September 4, 2026

Ms. Arianne Perkins
Freedom of Information Act Officer
U.S. Department of Health and Human Services
Hubert H. Humphrey Building, Room 729H
200 Independence Avenue, SW
Washington, D.C. 20201

Re: Request Under the Freedom of Information Act Concerning Complaints Received by the U.S. Department of Health and Human Services' Office for Civil Rights

Dear Ms. Perkins:

Pursuant to the Freedom of Information Act ("FOIA")[1] and implementing regulations of the U.S. Department of Health and Human Services ("HHS"),[2], the Center for Reproductive Rights ("CRR") and the National Women's Law Center ("NWLC") (together, "Requesting Parties") request records pertaining to "federal health care conscience" complaints.

Recently, HHS confirmed that it intends to promulgate a new regulation to "address the scope and meaning of the federal health care conscience statutes,"[3] also known as federal refusal of care laws, which include the Church Amendments,[4] Coats-Snowe Amendment,[5] and the Weldon Amendment[6] (hereinafter "federal refusal of care laws"). HHS asserted that this new regulation is "needed to clarify" the scope and meaning of the federal refusal of care laws.[7]

This regulation appears to have been pushed for by outside actors even before the Trump administration took office. The Trump campaign received significant external pressure to once again prioritize robust enforcement of "conscience rights," as it did during its first term. Project 2025—a federal policy agenda published by the Heritage Foundation and 109 other organizations as a "playbook" for the second Trump administration[8]—recommended that "OCR should return to [the first] Trump Administration policies that initiated robust enforcement of ... conscience laws."[9] Specifically, Project 2025 recommended that HHS issue new regulations to ensure that all federal funding recipients comply with the administration's interpretation of the federal refusal of care laws.[10]

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[1] 5 U.S.C. § 552.
[2] 45 C.F.R. Part 5.
[3] 91 Fed. Reg. 52792, 52837 (Aug. 14, 2026).
[4] 42 U.S.C. § 300a-7.
[5] 42 U.S.C. § 238n.
[6] *See, e.g.,* Pub. L. 115-245, Div. B, sec. 507(d).
[7] 91 Fed. Reg. 52792, 52837 (Aug. 14, 2026).
[8] Paul Dans & Steven Groves eds., *Mandate for Leadership: The Conservative Promise*, at xiv (2023).
[9] *Id.* at 494.
[10] *Id.*

Now, among the regulatory options it has announced, HHS suggests that it might "promulgat[e] a rule substantially similar … to the 2019 Final Conscience Rule."[11] This is of great concern since multiple federal courts found that the 2019 Rule illegally and improperly attempted to expand the reach of federal refusal of care laws, to allow virtually any entity or individual, even those tangentially involved in patient care, to deny patients health services.[12] The 2019 Rule included expansive "clarifying" definitions that OCR would apply to enforce thirty statutory provisions, including the federal refusal of care laws.[13]

The need for this type of regulation was nonexistent in 2019, and it remains even less necessary now. HHS attempted to justify the expansive nature of the 2019 Rule by citing a purported increase in complaints under the federal refusal of care laws to OCR—a claim that the U.S. District Court for the Southern District of New York found was "demonstrably false."[14] More recently, HHS has acknowledged that complaints under the "federal health care conscience statutes" constitute a "smaller portion" of the overall number of complaints that OCR receives.[15] Nonetheless, HHS appears once again to be considering imposing the same illegal and unduly expansive policy as it issued in 2019.

A broad interpretation of the federal refusal of care laws poses significant challenges to equitable health care access. Ideologically-motivated actors have relied on overexpansive interpretations of these laws to defend discriminatory practices—particularly against individuals seeking pregnancy-related care, including abortion, as well as LGBTQI+ individuals. Further, denials of care defended under federal refusal of care laws may exacerbate existing health disparities. When health care providers are emboldened by a misinterpretation of the federal refusal law to refuse to offer care, information or referrals based on their personal beliefs, they may worsen health outcomes, while also violating federal laws protecting against discrimination in health care and creating confusion regarding providers' responsibilities in urgent situations.

