

HHS Rescinds Portions of Health Care Refusal Rule that Threatened Women's Health

On February 18, 2011, the Department of Health and Human Services partially rescinded a regulation, “Ensuring That Department of Health and Human Services Funds Do Not Support Coercive or Discriminatory Policies or Practices in Violation of Federal Law,” which went into effect under the Bush Administration. The Bush Administration rule purported to interpret three existing laws that permit certain individuals, institutions, and insurance plans to refuse a role in abortion services. But the Bush Administration regulation went far beyond current law, ignoring the health needs of patients, permitting refusals to provide a range of health care information, counseling, and referrals, and causing serious confusion by threatening existing legal requirements. The new rule eliminates the most egregious parts of the Bush Administration rule, restoring critically important protections for patients.

The New Rule Protects Patients' Access to Important Health Information

The new rule protects patients' access to important health information by rescinding portions of the Bush Administration rule that inappropriately interpreted the federal refusal laws to include referrals, counseling, and the provision of information. The new rule also recognizes the importance of informed consent and reiterates that physicians are obligated to inform patients of their treatment options. Finally, the new rule clarifies that Title X family planning program requirements – including providing women facing an unintended pregnancy with counseling about all their options – remain intact.

The New Rule Preserves Women's Access to Care in an Emergency

The new rule makes clear that health care entities must continue to comply with the Emergency Medical Treatment and Labor Act (EMTALA), which requires an emergency room to provide stabilizing treatment to a patient in a medical emergency, and states that any perceived conflicts between the federal refusal laws and EMTALA will be addressed on a case by case basis.

The New Rule Protects Access to Contraception

The new rule clarifies that the term “abortion” in the federal refusal laws does not include contraception, eliminating concern that the Bush Administration rule improperly interpreted the laws to jeopardize patients' access to contraception.

The New Rule Prevents Denying Treatment to People Because of Who They Are

The new rule clarifies that the federal refusal laws were never intended to protect health care providers who refuse to provide medical care to an individual because he or she engaged in behavior the health care provider found objectionable. This is a critically important clarification that prevents single women seeking infertility treatment or gay teens seeking mental health counseling from being denied care because of who they are.

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