HHS Releases Final Rule on Conscience Rights



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On January 9, 2024, the Department of Health and Human Services (HHS) Office for Civil Rights (OCR) issued a final rule which provides guidelines for several federal statutes that provide protections for healthcare workers who refuse to provide treatment based on conscience objections. In 2019, the OCR adopted a sweeping new rule that dramatically expanded how various federal laws regarding conscience objections were interpreted. The 2019 rule was held unlawful by three separate federal district courts. The recently adopted final rule readopts portions of the original 2011 conscience objection rule that restored the longstanding process for enforcing federal conscience laws, and incorporates certain provisions of the 2019 rule that strengthen protections against conscience and religious discrimination.

The final rule clarifies the OCR's authorities and enforcement tools, including affirming that the OCR is the designated office for receiving, handling, and investigating complaints; retaining descriptions of the OCR's enforcement process that fall within HHS's authority, and encouraging covered entities to post a notice explaining rights under the federal health care conscience protection statutes. The final rule also rescinds portions of the 2019 rule that would have stripped federal funding from health facilities that required workers to provide any service they objected to, such as abortions and gender-affirming care. According to HHS, the final rule strikes a balance between respecting the religious and moral rights of healthcare providers while protecting access to healthcare. The final rule will become effective on March 11, 2024.

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