Trump just dismantled one of the last major protections keeping transgender people safe

The war on trans people escalated this week with attacks on their access to shelter and health care.

WITH THE SECTION 1557 RULE CHANGE, THE TRUMP ADMINISTRATION HAS NOW DISMANTLED EVERY MAJOR TRANSGENDER PROTECTION IT CAN.

The Trump administration announced Friday morning sweeping changes to the rules protecting transgender people from discrimination in health care. Combined with an announcement earlier this week ending gender identity protections in homeless shelters, the administration has now taken steps to exclude transgender people from almost every aspect of public life, including employment, housing, health care, education, prisons, and the military.

The Trump administration has been forecasting these changes for some time. The changes to the health care rules proposed Friday, however, are perhaps the most damning evidence that it completely disregards transgender people’s humanity, and in fact views them as a threat to the safety of society.

The Department of Health and Human Services (HHS) wants to revise what’s known as “Section 1557,” the nondiscrimination protections found in the Affordable Care Act. The Obama administration had interpreted the protections on the basis of “sex” to include gender identity, and the Trump administration seeks to reverse that interpretation. In fact, HHS even goes further and argues that sex stereotyping should no longer be protected, ignoring a Supreme Court precedent recognizing such stereotyping as a form of
illegal discrimination. The scope of the proposed regulation mirrors a leaked memo from last year proposing to erase transgender people from recognition throughout the federal government.

The change incorporates exemptions found in Title IX allowing religious universities to discriminate on the basis of sex; under the new rule, religious hospitals will be completely free to do the same. This reinforces the separate “conscience” rule the administration introduced earlier this month, which would allow health care providers to discriminate on the basis of their religious beliefs.
When President Donald Trump took questions from the press Friday, one reporter pressed him on the rule change, asking, “Should doctors be forced to perform transgender reassignment surgeries?”

Trump responded by simply saying, “We’re going to see. We’ll see.”

A footnote in the new regulation speaks to how the administration is actively demonizing the transgender community. According to the footnote, states and localities can still enforce their own non-discrimination protections, as can hospitals that set those policies for themselves. If, however, people have to share a dressing room or shower with a transgender person, the administration warns that allowing that accommodation could still be a violation.

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This footnote in the new proposed HHS rule (h/t @JoshABlock) is a deadly one and part of the Administration’s game plan: claim that trans people harass and violate the privacy of cis people by simply existing in proximity to them. With this we are truly erased from law.

The claim that transgender people are inherently a threat to others’ privacy is the same rationale inherent in the Department of Housing and Urban Development’s (HUD) plan to revoke transgender protections for homeless shelters. A day after HUD Secretary Ben Carson said under oath that he wouldn’t be changing the rule put in place by the Obama administration, HUD announced that it was doing just that. If the rule change is implemented, homeless shelters would be free to force transgender and gender
nonconforming people to be housed according to their “biological sex” — or they could deny such individuals access altogether.

These recent changes impacting transgender people’s access to health care and shelter follow a litany of other protections the administration has revoked.

One of the first dominoes to fall was education. After only a month in office, the Trump administration rescinded Obama-era rules protecting transgender students from discrimination in public schools. Since then, the Education Department has refused to hear any complaints of discrimination filed by transgender students.

The Justice Department followed suit later that year, rescinding a rule protecting transgender people in employment. This past December, the Office of Personnel Management also announced it wanted to make it easier to discriminate against transgender people within the federal government, completely erasing guidance about how to respect employees who transition.

Last year, the Trump administration also rescinded protections for transgender people in the nation’s prisons. That change would force transgender people to be housed in prisons according to their “biological sex,” making transgender women particularly vulnerable to violence and sexual abuse.

In so many of these attacks, the changes have been based entirely on nonsensically interpreting the word “sex” in a way that completely erases transgender people’s lived experiences. The memo leaked last fall even suggested that transgender people would be subjected to genetic testing to arbitrarily determine the appropriate “sex” category. This proposal offered no explanation for how it would categorize intersex people, who may have genes that aren’t simply XX or XY.

**LGBTQ people are still fighting for protection ‘on the basis of sex’**

The new RBG film portrays legal fights that are still quite relevant today.

This is especially noticeable in the administration’s incoherent defense of banning transgender people from the military, which has now been in effect for over a month. The administration claims that it’s not a ban, even though it prohibits anybody from serving in the military except according to their “biological sex.” While the administration also argued that accommodating transgender people’s medical needs would be too costly and take them out of commission for too long, the ban nevertheless prohibits transgender people
from serving even if they have undergone and recovered from all the procedures they require.

As it stands, the administration will deny transgender people support for virtually any kind of discrimination they might experience. Some transgender people — including both students and workers — have found support in the courts, with judges accepting the reality of who transgender people are and protecting them under federal “sex” protections. But the Trump administration also argues against transgender people in these cases, as can be expected when the Supreme Court takes up a transgender woman’s workplace discrimination case later this year.

It’s no coincidence that the administration has been particularly cozy with anti-LGBTQ organizations like the Family Research Council, Heritage Foundation, and Alliance Defending Freedom (ADF). The rhetoric in all of these attacks on the transgender community is pulled directly from the hate these groups spew. ADF, in particular, has been at the forefront of opposing transgender equality in the courts, defending schools and workplaces alike that wish to discriminate.

Even before all of these rollbacks, transgender people were already one of the most vulnerable groups in the country. According to the U.S. Trans Survey, transgender people face far higher rates of homelessness, suicide attempts, and serious psychological distress — manifestations of the massive rates of discrimination they face in school, at work, when seeking shelter, when interacting with police, in health care, and even just in public spaces.

The Trump administration has issued nothing short of a license to eradicate transgender people from daily life. Each of the last few years, the number of reported murders of transgender people has increased, and Trump is apparently not interested in doing anything to give transgender people a fair chance at a basic life.