The AMA is strongly urging the Trump administration to withdraw a proposal that would make it more difficult for refugees and other immigrants seeking asylum to enter the U.S. and could put their health and safety at risk.

At issue is the administration’s proposed rule on “Procedures for Asylum and Withholding of Removal; Credible Fear and Reasonable Fear Review.” The AMA says the proposed rule would impose new barriers at every stage of the asylum process, will impose standards that are impossible to meet for the vast majority of applicants, and will result “in a multitude of valid asylum seekers being returned to countries that do not value their lives, health, or social equity.”

The AMA “has been, and continues to be, deeply committed to ensuring the health and safety of all individuals regardless of immigration status,” AMA Executive Vice President and CEO James L. Madara, MD, wrote in a letter to acting Homeland Security Secretary Chad Wolf and Deputy Director of U.S. Immigration and Customs Enforcement Matthew Albence.

“Asylum seekers are a vulnerable group that often face circumstances in which their health and well-being were at significant risk in their former countries and may have been further compromised during their journey to seek safety,” Dr. Madara wrote. “Because the proposed rule will place these asylum seekers in even greater peril, we oppose it in its entirety.”

The seven-page letter details legal and ethical arguments for opposing the proposed rule:

The new proposed categorical definitions are underinclusive and do not consider the evolution of law and societal norms. U.S. law requires individuals applying for asylum to demonstrate a well-founded fear of persecution on account of their race, religion, nationality, membership in a particular social group, or political opinion.
These concepts are known as the “protected classes,” Dr. Madara’s letter explains, and they are meant to be flexible so that they can change to encompass those in dire need around the world.

The proposed rule, however, would narrowly define a “particular social group” and other protected classes. This definitional narrowing would exclude the timely rise of new groups, inhibit social equity, and ignore many inherent biases that exist and need to be addressed and changed, according to the letter.

The proposed rule would exclude specific claims that may be brought under the nexus requirement including claims based on personal animus or retribution, interpersonal animus, and gender. To be eligible for asylum, applicants must demonstrate persecution, or a well-founded fear of persecution, related to their status in a protected class.

Under the proposed rule, individuals would need considerable evidence to meet this requirement. The changes would mean that those seeking to escape arranged marriages, severe domestic violence, honor killings, and other harms will no longer find refuge in the U.S., Dr. Madara wrote.

The proposed rule’s retrogressive perspective of violence as a “personal dispute,” would require individuals to undergo severe and pervasive harm and report that harm to the authorities without remediation before they could be considered for asylum. This is unacceptable and further perpetuates cyclical abuse, he added.

“The AMA believes that all forms of family and intimate-partner violence are major public health issues and urge the withdrawal of the proposed rule to help prevent such violence and to address the needs of survivors,” the letter states.

The proposal would also undermine public health by making violence survivors reluctant to seek needed medical care or public assistance.

The proposed rule would raise the statutory withholding of removal screening standard and the torture related screening standard to an unreasonably high evidentiary burden. Under the proposed rule, “pain or suffering inflicted by, at the instigation of, or with the consent or acquiescence of, a public official is not torture unless it is done while the official is acting in their official capacity under the ‘color of law,’” according to the letter.

In addition, instead of an experienced immigration judge, asylum seekers would make their case to a “minimally trained border agent,” who could dismiss their case without court proceedings.

“The AMA believes that violence is a major public health crisis and supports appropriate interventions which may result in its prevention or cure,” Dr. Madara wrote. “Since the propose rule would enable
individuals across the world to be exposed to violence and continue to be tortured without the possibility of being granted asylum in the United States, the AMA opposes the implementation of the proposed rule.”

**It would improperly expand disclosure of information related to an asylum application.** The proposed rule could potentially allow immigration authorities to seize electronic health records as part of their investigation. And it’s “poorly defined and expanded category of entities” that may receive this protected information “has potentially serious, unintended consequences that will impact patient data and autonomy.”

The proposed rule coupled with the Justice Department’s DNA-Sample Collection from Immigration Detainees program—which the AMA continues to oppose—may adversely impact asylum applicants and has implications for their biological relatives.

“The AMA strongly condemns the use of medical and psychological records and social work case files that are understood to be confidential as evidence in immigration courts without delineated patient or parental consent,” Dr. Madara wrote. “The proposed rule could violate basic tenets of medicine and further harm already-traumatized children as their medical information is improperly and unethically used against them in their search for asylum.”