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August 14, 2024

***VIA ELECTRONIC MAIL*: mihaljt@ccf.org**

***VIA U.S. PRIORITY MAIL*:**

Cleveland Clinic
Board of Directors & Board of Governors
Attn: Tomislav Mihaljevic, CEO & President;
Beth Mooney, Chair of the Board of Directors
9500 Euclid Avenue
Cleveland, OH 44195

RE: Notice of Civil Rights Complaint Against Cleveland Clinic Pursuant to Title VI and Section 1557 of the ACA

Dear Dr. Mihaljevic and Ms. Mooney:

We write to provide you notice of a recent race discrimination complaint filed with the Department of Health and Human Services, Office of Civil Rights ("HHS-OCR") against Cleveland Clinic, on behalf of our client, Do No Harm ("DNH"). We also hope to provide an opportunity for you to remedy the race discrimination.

DNH is a nationwide membership organization that opposes racially discriminatory programs and policies in healthcare and seeks to keep identity politics out of medical education, research, and clinical practice. DNH is comprised of members who are physicians, nurses, other healthcare professionals, medical students, patients, and policymakers. Through its work, DNH has become aware of certain racially discriminatory programs provided by Cleveland Clinic that are also affecting some of DNH's members.

The HHS-OCR complaint focuses on two specific examples of race discrimination at Cleveland Clinic—the Minority Stroke Program and the Minority Men's Health Center—as similarly discussed herein. For the reasons explained, these programs violate Title VI of the Civil Rights Act of 1964 and Section 1557 of the Affordable Care Act ("ACA").

Should you determine to revise these programs to remove their racial motivation and focus in favor of an approach that equally prioritizes, promotes, pursues, and includes *all* patients, without regard to race in compliance with federal anti-discrimination laws, DNH will immediately withdraw its complaint.

Minority Stroke Program

As explained on your website for your "Cerebrovascular Center," the "Minority Stroke Program" is a program within the center's general "Stroke Program" that is "dedicated to preventing and treating stroke in racial and ethnic minorities."[1] The "focus[]" and "goal [of this program] is to increase stroke awareness among minority groups in order to lower stroke rates and improve stroke outcomes."[2] "In addition, the program also assists minorities "who have suffered a stroke … by addressing potential causes of the stroke and monitoring for health changes that could lead to another stroke."[3] By "minority," Cleveland Clinic means that it favors certain "racial and ethnic minorities" for its special stroke program, including "Black Americans," and "Latinos."[4]

According to informational and promotional materials published by Cleveland Clinic, "[d]uring appointments, physicians review the patient's past medical history, recent laboratory and diagnostic studies, and social history, as well as provide stroke education and follow-up resources."[5] Cleveland Clinic asserts that these physicians "are trained to address the higher rates of stroke in minority populations."[6] "The Minority Stroke Program team also provides: "referrals to other medical providers who manage [various diseases and conditions,] or who can help with weight loss, physical fitness and smoking cessation; information on transportation assistance for in-person appointments; follow-up visits; online coaching and education; prescription assistance; stroke support groups; and community education events."[7]

As the clinic further explains, the Minority Stroke Program was "launched" with four doctors in 2019 because "[t]he risk of stroke in minorities can be up to 2.5 times higher than that in the general population."[8] Since then, the program has grown to employ additional physicians, "has made strides … to combat stroke disparities [through] community education and medical education," and "has also expanded from Cleveland Clinic's main campus to

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[1] *E.g.*, Cleveland Clinic, Cerebrovascular Center, Stroke Program, available at: https://my.clevelandclinic.org/departments/neurological/depts/cerebrovascular#stroke-program-tab (last visited July 30, 2024).

[2] Cleveland Clinic, Cerebrovascular Center, Minority Stroke Program, available at: https://my.clevelandclinic.org/departments/neurological/depts/cerebrovascular/minority-stroke-program (last visited July 30, 2024).