The Requesting Parties seek information that is vital to public interest in understanding HHS's purpose and justification for its intended regulatory action. Patients must be assured that their medical needs— and not the personal beliefs of their medical provider nor the ideology of interest groups and elected officials—will inform the health care they receive. And the public has

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[11] *Id.*

[12] *See New York v. U.S. Dep't of Health & Human Servs.*, 414 F. Supp. 3d 475, 577 (S.D.N.Y. 2019) (vacating the 2019 Rule because it contained "numerous, fundamental, and far-reaching" violations of the Administrative Procedure Act); *accord Washington v. Azar*, 426 F. Supp. 3d 704, 721–22 (E.D. Wash. 2019); *City & Cnty. of San Francisco v. Azar*, 411 F. Supp. 3d 1001, 1025 (N.D. Cal. 2019).

[13] *See* Protecting Statutory Conscience Rights in Health Care, 84 Fed. Reg. 23170, 23263–64 (May 21, 2019).

[14] 414 F. Supp. 3d at 541, 545.

[15] 91 Fed. Reg. at 52837; *see also* Press Release, U.S. Dep't of Health & Hum. Servs., HHS Announces New Divisions Within the Office for Civil Rights to Better Address Growing Need of Enforcement in Recent Years (Feb. 27, 2023), https://www.hhs.gov/about/news/2023/02/27/hhs-announces-new-divisions-within-office-civil-rights-better-address-growing-need-enforcement-recent-years.html (stating that in 2022, only 7 percent of OCR complaints alleged violations of conscience/religious freedom).

a right to understand why HHS now appears to be prioritizing enforcement actions under federal refusal of care laws over other public health concerns, especially when the Department itself has admitted there is no legitimate basis for it. Moreover, the requested information is needed to alleviate concerns that the agency will once again misuse its rulemaking power in ways that would undermine patients' rights to access health care free from discrimination.

I. Records Requested

Please release all responsive records[16] from HHS and any of its components[17] for the period from January 20, 2025, through the date the search is conducted. We request the following to be produced within twenty business days:

1. All records related to the criteria used by OCR to determine whether a complaint falls under the category of potential violation of the "federal health care conscience statutes."[18]

2. All records related to the review process for potential "federal health care conscience statutes" violation complaints, including, but not limited to, review matrices and any criteria used to determine a violation.

3. Records sufficient to identify all persons, whether or not employed directly by HHS, tasked with conducting reviews of alleged "federal health care conscience statutes" violations, including, but not limited to, records to show the title and classification for each individual.

4. All summaries, created, prepared, or obtained by HHS OCR on or after January 20, 2025, of compliance and enforcement activities of HHS OCR, including, but not limited to, quantitative breakdowns of public complaints (submitted and resolved, with and without

[16] FOIA defines "records" to include "any information" in "any format, including an electronic format." 5 U.S.C. § 552(f)(2); *see also* 22 C.F.R. § 171.1(b). As used herein, the term "records" includes all records, writings, and communications preserved in electronic or hard copy form, including, but not limited to, correspondence, letters, draft documents, data files, metadata, spreadsheets, video and/or audio recordings, CDs, DVDs, notes, meeting records, calendar entries, reports, instructions, guidance, guidelines, talking points, briefing materials, memoranda, agreements, contracts, memoranda of understanding and/or communications, analyses, orders, directives, notices, statements of policy, procedures, protocols, rules, or training manuals. "Communications" includes, but is not limited to, letters, notices, guidance, memoranda, instructions, e-mails (and attachments thereto), calendar invitations (and attachments thereto), and text and/or audio messages on encrypted and non-encrypted applications (including, but not limited to, those sent through the Payment Management System or other platforms, such as iMessage, Signal, WhatsApp, Microsoft Teams, GChat, Google Hangout, Lync, Skype, Zoom, Slack, Telegram, Parler, Facebook, X (formerly Twitter), Instagram, or Truth Social), and communications and relevant materials that may have been distributed via personal phones or devices.

