U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
NOV 22 2022
CLERK, U.S. DISTRICT COURT
By _____ Deputy

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

SUSAN NEESE, *et al.*,	§	
	§	
Plaintiffs,	§	
	§	
v.	§	2:21-CV-163-Z
	§	
XAVIER BECERRA, in his official capacity as the Secretary of the United States Department of Health and Human Services, *et al.*,	§	
	§	
Defendants.	§	

ORDER

On October 14, 2022, the Court granted Plaintiffs' Motion for Class Certification. *See* ECF Nos. 44, 65. The Court certifies the following class under Federal Rule of Civil Procedure 23(b)(2): All health-care providers subject to Section 1557 of the Affordable Care Act ("ACA"). Plaintiffs Susan Neese and James Hurly are appointed class representatives. The Court appoints Jonathan F. Mitchell to serve as class counsel under Rule 23(g).

The class claims are:

1. Whether Defendant Becerra's interpretation of Section 1557 of the ACA, which appears in his Notification of Interpretation and Enforcement of May 10, 2021, is inconsistent with the statutory definition of "sex" discrimination; and

2. Whether the prohibition on "sex" discrimination in Section 1557 of the ACA encompasses only situations in which a provider would have acted differently toward an identically situated member of the opposite biological sex.

SO ORDERED.

November 22, 2022

MATTHEW J. KACSMARYK
UNITED STATES DISTRICT JUDGE