[3] *Id.*

[4] *E.g.*, *id.*

[5] *E.g.*, Cleveland Clinic, Consult QD, *Closing Racial Gaps in Cerebrovascular Mortality* (Mar. 30, 2022), available at: https://consultqd.clevelandclinic.org/closing-racial-gaps-in-cerebrovascular-mortality.

[6] *Id.*

[7] Cleveland Clinic, Cerebrovascular Center, Minority Stroke Program, available at: https://my.clevelandclinic.org/departments/neurological/depts/cerebrovascular/minority-stroke-program (last visited July 30, 2024) (cleaned up).

[8] Cleveland Clinic, Consult QD, *Closing Racial Gaps in Cerebrovascular Mortality* (Mar. 30, 2022), available at: https://consultqd.clevelandclinic.org/closing-racial-gaps-in-cerebrovascular-mortality; Cleveland Clinic, Consult QD, *Tailoring Stroke Treatment and Prevention to Populations Who Need It Most* (Apr. 21, 2020), available at: https://consultqd.clevelandclinic.org/tailoring-stroke-treatment-and-prevention-to-populations-who-need-it-most.

regional locations," targeting East Cleveland populations "where 90% of residents are Black."[9]

Minority Men's Health Center

Similarly, Cleveland Clinic's Minority Men's Health Center "provides health screenings for the early detection, prevention and/or treatment for a number of medical conditions which disproportionately affect minority male populations," "particularly … African American and Hispanic men."[10] Founded in 2003, this programming was created to "address health disparities in minority populations."[11]

While "initially focused on screening minority men for prostate cancer," the program's scope of care has expanded over the last couple of decades.[12] Currently, among the medical conditions that "We Treat," the website for the Minority Men's Health Center indicates that it helps minority male populations with stroke prevention and treatment and contains a hyperlink directed back to Cleveland Clinic's Minority Stroke Program.[13]

Other treated conditions include: benign prostatic hyperplasia; diabetes; erectile dysfunction; hypertension; kidney disease and transplantation; low testosterone; Peyronie's disease; prostate cancer; heart disease and blood circulation problems; high cholesterol and triglycerides; hepatitis C; and stress, depression and mental health concerns.[14] Additional services provided through the Minority Men's Health Center also include primary health services, referrals for specialized care, shared medical appointments, prescription assistance, and spiritual care.[15]

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[9] Cleveland Clinic, Consult QD, *Closing Racial Gaps in Cerebrovascular Mortality* (Mar. 30, 2022), available at: https://consultqd.clevelandclinic.org/closing-racial-gaps-in-cerebrovascular-mortality.

[10] Cleveland Clinic, Minority Men's Health Center (Overview), available at: https://my.clevelandclinic.org/departments/urology-kidney/depts/minority-mens-health-center#overview-tab (last visited Jul. 30, 2024); Cleveland Clinic, Minority Men's Health Center (What We Treat), available at: https://my.clevelandclinic. org/departments/urology-kidney/depts/minority-mens-health-center#what-we-treat-tab (last visited Jul. 30, 2024).

[11] *Id. See also* Press Release, Cleveland Clinic, Newsroom, *Community Leaders, and Telemedicine, Can Help Narrow the Gap in Minority Men's Health* (Apr. 18, 2018), available at: https://newsroom.clevelandclinic.org/2018/04/18/community-leaders-and-telemedicine-can-help-narrow-the-gap-in-minority-mens-health.

[12] Angela Townsend, *Cleveland Clinic doctor expands his work with Minority Men's Health Center, health fair*, Cleveland.com (Mar. 28, 2011), available at: https://www.cleveland.com/healthfit/2011/03/cleveland_clinic_doctor_expand.html.

[13] Cleveland Clinic, Minority Men's Health Center (What We Treat), available at: https://my.clevelandclinic.org/departments/urology-kidney/depts/minority-mens-health-center#what-we-treat-tab (last visited Jul. 30, 2024).

