



Health Education, Advocacy, Linkage  
*Because Human Trafficking is a Public Health Issue*  
HEALTrafficking.org

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Re:  
HHS Docket No. [CDC-2020-0033](#), 85 Fed. Reg. 16559, March 24, 2020  
RIN 0920-AA76

April 23, 2020

To Whom It May Concern:

HEAL Trafficking respectfully submits this comment on the Department of Health and Human Services' interim final rule, titled "Suspension of Introduction of Persons Into United States From Designated Foreign Countries or Places for Public Health Purposes," HHS Docket No. CDC-2020-0033, 85 Fed. Reg. 16559, March 24, 2020.

***HEAL Trafficking's Interest in the Proposed Rule***

HEAL Trafficking is deeply concerned about the impact of the Department of Health and Human Services (HHS) interim final rule (Rule) and the accompanying Centers for Disease Control and Prevention (CDC) order (Order) on victims and survivors of human trafficking and those at risk. HEAL Trafficking urges HHS to rescind the Rule and the Order.

HEAL Trafficking is a network in 35 countries of over 3100 trafficking survivors and multidisciplinary professionals building the capacity of the health care field to respond to trafficking, from a public health perspective. We tackle issues at the crux of health and trafficking, including Education and Training, Protocols, Research, Direct Services, Prevention, Advocacy, Media and Technology. HEAL Trafficking brings together physicians, advanced practice clinicians, nurses, dentists, emergency medical services (EMS) personnel, psychologists, counselors, public health workers, health educators, researchers, clinical social workers, administrators, and other health professionals who work with and advocate for the health of survivors of human trafficking. Our mission is to mobilize a shift in the anti-trafficking paradigm toward approaches rooted in

public health principles and trauma-informed care by expanding the evidence base; enhancing collaboration among multidisciplinary stakeholders; educating the broader anti-trafficking, public health, and health care communities; and advocating for policies and funding streams that enhance the public health response to trafficking and support survivors. HEAL Trafficking engages in work that combats all forms of human trafficking; supports trafficked people of all genders, ages, races/ethnicities, religions, origins, cultures, and sexual orientations; believes all trafficked persons deserve access to a full range of health care including medical, mental/behavioral health, reproductive health, dental, and substance use disorder treatment services; approaches human trafficking from a public health perspective that incorporates a socio-ecological framework and prevention strategies; and promotes a survivor-centered, trauma-informed, evidence-based, practice-based approach to anti-trafficking efforts. Our protocol toolkit is being used in 35 countries and has been downloaded by health systems 2800 times. Our assessment tool for human trafficking curricula for health professionals is being integrated across the country to set standards for health professional trainings on trafficking.

### ***The Rule and the Order Do Not Further Public Health and Eviscerate Asylum Protections and Safeguards for Unaccompanied Children***

The Rule authorizes the CDC to “prohibit the introduction into the United States of persons from designated foreign countries (or one or more political subdivisions and regions thereof), only for such period of time that the Director deems necessary for the public health,” through issuance of an order.

On the same day HHS issued the Rule, CDC issued an order (Order) invoking its authority under the Rule to suspend the introduction of persons without documentation who seek to enter the United States via Mexico or Canada. The Order illustrates how the Rule is being used to eviscerate asylum protections and safeguards for unaccompanied children while failing to further the public health justifications on which it is purportedly based.

### ***The Rule and the Order Do Not Further Public Health Objectives***

The HHS Rule and CDC Order establish expansive, unprecedented power to expel individuals from the United States, including asylum-seekers and unaccompanied children seeking protection at the southern border, under the guise of public health measures allegedly aimed at preventing the introduction of COVID-19 into the United States. They represent sweeping changes to existing laws, in violation of U.S. domestic and international obligations.

The Order does not apply to individuals based on infection or exposure to the novel coronavirus, but rather targets them based on their immigration status and is serving as a pretext to block these individuals from requesting protection in the United States. Turning away asylum-seekers and unaccompanied children from the U.S.-Mexico border or sending them back to their home countries would put their lives at risk, returning them to the very persecution and abuse they are fleeing.