[17] As used herein, any reference to HHS encompasses all regional offices (both current and past) as well as the central offices located in Washington, D.C.

[18] As used herein, this phrase refers to the same statutes as those referenced when this phrase was used in the 2026 Unified Agenda, 91 Fed. Reg. 52792, 52837 (Aug. 14, 2026).

findings of violation), and qualitative summaries of compliance and enforcement activities, by each past and current division within HHS OCR.

5. All trackers, charts, catalogues, Excel spreadsheets, internal databases, and similar records created or obtained by HHS on or after January 20, 2025, regarding or relating to complaints filed with HHS OCR, either alleging a violation of "federal health care conscience statutes" or categorized by agency personnel as alleging a violation of "federal health care conscience statutes."

6. All complaints received by HHS OCR alleging a violation of "federal health care conscience statutes," dated on or after January 20, 2025.

7. All records, dated on or after January 20, 2025, referring or relating to HHS review and investigations of complaints alleging a violation, or categorized by agency personnel as alleging a violation, of "federal health care conscience statutes," including but not limited to:
    a. All records regarding or relating to the process and timeline by which each complaint was closed or resolved, the total length of investigation for each complaint, the number of complaints investigated but where no violation was found, and the number of complaints investigated for which a violation was found;
    b. All records relating to final agency determination of each complaint, including letters, notices, recommendations, initiation of enforcement proceedings, referral to other federal agencies, and final decisions upholding a finding of violation, on each complaint;
    c. All records sent between HHS OCR and complainants (those who submitted complaints to HHS OCR) regarding a filed complaint alleging violation of one or more "federal health care conscience statutes"; and
    d. All records sent between HHS OCR and an agency or organization against which a complaint was filed alleging violation of one or more "federal health care conscience statutes."

8. All records that refer or relate to complaints alleging violations of "federal health care conscience statutes," including communications soliciting the submission of such complaints, sent between HHS employees, agents, or contractors acting on behalf of HHS, and:
    a. Alliance Defending Freedom (including but not limited to any individual members of staff);
    b. Americans United for Life (including but not limited to any individual members of staff);
    c. The Family Research Council (including but not limited to any individual members of staff);
    d. The Heritage Foundation (including but not limited to any individual members of staff);

e. National Right to Life (including but not limited to any individual members of staff);
f. Students for Life (including but not limited to any individual members of staff);
g. Susan B. Anthony Pro-Life America (including but not limited to any individual members of staff);
h. The Charlotte Lozier Institute (including but not limited to any individual members of staff); and
i. The Ethics and Public Policy Center (including but not limited to any individual members of staff).

9. All records regarding the submission of complaints alleging violations of "federal health care conscience statutes" not otherwise captured above, including those records received after May 18, 2026, under the new unified category of "violations of conscience and freedom."[19]

The Requesting Parties seek all responsive records regardless of format, medium, or physical characteristics. In conducting your search, please understand the terms "record," "document," and "information" in their broadest sense, to include any written, typed, recorded, graphic, printed, or audio material of any kind. Our request includes any attachments to these records. No category of material should be omitted from search, collection, and production.

In addition to the records requested above, the Requesting Parties also request records describing the processing of this request, including records sufficient to identify search terms used, locations and custodians searched, and any tracking sheets used to track the processing of this request. If your agency uses FOIA questionnaires or certifications completed by individual custodians or components to determine whether they possess responsive materials or to describe how they conducted searches, we also request any such records prepared in connection with the processing of this request.