[14] *Id.*

[15] *Id.*

Present and Ongoing Discrimination

Given that stroke and diabetes are leading causes of death in the United States, and that mental health conditions plague more than one in five adults, extending the care efforts described by the clinic's special stroke and men's health programs to *all* patients who need it would be commendable.[16] However, that is *not quite* the goal of the Cleveland Clinic's special efforts with respect to its Minority Stroke Program and Minority Men's Health Center programming. Instead, a racially motivated focus has infected these programs—creating a racial dichotomy under which patients are prioritized and cared for, and displacing the otherwise laudable goal of helping humanity equally, without regard to one's race.

Indeed, the Minority Stroke Program and Minority Men's Health Center are specifically purposed for "preventing and treating [health conditions] in racial and ethnic minorities."[17] Race discrimination is a defining feature of these programs; and this discrimination is present and ongoing. Everyday people in search of help—regarding stroke and other cardiovascular conditions, men's health conditions, and mental health issues, and encountering Cleveland Clinic's racial preferences for its special programming—are faced with the fact that the clinic does not view, prioritize, promote, or otherwise care for all patients equally, in the same manner, without regard to race.

For example, upon information and belief, since or around July 2024, Cleveland Clinic's race-based Minority Stroke Program and Minority Men's Health Center programming have discriminated, and are currently discriminating, against certain members of DNH who are not members of racial or ethnic minorities. These individuals are at risk for stroke, suffer other medical conditions, and are, in any event, seeking patient care—including, education, prevention, treatment, and other assistance and resources—for stroke, diabetes, hypertension, hyperlipidemia, erectile dysfunction, stress, depression, anxiety, and other health conditions addressed by the Cleveland Clinic's special stroke and men's health programs. Unfortunately, these programs are *not* "tailored to" individuals, like

[16] U.S. Ctrs. for Disease Control & Prevent., *Leading Causes of Death*, available at: https://www.cdc.gov/nchs/fastats/leading-causes-of-death.htm & *About Mental Health*, available at: https://www.cdc.gov/mentalhealth/learn/index.htm#:~:text=How%20common%20are%20mental%20illnesses,a%20seriously%20debilitating%20mental%20illness (last visited July 30, 2024).

[17] *E.g.*, Cleveland Clinic, Cerebrovascular Center, Minority Stroke Program, available at: https://my.clevelandclinic.org/departments/neurological/depts/cerebrovascular/minority-stroke-program (last visited July 30, 2024).

certain affected members of DNH.[18] However, Cleveland Clinic may not determine which individuals need special pursuit and care based on race.[19]

Race-Based "Health Equity" Programs Are Illegal

As a private healthcare entity and a recipient of federal funding, Cleveland Clinic is subject to numerous anti-discrimination laws, all of which forbid discrimination based on race, color, ethnicity, and national origin. These prohibitions include Title VI of the Civil Rights Act of 1964 and Section 1557 of the ACA, among various other anti-discrimination requirements.[20]

Section 1557 of the ACA proscribes discrimination against individuals based on race in "any health program or activity, any part of which is receiving Federal financial assistance."[21] Likewise, Title VI contains a similar provision, broadly prohibiting federal funding recipients from engaging in racial discrimination.[22] Under Title VI, a recipient of federal funding, like Cleveland Clinic, may *not*, on the basis of race (among other things):

- "[p]rovide a different service or other benefit, or provide services or benefits in a different manner from those provided to others";
- "[s]egregate or separately treat individuals in any matter related to the receipt of any service or other benefit";
- "[u]tilize criteria or methods of administration which subject individuals to discrimination"; or

[18] *See, e.g.*, Cleveland Clinic, Consult QD, *Tailoring Stroke Treatment and Prevention to Populations Who Need It Most* (Apr. 21, 2020), available at: https://consultqd.clevelandclinic.org/tailoring-stroke-treatment-and-prevention-to-populations-who-need-it-most.

[19] Cleveland Clinic does not appear to claim that the health conditions implicated here have a genetic correlation with race or are exclusively experienced by any one racial group, *much less* that the numerous non-genetic factors tied to health would be negated by any such genetic link with race. Rather, the racial focus for the Minority Stroke Program and Minority Men's Health Center are responses to the clinic's contention that there are general disparities among racial groups for the health conditions of concern here. *See, e.g.*, Cleveland Clinic, Consult QD, *Closing Racial Gaps in Cerebrovascular Mortality* (Mar. 30, 2022), available at: https://consultqd.clevelandclinic.org/closing-racial-gaps-in-cerebrovascular-mortality. *But see infra* n.45. However, as explained herein, treating individual patients as racial archetypes is illegal.

