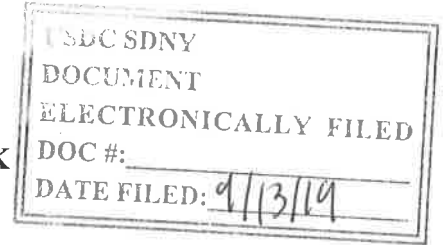


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



STATE OF NEW YORK, *et al.*,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES, *et al.*,

Defendants.

Nos. 1:19-cv-4676 (PAE) (lead)
1:19-cv-5433 (PAE) (consolidated)
1:19-cv-5435 (PAE) (consolidated)

NOTICE OF MOTION AND UNOPPOSED MOTION
TO FILE BRIEF AS *AMICI CURIAE*

The National LGBT Cancer Network, Callen Lorde Community Health Center, Care Resource Community Health Centers, Inc., Howard Brown Health, and Legacy Community Health Services, Inc. (collectively, “Proposed *Amici*”) hereby move this Court for leave to file the annexed brief as *amici curiae* in support of Plaintiffs’ motion for summary judgment. All parties in the above-captioned cases have consented to the filing of the *amicus* brief. Proposed *Amici* are health care providers and health care advocates for the delivery of preventive, curative, and palliative cancer care to LGBT individuals to improve their lives.

- **The National LGBT Cancer Network** is a New York-based nonprofit organization that works to improve the lives of LGBT cancer survivors and those at risk for cancer through education, training of health care providers, and advocating for LGBT survivors in mainstream cancer organizations, the media, and research. LGBT Americans already face discrimination in the health care system—a problem that is particularly acute for transgender people. As part of its mission, the Cancer Network is intimately familiar with the body of research establishing that LGBT individuals are disproportionately affected by cancer and other serious illnesses and face significant barriers to accessing quality health

care.

- **Callen-Lorde Community Health Center** provides sensitive, quality health care and related services to New York's LGBT communities regardless of ability to pay. To further its mission, Callen-Lorde promotes health education and wellness, and advocates for LGBTQ health issues.
- **Care Resource Community Health Centers, Inc.** is a nonprofit and Federally Qualified Health Center with four locations in South Florida. It provides comprehensive health and support services to address the health care needs of pediatric, adolescent, and adult populations.
- **Howard Brown Health** is one of the nation's largest LGBT organizations providing health care to more than 30,000 adults and youth in Chicago. It exists to eliminate the disparities in health care experienced by lesbian, gay, bisexual and transgender people through research, education and the provision of services promoting health and wellness.
- **Legacy Community Health Services, Inc.** is a Houston-based full-service Federally Qualified Health Center that identifies unmet needs and gaps in health-related services and develops client-centered programs to address those needs. It provides a wide range of health services, including comprehensive HIV/AIDS care.
- **The National LGBTQ Task Force** is the nation's oldest national LGBTQ advocacy group. The Task Force builds power, takes action, and creates change to achieve freedom and justice for LGBTQ people and their families. As a progressive social-justice organization, the Task Force works toward a society that values and respects the diversity of human expression and identity and achieves equality for all. The Task Force trains and mobilizes millions of activists across the nation to combat discrimination against LGBTQ

people in every aspect of their lives: housing, employment, health care, retirement, and basic human rights.

Proposed *Amici* submit this brief to assist the Court's understanding of how the Final Rule fortifies the barriers sexual and gender minorities face when accessing health care thereby harming their health, putting LGBT cancer patients at increased risk of premature death, and hurting the well-being of LGBT patients, their families and communities.

"District courts have broad discretion to permit or deny the appearance of amici curiae in a given case." *United States v. Yaroshenko*, 86 F. Supp. 3d 289, 290 (S.D.N.Y. 2015) (citing *United States v. Ahmed*, 788 F. Supp. 196, 198 (S.D.N.Y. 1992)). "The primary reason to allow amicus curiae briefing is that the amicus curiae offer insights not available from the parties, thereby aiding the Court." *Andersen v. Leavitt*, No. 03-CV-6115 DRHARL, 2007 WL 2343672, at *2 (E.D.N.Y. Aug. 13, 2007) (internal quotation omitted). Such a grant is more likely if the case "involve[s] matters of public interest." *Id.*

WHEREFORE, Proposed *Amici* respectfully request an order (1) granting proposed amici leave to submit the annexed brief, and (2) accepting for consideration the proposed brief that has been filed electronically and duly served on all parties of record.

Dated: Washington, District of Columbia

September 12, 2019

9/13/19
Granted. The amici are granted leave to file the brief, and the Court will consider the proposed brief.

SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge

Respectfully Submitted,

MORGAN, LEWIS & BOCKIUS LLP

By: /s/ Stephanie Schuster

Stephanie Schuster
1111 Pennsylvania Avenue, NW
Washington, DC 20004
+1.202.739.3000
+1.202.739.3001
stephanie.schuster@morganlewis.com

Attorneys for Amici Curiae