

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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May 18, 2018

The Honorable Trey Gowdy
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing to request that you issue a subpoena to compel the Department of Health and Human Services (HHS) to produce documents it is withholding regarding the Trump Administration's decision to remove information about breast cancer, preventive services guaranteed by the Affordable Care Act, and various LGBTQ health issues from HHS's website for the Office of Women's Health.

In March 2018, a nonpartisan investigation by the Sunlight Foundation found that the Trump Administration had removed an entire website dedicated to breast cancer—the most common cancer diagnosed in women, which will affect 1 in 8 women in their lifetimes.¹ A prior investigation by the Sunlight Foundation found that the Department had also deleted an entire webpage on “Lesbian and bisexual health” that provided information about challenges that “lesbian and bisexual women face in the health care system.”²

On April 6, 2018, I wrote to HHS Secretary Alex Azar to request documents relating to the reasons for removing this information, including documents relating to an alleged audit that HHS claimed it had performed beforehand. I also requested documents regarding whether HHS

¹ Sunlight Foundation, Web Integrity Project, *Removal of Breast Cancer Website and Related Webpages from within HHS's Office on Women's Health Website* (Mar. 29, 2018) (online at <http://sunlightfoundation.com/wp-content/uploads/2018/03/AAR-4-OWH-Breast-Cancer-180329.pdf>). See also Susan G. Komen Breast Cancer Foundation, *Breast Cancer Fact Sheet* (online at https://ww5.komen.org/uploadedFiles/_Komen/Content/About_Breast_Cancer/Facts_and_Statistics/BCFactSheetJan2018.pdf).

² Sunlight Foundation, Web Integrity Project, *Removal of Webpage and Corresponding Links Pertaining to Lesbian and Bisexual Health from HHS's Office of Women's Health Website* (Mar. 21, 2018) (online at <http://sunlightfoundation.com/wp-content/uploads/2018/03/AAR-3-OWH-Lesbian-Bisexual-180321.pdf>).

had violated the Paperwork Reduction Act in scrubbing this information from the Office of Women's Health website without providing any prior notice.³

On April 20, 2018, HHS responded in a brief letter stating that the information had been removed "because the content was not mobile-friendly and very rarely used." HHS did not provide a single page of the documents I requested or any evidence in support of its explanation. Although HHS claimed that its practice is to "engage in a comprehensive audit and review of other federal consumer health websites" before removing information from its websites, it refused to provide evidence of any such audits. HHS also did not provide any information on whether it had complied with the requirements of the Paperwork Reduction Act in deleting this information or on why it had removed content about LGBTQ women's healthcare.⁴

I am gravely concerned as to why HHS is acting to limit women's access to information about their health care. I request that you issue a subpoena to compel HHS to produce the following documents by June 1, 2018:

- (1) all documents and communications referring or relating to the removal or relocation of content on websites maintained by the Department or entities contracted by the Department from January 21, 2017, to the present;
- (2) all communications between Department employees and Hager Sharp from January 21, 2017, to the present, including all documents and communications referring or relating to the removal or relocation of content on websites maintained by the Department or entities contracted by the Department;
- (3) all documents and communications referring or relating to any reviews or audits of content on websites maintained by the Department or entities contracted by the Department for three prior calendar years, including all documents and communications referring or relating to a "comprehensive audit and use analysis process" of websites maintained by the Department or entities contracted by the Department; and
- (4) all policies or procedures governing the modification or removal of information from public-facing websites maintained by the Department or entities contracted by the Department.

³ Letter from Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, to The Honorable Alex M. Azar II, Secretary, Department of Health and Human Services (Apr. 6, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2018-04-06.EEC%20to%20HHS%20re.website%20for%20the%20Office%20of%20Womens%20Health.pdf>).

⁴ Letter from Matthew D. Bassett, Assistant Secretary for Legislation, Department of Health and Human Services, to Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform (Apr. 20, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/HHS.042018.Response%20to%20EEC%20re%20Website%20for%20the%20Office%20of%20Womens%20Health.pdf>).

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If you decide not to issue this subpoena, then I ask you to place this matter on the agenda for our next regularly scheduled business meeting so all Committee Members will have the opportunity to debate and vote on this motion.

Thank you for your consideration of this request.

Sincerely,

A handwritten signature in blue ink, appearing to read "Elijah E. Cummings", written in a cursive style.

Elijah E. Cummings
Ranking Member