Specifically, implementation of the order would increase the risk of the public health concern of human trafficking and associated trauma for vulnerable populations. Many asylum seekers and unaccompanied minors who cross the southern border or seek to do so have already been

victimized by human traffickers or experienced severe risk of being trafficked in their home countries and during their journeys to the U.S. Turning them away at the border or expelling them immediately upon entry, without following the requirements of domestic and international law, serves no public health purpose. To the contrary, by increasing the further risk of trafficking, the Order's misguided approach exacerbates any physical and mental health harms and trauma that asylum seekers, unaccompanied minors, and trafficked migrants have already suffered.

Although purportedly based on public health concerns, the Rule fails to meaningfully address those concerns; instead, it appears tailored to prevent asylum-seekers and unaccompanied children from seeking protection in the United States and exacerbates the public health concern of human trafficking.

The Rule relies on the false assumption that border detention is necessary. It applies only to non-citizens without permanent immigration status who arrive at a land port of entry or who have crossed into the United States, including asylum-seeking individuals, families, and unaccompanied children, under the assumption these individuals lack places where they could isolate and that they must be held in congregate settings. Yet the vast majority of asylum-seekers have homes in the United States where they could safely practice self-isolation, when needed. For example, an October 2019 study of 607 asylum-seekers subject to the Remain in Mexico program found that [nearly 92 percent](#) had family or close friends in the United States. By rejecting or expelling asylum seekers and unaccompanied minors, or detaining them in congregate facilities, the Rule deprives them of the opportunity to safely connect with friends or family, including quarantine or isolation if necessary; subjects them to increased risk for human trafficking; and jeopardizes their health.

### ***The Rule Violates the TVPRA Protections for Unaccompanied Children***

The Rule would permit the CDC, through DHS, to bar and expel individuals at the U.S. border, which would directly violate the Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA), a federal law designed to protect unaccompanied children from human trafficking and other harm.

Unaccompanied children make up a small percentage -- [less than 10%](#) -- of people encountered at the southern border, but are among the most vulnerable groups seeking help and protection in the U.S. Prior to the passage of the TVPRA, unaccompanied children often were summarily turned away at the U.S.-Mexico border, leading many to end up in the hands of smugglers and traffickers seeking to exploit or harm them. Neither the Rule nor the Order issued by the CDC under powers granted by the Rule provide any explanation or [legal justification](#) for the failure to comply with mandatory legal protections and obligations under the TVPRA.

Under the TVPRA, Customs and Border Patrol must determine whether children it encounters are unaccompanied, and if they are, transfer them from CBP custody to the custody of the Office of Refugee Resettlement (ORR) within 72 hours. Once in ORR custody, the TVPRA then requires the government to make efforts to reunify these children with family members or other sponsors while their legal claims are decided. The TVPRA also requires the government to screen children to determine whether they were survivors of trafficking or at future risk of

being trafficked or persecuted in the U.S. or their home countries. Finally, the TVPRA provides important [procedural protections](#) for unaccompanied children's legal claims, including the right to apply for asylum in a non-adversarial process and to have their cases heard before an immigration judge.

Despite these requirements, [media reporting](#) and [government guidance](#) indicate that DHS is summarily expelling unaccompanied children without providing them proper screening, placing them into immigration court proceedings, or referring them to ORR. The Order issued by the CDC on the same day and under the powers granted by this Rule indeed fails to even reference federal obligations for the treatment of unaccompanied children. [Guidance](#) later reportedly provided to the U.S. Border Patrol instructing agents to expel individuals under the authority provided by this Rule also makes no reference to protections for unaccompanied children under the TVPRA. The failure of the Rule and accompanying CDC Order to comply with the TVPRA's legal protections places vulnerable unaccompanied children in [danger](#), leaving them vulnerable to human trafficking, or forcible return to countries where their lives or safety are at risk. Instead of endeavoring to protect the some of the most vulnerable individuals arriving at the southern border, the Rule appears to be nothing more than the Administration exploiting a crisis to accomplish its [longstanding goal](#) of weakening or eliminating protections for unaccompanied children.

For all of the foregoing reasons, HEAL Trafficking urges HHS to rescind this ill-conceived and dangerous Rule and the accompanying CDC Order and ensure that any future regulations or measures regarding border restrictions during the COVID-19 pandemic are informed by public health expertise and consistent with binding obligations under U.S. and international law.

Sincerely,

A handwritten signature in black ink, appearing to read 'Hanni Stoklosa', written in a cursive style.

Hanni Stoklosa, MD, MPH  
Executive Director  
HEAL Trafficking, Inc.