



Protecting the conscience and religious beliefs of health care workers

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The Trump administration has created a new division within the U.S. Department of Health and Human Services (HHS) tasked with protecting the moral and religious beliefs of health care workers. According to Office for Civil Rights (OCR) Director Roger Severino:

America's doctors and nurses are dedicated to saving lives and should not be bullied out of the practice of medicine simply because they object to performing abortions against their conscience. Conscience protection is a civil right guaranteed by laws that too often haven't been enforced. Today's proposed rule will provide our new Conscience and Religious Freedom Division with enforcement tools that will make sure our conscience laws are not empty words on paper, but guarantees of justice to victims of unlawful discrimination.

The new Conscience and Religious Freedom Division within the existing OCR will focus on "vigorously and effectively" enforcing existing laws. In addition to the creation of a new division, HHS has issued a proposed regulation that applies to entities receiving funds from HHS. Under the proposed regulation, if the division becomes aware of any violations through complaints, referrals or news reports, it may terminate funding or refer the matter to the Department of Justice. The rules also grant OCR the authority to investigate intimidation or retaliation in response to the filing of a complaint or assisting OCR.

The proposed rules are open for comment until March 27, 2018. Although Director Severino called out abortions specifically, HHS has referred to sterilization and assisted suicide as examples of procedures that may be contrary to health care workers' conscience and religious beliefs. It remains to be seen how far HHS intends to extend or enforce these protections and others.

However, health care employers need to be prepared and have a plan outlining how to respond if an employee objects or refuses to perform certain medical procedures, including providing reasonable accommodations.

Authors