Please search all records regarding agency business. You may not exclude searches of files or emails in the personal custody of your officials, such as personal email accounts or text messages. Records of official business conducted using unofficial systems or stored outside of official files are subject to the Federal Records Act and FOIA. It is not adequate to rely on policies and procedures that require officials to move such information to official systems within a certain period of time; the Requesting Parties have a right to records contained in those files even if material has not yet been moved to official systems or if officials have, through negligence or willfulness, failed to meet their obligations.

Please note that in conducting a "reasonable search" as required by law, you must employ the most up-to-date technologies and tools available, in addition to searches by individual

[19] Press Release, U.S. Dep't of Health & Hum. Servs., HHS Announces Restructuring of Its Office for Civil Rights (May 18, 2026), https://www.hhs.gov/press-room/hhs-announces-restructuring-of-its-office-for-civil-rights.html.

custodians likely to have responsive information. Recent technology may have rendered your agency's prior FOIA practices unreasonable. In light of the government-wide requirements to manage information electronically by the end of 2016,[20] it is no longer reasonable to rely exclusively on custodian-driven searches. Furthermore, agencies, including the HHS Office of the Assistant Secretary for Health, that have adopted the National Archives and Records Agency Capstone program, or similar policies, now maintain emails in a form that is reasonably likely to be more complete than individual custodians' files. For example, a custodian may have deleted a responsive email from his or her email program, but your agency's archiving tools would capture that email under Capstone.

Accordingly, the Requesting Parties request that HHS use the most up-to-date technologies to search for responsive information and take steps to ensure that the most complete repositories of information are searched. The Requesting Parties are available to work with you to craft appropriate search terms. However, custodian searches are still required; agencies may not have direct access to files stored in .PST files, outside of network drives, in paper format, or in personal email accounts.

We request that you produce all responsive materials in their entirety; however, should you determine the materials contain information which falls within the statutory exemptions provided in 5 U.S.C. § 552 or 22 C.F.R. § 171.11, we request the information be reviewed for possible discretionary disclosure. We furthermore request that all reasonably segregable portions of the exempt material be provided. We request that any deleted material be described in detail, and that you specify the statutory basis for the denial as well as your reasons for believing that the alleged statutory justification applies in this instance. Please separately state your reasons for not invoking your discretionary powers to release the requested documents in the public interest. Such statements will be helpful in deciding whether to appeal an adverse determination.

Under the FOIA Improvement Act of 2016, agencies must adopt a presumption of disclosure, withholding information "only if . . . disclosure would harm an interest protected by an exemption" or "disclosure is prohibited by law."[21] If it is your position that any portion of the requested records is exempt from disclosure, the Requesting Parties request that you provide an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), *cert. denied*, 415 U.S. 977 (1974). As you are aware, a *Vaughn* index must describe each document claimed as exempt with sufficient specificity "to permit a reasoned judgment as to whether the material is actually exempt under FOIA."[22] Moreover, the *Vaughn* index "must describe each document or portion thereof withheld, and for each withholding it must discuss the consequences of disclosing the sought-after information."[23] Further, "the withholding agency must supply 'a relatively detailed justification, specifically identifying the reasons why a

[20] Managing Government Records Directive, M-12-18, at 2 (Office of Mgmt. & Budget & Nat'l Archives & Recs. Admin. Aug. 24, 2012).
[21] FOIA Improvement Act of 2016, Pub. L. No. 114-185, 130 Stat. 538 (2016).
[22] *Founding Church of Scientology v. Bell*, 603 F. 2d 945, 949 (D.C. Cir. 1979).
[23] *King v. U.S. Dep't of Just*., 830 F.2d 210, 223-24 (D.C. Cir. 1987).

particular exemption is relevant and correlating those claims with the particular part of a withheld document to which they apply.'"[24]

You should institute a preservation hold on information responsive to this request. The Requesting Parties intend to pursue all legal avenues to enforce their right of access under FOIA, including litigation if necessary. Accordingly, your agency is on notice that litigation is reasonably foreseeable.

