



What Are Some Key Organizations Saying About the Proposed HHS Rule?

“We believe that, as currently drafted, the proposed Provider Conscience Regulation could seriously undermine patients’ access to necessary health services and information, negatively impact federally-funded biomedical research activities, and create confusion and uncertainty among physicians, other health care professionals, and health care institutions about their legal and ethical obligations to treat patients. **Given our concerns, we urge HHS to withdraw this proposed rule.**”

- Comments from the American Medical Association, 12 Professional Medical Specialty Societies, and 27 State Medical Societies on the HHS Proposed Rule

“Hospitals and their emergency departments are complex entities; as the proposed rule is written, it would be extremely difficult for hospitals to anticipate all the scenarios under which a health care worker might invoke the provider conscience clause. As a result it would be impossible for hospitals to make the staffing arrangements needed to ensure access to those services. The [American Hospital Association] is concerned that access to services for patients may be significantly hampered by the current definitions of this rule ... We strongly believe that policies addressing provider conscience clause issues are best left to local health care leaders at the local hospital level. However, if new enforcement policies are deemed necessary at the national level then they should be debated in a far more deliberative process than the 30-day comment period allows ... We therefore, again, request that this proposed rule be withdrawn to allow for a more deliberative process so that these many and significant issues can be fully analyzed.”

- Comments from the American Hospital Association on the HHS Proposed Rule

“The proposed regulation completely obliterates the rights of patients to legal and medically necessary health care services in favor of a single-minded focus on protecting a health care provider’s right to claim a personal moral or religious belief ... By focusing exclusively on the personal moral and religious beliefs of the health care provider, the proposed regulation unconscionably favors one set of interests, upsetting the carefully crafted balance that many states have sought to achieve ... We urge the HHS to adhere to a basic medical tenet—first, do no harm to the patient—and withdraw the proposed regulation.”

- Comments from 13 State Attorneys General on the HHS Proposed Rule

“Health professionals are obliged to provide their patients with complete and accurate information about all of their treatment options. The proposed regulation could force health professionals to violate legal and ethical principles of informed consent. Patients needs must be considered ... As currently drafted, this rule could result in state health agencies being unable to fulfill their core public health functions, individuals being denied access to health services as well as essential information used to make informed decisions about one’s personal care, and states being made vulnerable to litigation with health entities.”

- Comments from the Association of State and Territorial Health Officials on the HHS Proposed Rule

“The proposed rule is unnecessary to protect the religious freedom and freedom of conscience of healthcare workers, because Title VII already serves that purpose. Healthcare workers are already protected from religious discrimination and have the right to reasonable accommodation of their religious beliefs under Title VII. The issuance of the proposed regulations would throw this entire body of law into question, resulting in needless confusion and litigation in an attempt to redefine religious freedom rights for employees in the healthcare sector ... In the healthcare context, the balancing of interests that characterizes the Title VII analysis is particularly essential, because of the need to ensure the continuity of medical care for citizens without unnecessary and potentially life-threatening denials or delays ... We urge you to revoke the proposed regulations, or at minimum specify that the proposed regulations shall in no way alter the current Title VII analysis for religious accommodation claims.”

- Comments from EEOC Commissioners Stuart J. Ishimaru and Christine M. Griffin on the HHS Proposed Rule

“Contrary to national medical ethics standards and the civil rights laws of many states, the regulations improperly may be seen as allowing [programs] to refuse treatment of or participation by LGBT people or people living with HIV, or to allow anti-gay religious proselytizing or other religiously motivated harassment ... Communication of religiously inspired anti-LGBT bias by health care workers to patients impairs the communication that is most essential – from patient to provider – so appropriate care can be provided. Expression of anti-LGBT sentiments in health care settings not only shuts down patient communication, it drives LGBT patients away, with negative personal and public health consequences ... These proposed regulations risk making an already challenging public health situation worse.”

- Comments from the National Coalition for LGBT Health, Lambda Legal, et al. on the HHS Proposed Rule

“The proposed regulation relieves healthcare professionals of a responsibility that must be upheld: the obligation to talk with patients about all of their options and, for services which cannot or will not be provided, refer them to someone who can help them without delay. This

practice is followed when treating cancer and mending broken bones; and if this principle is not held as a standard for reproductive medicine, it is a failure for patients and the health of the country.”