[20] For example, beyond Title VI and the ACA, private healthcare providers are also subject to the Civil Rights Act of 1866, which prohibits race discrimination in contractual relationships and prevents private parties from conspiring to interfere with the civil rights of others. *See* 42 U.S.C. §§ 1981 & 1985. In addition, other federal and state authorities—regulations, manuals, civil rights clearances, claim forms, and provider agreements—prohibit race discrimination and require certification or a formal attestation of compliance with non-discrimination laws, such as when submitting claims for reimbursement to federal and state programs.

[21] 42 U.S.C. § 18116.

[22] *See, e.g.*, 42 U.S.C. § 2000d.

- otherwise implement racial preferences, or rest its actions upon any racially discriminatory purpose or intention—whether in whole or in part.[23]

Cleveland Clinic's Minority Stroke Program and Minority Men's Health Center programming do *all* of these things in contravention of law. Under these programs, certain racial minorities are singled out for "services or benefits in a different manner from those provided to others"—that is, patient care, or the "manner" or "methods" thereof, is "[s]egregate[d] or "separate[d]" based on race, "subject[ing] individuals to discrimination" in violation of law.[24, 25] It is this racially dichotomous approach to patient care that is the subject of DNH's complaint.

It is *no answer* to say that the "overall components" for patient appointments "resemble those offered to all patients, [except that] they are tailored to minorities."[26] The United States Supreme Court has specifically considered, and *long since rejected*, Cleveland Clinic's notion that it may maintain racially distinguished programs so long as patient care is roughly equal.[27] To be sure, "the separate but equal regime that … deface[d] much of America" was first banished in the 1950s and was struck down repeatedly thereafter.[28] By now, the "inherent folly" and illegitimacy of that approach should be well known to Cleveland Clinic.[29]

Yet despite Cleveland Clinic's ostensible "Non-Discrimination Notice" professing that it "compl[ies] with applicable Federal civil rights laws," "do[es] not discriminate on the basis of race, color, [or] national origin," and "do[es] not exclude people or treat them differently because of race, color, [or] national origin," Cleveland Clinic's special focus on, and pursuit of, certain racial minorities through at least two specific programs, covering various health

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[23] U.S. Dep't of Health & Hum. Servs., *Civil Rights for Individuals and Advocates - Discrimination on the Basis of Race, Color, or National Origin*, available at: https://www.hhs.gov/civil-rights/for-individuals/race/index.html (last visited July 30, 2024); 45 C.F.R. § 80.3(b)(1)–(3); *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 265–68 (1977); U.S. Dep't. of Just., Civ. Rts. Div., *Title VI Legal Manual*, Section VI Proving Discrim. – Intentional Discrim., available at: https://www.justice.gov/crt/fcs/T6manual.

[24] Further, given that the Minority Stroke Program has been located in such manner to specifically target populations "where 90% of residents are Black," the clinic has also demonstrated that it makes improper, racially motivated "selections" "[i]n determining the site or location of a facilit[y]." *See* 45 C.F.R. 80.3(b)(3); Cleveland Clinic, Consult QD, Closing Racial Gaps in Cerebrovascular Mortality (Mar. 30, 2022), available at: https://consultqd.clevelandclinic.org/closing-racial-gaps-in-cerebrovascular-mortality.

[25] Ohio law similarly prohibits places of public accommodation, like Cleveland Clinic, from discriminating against any person on the basis of race, ancestry, color, or national origin "includ[ing] segregat[ion] or separat[ion]." Ohio Rev. Code §§ 4112.01 & .02(G).

