



**U.S. Department of Health and Human Services
Office for Civil Rights, Office of the Secretary, HHS
200 Independence Avenue S.W.
Washington DC 20201**

March 16, 2018

**Re: Docket No.: HHS-OCR-2018-0002
45 CFR Part 88 RIN 0945-ZA03
Protecting Statutory Conscience Rights in Health Care**

On behalf of the 1.7 million members of the American Federation of Teachers, including 130,000 health professionals, registered nurses, pharmacists, social workers, technicians, support staff and school nurses, I submit the following comments in opposition to the proposed rule regarding the ability of the Office for Civil Rights to impose new procedures to enforce existing laws concerning the rights of health professionals to participate in certain medical procedures.

This proposed rule would unnecessarily broaden the scope of current laws and regulations that allow health professionals the right to refuse to participate in specific procedures based on religious conscience. Under this proposed rule, the Civil Rights Division would not only respond to complaints and ensure compliance with rules that currently establish an appropriate balance between health provider and patient, but could also intrude upon the rights of patients to receive medically needed care.

The rule expands the powers of the office, the providers and facilities covered; the definition of “religious” or “concerns of conscience”; as well as the range of services and referrals that warrant protection.

Under the guise of providing rights to healthcare providers, this proposed rule places government between a healthcare provider and his or her patient, potentially placing a barrier in front of patients in need of medically necessary care.

The proposed rule goes far beyond women’s reproductive services, and encompasses objections a healthcare worker may have with regard to providing either services or referrals for vaccinations, end-of-life care, care for transgender patients, mental health screening and treatment, even screenings for child abuse or neglect.

American Federation
of Teachers, AFL-CIO

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The **American Federation of Teachers** is a union of professionals that champions fairness; democracy; economic opportunity; and high-quality public education, healthcare and public services for our students, their families and our communities. We are committed to advancing these principles through community engagement, organizing, collective bargaining and political activism, and especially through the work our members do.



The proposed regulations ask for comments that include whether the rule would result in ***“unjustified limitation on access to health care or would improve or worsen patient outcomes/access.” We believe it would both limit access for many vulnerable patients and potentially worsen outcomes if patients are denied care, or if medically necessary care or referrals for care are delayed.***

Under the proposed rule, the Office for Civil Rights will require burdensome record keeping for healthcare entities, individual health providers, lab and research entities, and state and local governments, even health insurers. The rule could also prevent healthcare facilities from hiring the staff they need to provide services to patients and the community.

This rule gives government broad powers to intrude into medical practice—affecting as many as 745,000 hospitals, doctors’ offices and nonprofits. The patients affected could include children whose health and well-being could be threatened if a pediatrician is unable to properly investigate neglect or abuse. The definition of “provider” is so broadly written that ancillary support personnel only marginally involved in care—transporters, for example—could refuse to provide a basic service to a patient. The chilling effect of this rule could prevent healthcare workers from providing medically necessary care.

Even as the Trump administration boasts of cutting regulations and government costs, it is anticipated that implementation will, *“on average, cost \$312.3 million in year one and \$125.5 million annually in years two through five.”*

(Federal Register, <https://www.beckershospitalreview.com/finance/religious-freedom-rule-to-cost-healthcare-system-312m-says-hhs.html>)

The proposed rule moves far beyond the interpretation of existing federal provisions such as the Church, Coats and Weldon amendments; the Affordable Care Act and IRS language; and other public health laws and hospital policies that already exist to provide protection to individuals and health facilities that refuse to participate in certain procedures based on religious objections. The proposed rule misinterprets those current federal laws and attempts to stretch them far beyond their reach by unlawfully redefining statutory language. The proposed rule intends to allow healthcare providers to refuse to provide *any* healthcare service.

Healthcare workers already have the right, under law and policy, to refuse to participate in a specific procedure due to their religious convictions. Healthcare providers and their employers know and exercise these rights, and balance them with their professional obligation and ethics to provide care to all those in need.

Medical standards, an oath, professional license and ethics all dictate that health professionals provide care to all those in need, regardless of their income, ethnicity, race, gender, background, or political or religious belief.

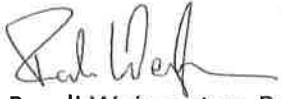
Healthcare professionals haven’t asked for this intrusion into their practice—they view it as government stepping in between their practice and their patients, between an obligation to do

no harm and the ability to provide care and meet the professional and ethical obligations to patients.

We concur with the many organizations representing our patients, our colleagues and our communities. As one patient advocacy leader says, "This is the use of religion to hurt people because you disapprove of who they are."

Thank you for the opportunity to comment on an issue of vital concern to healthcare professionals and their patients.

Sincerely,

A handwritten signature in black ink, appearing to read "Randi Weingarten". The signature is fluid and cursive, with a long horizontal stroke at the end.

Randi Weingarten, President
American Federation of Teachers

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