To ensure that this request is properly construed, that searches are conducted in an adequate but efficient manner, and that extraneous costs are not incurred, the Requesting Parties welcome an opportunity to discuss this request with you before you undertake your search or incur search or duplication costs. By working together at the outset, the Requesting Parties and your agency can decrease the likelihood of costly and time-consuming litigation in the future.

Waiver or Limitation of Fees

Pursuant to 5 U.S.C. § 552(a)(4)(A)(iii), documents are required to be provided to requesters without any charge or at reduced fees "if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester." We request a waiver (or, in the alternative, a reduction) of all fees because disclosure of the information would be in the public interest by contributing significantly to the public understanding of the current administration's interpretation of the "federal health care conscience statutes" and the need for the new regulation contemplated in the Unified Agenda.

The Requesting Parties are "primarily engaged in disseminating information" within the meaning of the FOIA statute.[25]

- Founded in 1992, CRR uses information gathered, and our analysis of information gathered, to educate the public through reports, briefing papers, fact sheets, periodicals, articles, blog posts, and other educational materials. CRR also makes the materials gathered available on our public website and promotes their availability on social media channels. CRR has a supporter base of over 780,040 followers across our social media channels, including Instagram (over 223,000 followers), Facebook (over 288,000 followers) and LinkedIn (over 122,000 followers). CRR receives hundreds of thousands of website page views monthly at www.reproductiverights.org, and publishes newsletters for public dissemination.

- NWLC has a supporter base of over 663,856 followers across our social media channels, including Instagram (over 76,000 followers) and Bluesky (over 31,000

[24] *Id.* at 224.
[25] 5 U.S.C. § 552(a)(6)(E)(v)(II).

followers), as well as over 778,000 subscribers to our email list. In August 2026, the NWLC's website, www.nwlc.org, had 152,859 page views, of which 86,850 were unique visitors NWLC regularly issues press releases and statements regarding government activity and related impacts on gender justice and issues that impact women, LGBTQIA+ people, children, and families. In addition, NWLC regularly publishes reports about government conduct and gender justice issues based on its analysis of information and materials from various sources, including government documents and data sets. Accordingly, NWLC is primarily engaged in disseminating information.

Thus, obtaining information about government activity, analyzing that information, and widely publishing and disseminating that information to the press and public are critical and substantial components of the Requesting Parties' work and are among their primary activities.[26]

The Requesting Parties do not make this request for commercial use.[27] As 501(c)(3) nonprofit organizations, the Requesting Parties do not have a commercial purpose and the release of the information requested is not in the organizations' financial interest. Accordingly, the Requesting Parties qualify for a fee waiver and fee benefit.

In the event that you determine you are unable to waive the fees, please provide us with prior notice if the total fees will exceed $200 so that we can discuss arrangements.

Conclusion

The Requesting Parties look forward to working with your agency on this request. Thank you for your prompt attention to this matter.

With respect to the form of production,[28] the Requesting Parties request that responsive materials be provided electronically by email or in PDF or TIF format on a USB drive. Please send any responsive material being provided and acknowledgement of receipt of this request to:

Vidhi Bamzai
Center for Reproductive Rights
1600 K Street, NW, 7th Floor
Washington, DC 20006
T: 202-524-5534
E: vbamzai@reprorights.org

[26] *See, e.g., Leadership Conference on Civil Rights v. Gonzales*, 404 F. Supp. 2d 246, 260 (D.D.C. 2005); *Elec. Privacy Info. Ctr. v. Dep't of Defense*, 241 F. Supp. 2d 5, 11 (D.D.C. 2003).
[27] 45 C.F.R. § 5.54(b)(3).
[28] *See* 5 U.S.C. § 552(a)(3)(B).

If it will accelerate release of responsive records, please also provide responsive material on a rolling basis.

If you do not understand any part of this request, have any questions, or foresee any problems in fully releasing the requested records, please contact Vidhi Bamzai. Thank you for your assistance.

Respectfully submitted,

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