[26] *See* Cleveland Clinic, Consult QD, *Tailoring Stroke Treatment and Prevention to Populations Who Need It Most* (Apr. 21, 2020), available at: https://consultqd.clevelandclinic.org/tailoring-stroke-treatment-and-prevention-to-populations-who-need-it-most.

[27] *See generally Brown v. Bd. of Ed. of Topeka, Shawnee Cnty.*, 347 U.S. 483 (1954); *see also Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll. ("SFFA")*, 600 U.S. 181, n.2 (noting that the standards of constitutional equal protection are also applied to Title VI actors) (citing cases).

[28] *See SFFA*, 600 U.S. at 203–06 (citing cases).

[29] *Id.* at 203.

conditions, divulges a very different commitment.[30] Under that commitment, the clinic's special programming is upfront about who it is "tailored to."[31] This *persona grata* / *persona non grata* model does *not* reflect anything approaching an equal view, prioritization, promotion, pursuit, or inclusion of patients without regard to race.[32]

Ultimately, the underlying goals of the Minority Stroke Program and Minority Men's Health Center programming rest on an impermissible interest "in race for race's sake"—aiming to balance the scales of mortality and morbidity with nothing more than a bare reliance on a patient's skin pigmentation.[33] Indeed, Cleveland Clinic seeks to ground these programs in a desire to remedy what it claims are unacceptable disparities in outcomes for stroke and various other medical conditions.[34] Implementing this desire for racial balance, these two programs confirm, in no uncertain terms, their "focus[]" and "goal" to "prevent[] and treat[] [health conditions] in racial and ethnic minorities."[35]

But Cleveland Clinic is *not* permitted to sort individuals and coordinate benefits on the basis of race according to whatever rationale it believes is appropriate however well-intentioned its misguided notions may be.

It is well-established that federal funding recipients, like the clinic, may *not* rely on general disparities in society to justify racially motivated action, nor allocate benefits using race "as a convenient or rough proxy for another trait" "believe[d] to be 'characteristic' of a

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[30] Cleveland Clinic, Non-Discrimination Notice, available at https://my.clevelandclinic.org/about/website/non-discrimination-notice (last visited July 30, 2024).

[31] *See, e.g.*, Cleveland Clinic, Consult QD, *Tailoring Stroke Treatment and Prevention to Populations Who Need It Most* (Apr. 21, 2020), available at: https://consultqd.clevelandclinic.org/tailoring-stroke-treatment-and-prevention-to-populations-who-need-it-most.

[32] Patients need not "go[] through the motions" of continuing to solicit, or otherwise applying for, a racially discriminatory benefit. *See, e.g.*, *Int'l Bhd. of Teamsters v. United States*, 431 U.S. 324, 366 (1977). Victims of discrimination are "not … limited to the few who ignore[] the ["Whites Only"] sign and subject[] themselves to personal rebuffs" or further discriminatory treatment. *See id.* at 365–66.

[33] *SFFA*, 600 U.S. at 220.

[34] *E.g.*, Cleveland Clinic, Consult QD, *Closing Racial Gaps in Cerebrovascular Mortality* (Mar. 30, 2022), available at: https://consultqd.clevelandclinic.org/closing-racial-gaps-in-cerebrovascular-mortality; Cleveland Clinic, Minority Men's Health Center (What We Treat), available at: https://my.clevelandclinic.org/departments/urology-kidney/depts/minority-mens-health-center#what-we-treat-tab (last visited Jul. 30, 2024).

[35] *E.g.*, Cleveland Clinic, Cerebrovascular Center, Minority Stroke Program, available at: https://my.clevelandclinic.org/departments/neurological/depts/cerebrovascular/minority-stroke-program (last visited July 30, 2024).

racial or ethnic group."[36] Moreover, the "outright racial balancing" the clinic seeks has been long held to be "patently unconstitutional" and therefore also prohibited by Title VI.[37]

Accordingly, it is *no answer* to say that Cleveland Clinic is trying to "even out" the frequency of certain health conditions among racial groups. Our anti-discrimination laws require treating patients as individuals. If such *individual* treatment happens to result in higher levels of screening for certain racial groups on the basis of race-neutral considerations that were not the product of a racial motivation, then neither the law nor medical ethics are breached. However, just as Jim Crow segregations could not resort to race to allocate goods or services, nor assume that black persons were unable or less likely to succeed at the state university, Cleveland Clinic may not assume that a person needs any particular type of care effort based on race, nor attempt to ensure "proper" racial balance. Treating individual patients as racial archetypes to "fix" group differences is beyond your remit; and in any event, it is illegal.

