



American Association of Oral and Maxillofacial Surgeons

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November 6, 2023

The Honorable Javier Becerra
Secretary
U.S. Department of Health and Human Services
Hubert H. Humphrey Building
200 Independence Avenue SW
Washington, DC 20201

RE: RIN 0945-AA15, Discrimination on the Basis of Disability in Health and Human Service Programs or Activities Proposed Rule

Dear Secretary Becerra:

The American Association of Oral and Maxillofacial Surgeons (AAOMS) represents more than 9,000 oral and maxillofacial surgeons (OMSs) in the United States. AAOMS appreciates the opportunity to comment on the Discrimination on the Basis of Disability in Health and Human Service Programs or Activities Proposed Rule, published in the Sept. 14, 2023 *Federal Register*.

OMSs are surgically and medically trained dental specialists who treat conditions, defects, injuries and esthetic aspects of the mouth, teeth, jaws, neck and face. Typical procedures performed by OMSs include tooth extraction, dental implant placement, corrective jaw surgery, surgery for TMJ and facial pain, injury and trauma, oral, head and neck pathology as well as cleft lip/palate and craniofacial surgery.

The majority of OMSs practice in small, privately owned practices that also often function as small, independent operatories in which office-based sedation and anesthesia are provided on a daily basis to patients who would otherwise not tolerate treatment outside a hospital operating room. As such, medical and dental providers will commonly refer complex patients with disabilities to OMSs for care. We are acutely aware of the challenges these patients present in the outpatient and inpatient setting. Our specialty is committed to continuing our excellent care of this patient population.

AAOMS appreciates the intent of the proposed rule, which clarifies that recipients – including healthcare providers – who receive federal funds from HHS must comply with certain access requirements for individuals with disabilities, including facility, website, and

medical diagnostic equipment. Many of these requirements conform with provisions already required of all healthcare providers under Title III of the American with Disabilities Act (ADA).

Title III of the ADA recognizes the financial and organizational challenges entities may incur when providing access to individuals with disabilities. As such, it does not require entities, including healthcare providers, to make certain accommodations if they are able to make accommodations via other means or if the required accommodations would result in a significant financial burden or change the nature of the service being offered. AAOMS is pleased that this proposed rule takes a similar approach and urges the Department to maintain this approach in the final rule.

Thank you for the opportunity to comment on this important topic. Please contact Jeanne Tuerk, AAOMS Director of Government Affairs with any questions at 800-822-6637, ext. 4321 or jtuerk@aaoms.org.

Sincerely,

A handwritten signature in black ink that reads "Mark A. Egbert, DDS, FACS". The signature is written in a cursive, flowing style.

Mark A. Egbert, DDS, FACS
AAOMS President