File #: Res 0635-2018, **Version:** *

Res. No. 635

Resolution reaffirming the City of New York's continued commitment to civil rights protections of all minority groups, including women and members of the LGBQ-TGNC community, and condemning federal efforts to roll back such protections under the guise of "religious freedom" laws and regulations.

By Council Members Dromm and Lander

Whereas, The Federal Government under the Trump Administration has made a pointed effort to roll back discrimination protections for women, ethnic and racial minorities and members of the Lesbian, Gay, Bisexual, Queer, Transgender and Gender Non-Conforming ('LGBTQ-TGNC') community; and

Whereas, In the 2nd Circuit Court case, *Zarda v. Altitude Express*, the Department of Justice (DOJ) reversed its prior position on employment protections, filing an amicus brief in July 2017 stating that same-sex attraction was not protected by Title VII of the Civil Rights Act of 1968; and

Whereas, Shortly after President Trump took office, the Department of Education (DOE) rescinded Obama Administration guidance to public schools allowing students to use bathrooms that aligned with their gender identity; and

Whereas, Recent instances of rolling back such protections have been introduced under the guise of "freedom of religion," as U.S. Attorney General Jeff Sessions stated in 2017: "to the greatest extent practicable and permitted by law, religious observance and practice should be reasonably accommodated in all government activity, including employment, contracting and programming"; and

Whereas, In May 2018, the DOE disclosed plans to examine where federal aid restrictions could be rolled back to allow certain faith-based education programs to receive federal aid; and

Whereas, Currently, many faith-based education programs choose to forgo federal aid in order to be

exempt from following civil rights laws that protect groups such as women, ethnic and racial minorities, and members of the LGBQ-TGNC community; and

Whereas, In January 2018, the Department of Health and Human Services (DHHS) proposed a new rule that would substantially change the delivery of health care by broadly applying "religious freedom" statutes; and

Whereas, A group of state attorneys general, including former New York Attorney General Eric Schneiderman, issued a biting analysis of the rule, stating that DHHS was exceeding its authority by adopting excessively broad definitions of cited statutory texts that would ultimately cripple health care service delivery for women, members of the LGBQ-TGNC population and others; and

Whereas, The proposed rule applies the right to deny any semblance of "assisting in the performance" of a medical procedure considered contrary to a personally held religious belief not simply to the professional providers (doctors and nurses) but also to laboratories, health plan sponsors, issuers and third-party administrators; and

Whereas, The rule uses an overly broad definition of "assist in performance" to mean everything from scheduling the appointment, to physically undertaking the procedure, to providing testing and correlated medication or contraception; and

Whereas, The rule lies in direct opposition to federal and state statutes that require the provision of emergency medical treatment, mandatory informed consent, the funding of family planning projects through Title X of the Public Health Service Act of 1970, and New York State's mandatory provision of contraception to survivors of sexual assault, among others; and

Whereas, The rule's language is so broad that it is difficult to assess its full impact, especially as it grants DHHS the power (hitherto not held) to immediately cancel federal funding to states where any failure or threatened failure to comply exists; and

Whereas, The contradictory nature of the new rule places health care facilities in New York City at risk

of losing Title X federal funding for complying with the new rule, or at risk of losing all DHHS funding for failing to comply with Title X requirements; and

Whereas, Repercussions for this rule, under the guise of "religious freedom" risk further impacting the LGBQ-TGNC community since the broadest definition of "sterilization procedure" can be used to deny health care to transgender patients; and

Whereas, This rule could have far-reaching consequences for New Yorkers, as individuals with employer-based health insurance may face discrimination and denial of service by any individual involved in the administration, insurance processing, testing or actual health care delivery; and

Whereas, The free exercise of religion should not be a shield for government-sponsored discrimination by excluding individuals from accessing legally available services for religious reasons; and

Whereas, New York City is a bastion of civil rights, being the epicenter of many of the nation's largest civil rights movements including the women's and LGBQ-TGNC rights movements; and

Whereas, Recognizing the vital role played by members of the LGBQ-TGNC community, The Council of the City of New York has regularly championed legislation, including a robust human rights law, which has provided extensive discrimination protections for members of the LGBQ-TGNC community, as vital members of the city's social, cultural and economic fabric; now, therefore, be it

Resolved, The Council of the City of New York reaffirms the City's continued commitment to civil rights protections of all minority groups, including women and members of the LGBQ-TGNC community, and condemning federal efforts to roll back such protections under the guise of "religious freedom" laws and regulations.

LS6030
11/8/18

EK