As the United States Supreme Court recently reiterated in a case applying the anti-discrimination standards of Title VI: "we have repeatedly explained, … citizens [must be treated] as individuals, not as simply components of a racial … or national class."[38] Equal protection under the law does not allow legally-bound actors to "intentionally allocate preference to those 'who may have little in common with one another but the color of their skin.'"[39] Such preferences import illegitimate stereotypes about race into decision-making and employ race as a "negative" against individuals in violation of Title VI.[40]

The Minority Stroke Program and Minority Men's Health Center programming implement Cleveland Clinic's impermissible goal for racial balancing through "pernicious stereotype[s]" that "members of the same racial group—regardless of their age, education, economic status, or the community in which they live—[are all] alike."[41] These programs also use race as a "negative" to overlook, diminish, exclude, and/or segregate individuals of less prioritized racial classes.[42] At their core, these programs aim to filter and view health outcomes through a racial lens, assuming that one's *race* says all the doctor needs to know about "who need[s] [treatment and prevention the] most."[43] *It does not*.

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[36] *SFFA*, 600 U.S. at 226; *Roberts v. McDonald*, 600 U.S. ---- (2023) (statement of Alito, J., respecting the denial of cert.).

[37] *SFFA*, 600 U.S. at 223 & n.2 (evaluating a Title VI race discrimination claim "under the standards of the Equal Protection Clause" because "[w]e have explained that discrimination that violates the Equal Protection Clause of the Fourteenth Amendment committed by an institution that accepts federal funds also constitutes a violation of Title VI.") (citing cases).

[38] *Id.* at 223 & n.2. *See also supra* n.37.

[39] *Id.* at 220.

[40] *Id.* at 218, 211–12.

[41] *Id.* at 220.

[42] *Id.* at 218–19.

[43] *E.g.*, Cleveland Clinic, Consult QD, *Tailoring Stroke Treatment and Prevention to Populations Who Need It Most* (Apr. 21, 2020), available at: https://consultqd.clevelandclinic.org/tailoring-stroke-treatment-and-prevention-to-populations-who-need-it-most.

Any number of demographic filters could be applied concerning almost any characteristic to compare and address health outcomes (*e.g.*, height, eye color, birth order, handedness, entertainment preferences, where one lives, etc.). But "treating someone differently because of their skin color is *not* like treating them differently because they are from a city or from a suburb."[44] Indeed, not *every* available demographic is an appropriate, relevant, comprehensive, or lawful standard for evaluating and addressing health outcomes.[45] Whether a *particular* patient needs medical care "most" does not change "simply because he was not the right color."[46] Discounting relevant and legitimate factors and variables for health risks and outcomes in exchange for simple, blind deference to skin pigmentation for no other purpose than balancing broad racial disparities "can only cause continued hurt and injury."[47]

In short, race or skin color does not make a human being more or less healthy, and using race as a proxy for legitimate health risks is a dangerous practice. Racial "health equity" programs that aim to balance broad disparities for the sake of it, like those at issue here, are not medicine—they are social science. This manner of race-based stereotyping, prioritizing, exclusion, and segregation of patients in the healthcare setting runs afoul of federal anti-discrimination laws and the requirement that "[e]ach patient … be treated with consideration, respect, and full recognition of dignity and individuality," to say nothing of the profound patient-provider trust issues that are stake.[48, 49]

Federal funding recipients, like Cleveland Clinic, may *not* impose judgments on the basis of race or for any racial purpose. Individuals at risk for stroke and other conditions are worthy of an equally robust pursuit, regardless of the color of their skin.

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[44] *SFFA*, 600 U.S. at 220 (emphasis in original).

