged in the per-
24 formance of the duties of the Commission.

1 (B) FEDERAL EMPLOYEES.—Each member
2 of the Commission who is an officer or em-
3 ployee of the Federal Government shall serve
4 without compensation in addition to the com-
5 pensation received for the services of the mem-
6 ber as an office or employee of the Federal
7 Government.

8 (C) TRAVEL EXPENSES.—A member of the
9 Commission shall be allowed travel expenses, in-
10 cluding per diem in lieu of subsistence, at rates
11 authorized for an employee of an agency under
12 subchapter I of chapter 57 of title 5, United
13 States Code, while away from the home or reg-
14 ular place of business of the member in the per-
15 formance of the duties of the Commission.

16 (3) COOPERATION.—The Commission may se-
17 cure directly from any Federal department or agency
18 such information as the Commission considers nec-
19 essary to carry out this Act. Upon request of the
20 Chairman of the Commission, the head of such de-
21 partment or agency shall furnish such information to
22 the Commission.

23 (e) PERMANENT COMMISSION.—Section 14 of the
24 Federal Advisory Committee Act (5 U.S.C. App.) shall not
25 apply to the Commission.

1 (f) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated for fiscal year 2022 and
3 each fiscal year thereafter such sums as may be necessary
4 to carry out the duties of the Commission.

5 **SEC. 9. GRANTS FOR HOSPITALS TO PROMOTE EQUITABLE**
6 **HEALTH CARE AND OUTCOMES.**

7 (a) IN GENERAL.—Not later than 180 days after the
8 date of the enactment of this Act, the Secretary of Health
9 and Human Services (in this section referred to as the
10 “Secretary”) shall award grants to hospitals to promote
11 equitable health care treatment and services, and reduce
12 disparities in care and outcomes.

13 (b) CONSULTATION.—In establishing the criteria for
14 grants under this section and evaluating applications for
15 such grants, the Secretary shall consult with the Director
16 for Civil Rights and Health Equity of the Department of
17 Health and Human Services.

18 (c) USE OF FUNDS.—A hospital shall use funds re-
19 ceived from a grant under this section to establish or ex-
20 pand programs to provide equitable health care to all pa-
21 tients and to ensure equitable health care outcomes. Such
22 uses may include—

23 (1) providing explicit and implicit bias training
24 to medical providers and staff;

1 (2) providing translation or interpretation serv-
2 ices for patients;

3 (3) recruiting and training a diverse workforce;

4 (4) tracking data related to care and outcomes;

5 and

6 (5) training on cultural sensitivity.

7 (d) PRIORITY.—In awarding grants under this sec-
8 tion, the Secretary shall give priority to hospitals that
9 have received disproportionate share hospital payments
10 under section 1886(r) of the Social Security Act (42
11 U.S.C. 1395ww(r)) or section 1923 of such Act (42 U.S.C.
12 1396r–4) with respect to fiscal year 2021.

13 (e) SUPPLEMENT, NOT SUPPLANT.—Grants awarded
14 under this section shall be used to supplement, not sup-
15 plant, any nongovernment efforts, or other Federal, State,
16 or local funds provided to a recipient.

17 (f) EQUITABLE HEALTH CARE DEFINED.—The term
18 “equitable health care” has the meaning given such term
19 in section 1886(b)(3)(B)(viii)(XIII)(cc) of the Social Secu-
20 rity Act (42 U.S.C. 1395ww(b)(3)(B)(viii)(XIII)(cc)), as
21 added by section 4(a).

22 (g) AUTHORIZATION OF APPROPRIATIONS.—To carry
23 out this section, there are authorized to be appropriated

- 1 such sums as may be necessary for each of fiscal years
- 2 2022 through 2027.

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