

117TH CONGRESS  
1ST SESSION

# S. 3073

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

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## IN THE SENATE OF THE UNITED STATES

OCTOBER 26, 2021

Mr. PADILLA introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## 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 “Equal Health Care  
5       for All Act”.

6       **SEC. 2. FINDINGS.**

7       Congress finds the following:

8               (1) In 1966, Dr. Martin Luther King, Jr., said  
9       “Of all the forms of inequality, injustice in health

1 care is the most shocking and inhuman because it  
2 often results in physical death.”.

3 (2) Inequity in health care remains a persistent  
4 and devastating reality for many communities, and,  
5 in particular, communities of color.

6 (3) The provision of inequitable health care has  
7 complex causes, many stemming from systemic in-  
8 equality in access to health care, housing, nutrition,  
9 economic opportunity, education, and other factors.

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

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

18 (6) A contributing factor in health disparities is  
19 explicit and implicit bias in the delivery of health  
20 care, resulting in inferior care and poorer outcomes  
21 for some patients on the basis of factors that include  
22 race, national origin, sex (including sexual orienta-  
23 tion or gender identity), disability, age, and religion.

24 (7) The National Academy of Medicine (for-  
25 merly known as the “Institute of Medicine”) issued

1 a report in 2002 titled “Unequal Treatment”, find-  
 2 ing that racial and ethnic minorities receive lower-  
 3 quality health care than Whites do, even when insur-  
 4 ance status, income, age, and severity of condition is  
 5 comparable.

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

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

12 (a) REQUIRED REPORTING.—

13 (1) IN GENERAL.—The Secretary of Health and  
 14 Human Services, in consultation with the Director  
 15 for Civil Rights and Health Equity, the Director of  
 16 the National Institutes of Health, the Administrator  
 17 of the Centers for Medicare & Medicaid Services, the  
 18 Director of the Agency for Healthcare Research and  
 19 Quality, the Deputy Assistant Secretary for Minority  
 20 Health, and the Director of the Centers for Disease  
 21 Control and Prevention, shall by regulation require  
 22 all health care providers and facilities that are re-  
 23 quired under other provisions of law to report data  
 24 on specific health outcomes to the Department of  
 25 Health and Human Services in aggregate form, to

1 disaggregate such data by demographic characteris-  
2 tics, including by race, national origin, sex (including  
3 sexual orientation and gender identity), disability,  
4 and age, as well as any other factor that the Sec-  
5 retary of Health and Human Services determines  
6 would be useful for determining a pattern of provi-  
7 sion of inequitable health care.

8 (2) PROPOSED REGULATIONS.—Not later than  
9 90 days after the date of enactment of this Act, the  
10 Secretary of Health and Human Services shall issue  
11 proposed regulations to carry out paragraph (1).

12 (b) REPOSITORY.—The Secretary of Health and  
13 Human Services shall—

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

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

20 (3) ensure that such repository does not contain  
21 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 Equal Health Care  
 19 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

in section 7(e)(7) of the Equal Health Care for All Act) on the basis of race, national origin, sex (including sexual orientation and gender identity), disability, or age of an individual.

“(B) EXCEPTION.—For purposes of carrying out subparagraph (A), the Secretary shall not exclude any health care provider from participation in the Medicare program under title XVIII of the Social Security Act or the Medicaid program under title XIX of such Act if the exclusion of such health care provider would result in increased difficulty in access to health care services for underserved or low-income communities.”.

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

(a) NAME OF OFFICE.—Beginning on the date of enactment of this Act, the Office for Civil Rights of the Department of Health and Human Services shall be known as the “Office for Civil Rights and Health Equity” of the Department of Health and Human Services. Any reference to the Office for Civil Rights of the Department of Health and Human Services in any law, regulation, 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.—



(A) IN GENERAL.—An aggrieved person may, not later than 1 year after an alleged violation of subsection (a) has occurred or concluded, file a complaint with the Director alleging inequitable provision of health care by a provider described in subsection (a).

(B) COMPLAINT.—A complaint submitted pursuant to subparagraph (A) shall be in writing and shall contain such information and be in such form as the Director requires.

(C) OATH OR AFFIRMATION.—The complaint and any answer made under this subsection shall be made under oath or affirmation, and may be reasonably and fairly modified at any time.

(2) RESPONSE TO COMPLAINTS.—

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

(i) COMPLAINANT NOTICE.—The Director shall serve notice upon the complainant acknowledging receipt of such filing and advising the complainant of the time limits and procedures provided under 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-

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

(B) CONCILIATION AGREEMENT.—A conciliation agreement arising out of such conciliation shall be an agreement between the respondent and the complainant, and shall be subject to approval by the Director.

(C) RIGHTS PROTECTED.—The Director shall approve a conciliation agreement only if the agreement protects the rights of the complainant and other persons similarly situated.

(D) PUBLICLY AVAILABLE AGREEMENT.—

(i) IN GENERAL.—Subject to clause (ii), the Secretary shall make available to the public a copy of a conciliation agreement entered into pursuant to this subsection unless the complainant and respondent otherwise agree, and the Secretary determines, that disclosure is not required to further the purposes of this subsection.

(ii) LIMITATION.—A conciliation agreement that is made available to the 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 (in this section  
 16        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) 4 members of the Commission  
11 shall be appointed by the President.

12 (ii) 2 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) 2 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-

graph (2)(B), designate a Chairperson from among the members of the Commission appointed under such paragraph.

(B) VICE CHAIRPERSON.—

(i) DESIGNATION.—The Speaker of the House of Representatives shall, in consultation with the majority leaders and the minority leaders of the Senate and the House of Representatives and with the concurrence of a majority of the members of the Commission appointed under paragraph (2)(B), designate a Vice Chairperson from among the members of the Commission appointed under such paragraph. The Vice Chairperson may not be a member of the same political party as the Chairperson.

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

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

(6) QUORUM.—A majority of members of the 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-

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

(ii) may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not in excess of the daily equivalent paid for positions at the maximum rate for GS-15 of the General Schedule under section 5332 of title 5, United States Code.

(2) COMPENSATION OF MEMBERS.—

(A) NON-FEDERAL EMPLOYEES.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance 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 officer 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.