[45] For example, studies in kidney transplantation—one of the health conditions at issue here—indicate that the "social determinants of health (SDOH) may substantially explain racial disparities." 89 Fed. Reg. 43518, 43534 (May 17, 2024). That is, "variables that [are] not measure[d] and adjust[ed] for account[] for … persistent disparit[ies]," indicating that factors other than race can be responsible for the appearance of a racial disparity. *See, e.g.*, Yue-Harn Ng et al., *Does Racial Disparity in Kidney Transplant Waitlisting Persist After Accounting for Social Determinants of Health*, Transplantation: 104(7) at 1445–55 (July 2020) (cited by 89 Fed. Reg. at 43579).

[46] *SFFA*, 600 U.S. at 209.

[47] *Id.* at 221.

[48] Ohio Admin. Code R. 3701-84-07(A)(1). *See also supra* n.25 (regarding Ohio anti-discrimination law).

[49] Troublingly, yet consistent with its other racial stereotypes, Cleveland Clinic assumes that members of certain racial groups all harbor a "distrust of medical professionals" and that racially discriminatory programming will establish such trust. *See* Press Release, Cleveland Clinic, Newsroom, *Community Leaders, and Telemedicine, Can Help Narrow the Gap in Minority Men's Health* (Apr. 18, 2018), available at: https://newsroom.clevelandclinic.org/2018/04/18/community-leaders-and-telemedicine-can-help-narrow-the-gap-in-minority-mens-health. Once again, these assumptions do not consider human beings as individuals or the various sources of distrust an individual may face—*much less* the numerous other barriers that transcend race and are actually responsible for causing disparities in healthcare. *See supra* n.45. These conclusions about who "distrust[s]" also ignore the fact that people of *all* races need to have faith in the healthcare system and confidence that healthcare providers will comply with the fundamental guarantee of equality and *not* administer to them differently on account of race. Without this basic respect for human dignity, trust breaks down, and outcomes are worsened.

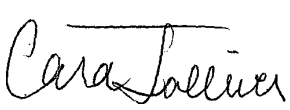
For the foregoing reasons, Cleveland Clinic's discriminatory focus on race for various medical conditions across at least two patient care programs violates Title VI and the ACA.[50] Cleveland Clinic should be operating its programming in a manner that equally prioritizes, promotes, pursues, and includes *all* at-risk patients, without reliance on racial stereotyping and segregated, distinctions.

Should Cleveland Clinic respond to this notice, indicating that it has determined to discontinue its racially divisive approach to patient care with respect to the Minority Stroke Program and the Minority Men's Health Center programming, DNH will immediately withdraw its complaint.

We hope to hear from you.

Sincerely,

WISCONSIN INSTITUTE FOR LAW & LIBERTY, INC.



Cara Tolliver
Associate Counsel

Daniel P. Lennington
Deputy Counsel

[50] In addition, beyond the discussed reasons, Cleveland Clinic's discriminatory programs immediately fail to display the hallmarks of narrow tailoring required for racially motivated action under Title VI. Among other significant failures, the targeted racial groups are "imprecise," "arbitrary," "undefined," "overbroad," and "underinclusive." *SFFA*, 600 U.S. at 216. Pursuant to "[t]his scattershot approach," individuals are lumped into broad, ill-defined racial categories, in which certain racial groups are arbitrarily prized over others—as is the case for the Minority Stroke Program and the Minority Men's Health Center, focusing on Black and Hispanic individuals. *See Vitolo v. Guzman*, 999 F.3d 353, 363–64 (6th Cir. 2021). These discriminatory programs also lack any "logical end point"—a "critical" limitation imposed by narrow tailoring. *SFFA*, 600 U.S. at 212. In fact, far to the contrary, the Minority Men's Health Center has been operating since 2003 in hopes of racially balancing health outcomes for men. At twenty-one years and running, it would defy all logic to contend that this program is, or has been, in any way "temporary" or "limited." *Id*. The continuation and growth of both programs only further underscores an impermissible goal to achieve racially balanced outcomes.