- Comments from the American Academy of Pediatrics, the American Nurses Association, et al. on the HHS Proposed Rule

“[National Association of Community Health Centers] believes that the Proposed Rule would be particularly harmful for health centers. The Proposed Rule is contrary to and conflicts with health centers’ service obligations required under Section 330 (and some state laws), jeopardizes access to and availability of essential health care services for medically-underserved populations and areas (in terms of availability of both services and providers) in a manner that disproportionately impacts the poorest and most vulnerable populations among us, and generally undermines the health care safety-net. If finalized, the Proposed Rule would place health centers in a conundrum – unable to comply with both the Rule and their Section 330-related obligations, health centers would be subject to penalty, sanction and/or jeopardizing of their grants regardless of which actions they take. **Thus, NACHC strongly urges HHS to withdraw the Proposed Rule in its entirety.**”

- Comments from the National Association of Community Health Centers on the HHS Proposed Rule

“In short, the Proposed Rule seriously jeopardizes access to reproductive health care, as well as other health care services for traditionally marginalized communities. And, it does so unnecessarily, as individuals’ religious and moral convictions are already strongly protected in federal law. In addition, the Rule vastly exceeds the authority delegated to the Department of Health and Human Services (the “Department” or “HHS”) under the refusal statutes, contravenes congressional intent, creates serious confusion for health care providers, and sets up unnecessary conflicts with other federal laws. The Department should therefore withdraw the Proposed Rule.”

- Comments from the American Civil Liberties Union on the HHS Proposed Rule

“The proposed regulation is unnecessary, threatens to significantly undermine patients’ access to critical health care services and information, and could negatively impact scientific research. Comprehensive family planning services are a proven public health success and enjoy widespread public support. We oppose efforts to limit access to these services and call on HHS to withdraw the proposed regulation.”

- Comments from the Association of Maternal and Child Health Programs on the HHS Proposed Rule

“The Proposed Rule is illegal, unwise and inconsistent with time-tested health practices. It would ignore the health needs of patients, even in emergency situations. It would open the door for doctors, nurses, insurance plans, hospitals, and nearly any other employee in a health care setting to deny women access to most forms of birth control...It would create serious confusion throughout the health care system by making dramatic changes without regard to existing legal requirements. Any one of these failings would warrant withdrawal of the Proposed Rule. Taken together, they demonstrate that it is imperative that the rule be promptly withdrawn.”

- Comments from the National Women’s Law Center on the HHS Proposed Rule

“Under the proposed regulations, a doctor may refuse to administer an HIV test to a patient because he is gay. In fact, the doctor could not only refuse this service, but decline to tell the patient where he *would* be able to obtain testing. Clearly, this puts the health of the patient, and potentially that of others, at risk ... Significant numbers of states and local communities have chosen to protect their lesbian, gay, bisexual and transgender citizens by enacting anti-discrimination legislation. The regulations could undermine these critically-necessary laws by forcing employers to accommodate even discriminatory requests for accommodation ... [Human Rights Campaign] recommends against adopting the proposed regulations as written. No LGBT person should be denied treatment under a federally funded program because a provider objects to who they are.”

- Comments from the Human Rights Campaign on the HHS Proposed Rule

“The Provider Conscience Regulation therefore overlaps with Title VII ... Because of this overlap, the employment discrimination aspect of the proposed Provider Conscience Regulation is unnecessary for protection of employees and applicants, is potentially confusing to the regulated community, and will impose a burden on covered employers, particularly small employers...As a practical matter, introducing another standard under the Provider Conscience Regulation threatens to create confusion for health care employers, who would still be subject to Title VII standards for these as well as all other requests for religious accommodation... Given these legal and practical concerns, Title VII should continue to provide the legal standards for deciding all workplace religious accommodation complaints.”

- Comments from the Office of Legal Counsel of the Equal Employment Opportunity Commission (EEOC) on the HHS Proposed Rule