



13 Adar 5783
March 6, 2023

Department of Health & Human Services, Office for Civil Rights
Attention: Conscience NPRM, **RIN 0945-AA18**
Hubert H. Humphrey Building Room 509F
200 Independence Avenue, SW
Washington, DC 20201

Subject: Rescission of the 2019 Conscience Rule

Dear Sir or Madam,

This comment is submitted by the Coalition for Jewish Values (CJV) and the CJV Healthcare Council. The Coalition for Jewish Values represents over 2,000 traditional, Orthodox rabbis in matters of American public policy; its Healthcare Council represents observant Jewish medical practitioners and others in the healthcare industry. CJV and the CJV Healthcare Council strongly oppose the alterations found in the Notice of Proposed Rulemaking (NPRM) titled "Safeguarding the Rights of Conscience as Protected by Federal Statutes."

The proposed changes threaten the freedom of conscience and religious belief of healthcare providers, as well as their ability to provide the care they believe to be in the best interests of their patients, by erasing all the elements of the 2019 Rule that guard practitioners from conscience violations, undue pressure, and discrimination. They would render the original 2019 Rule toothless.

The new rule would no longer require the Office of Civil Rights (OCR) to verify compliance or ensure resolution of complaints and violations. As proposed, the rule permits resolution of violations only through "informal means." Employers need not even confirm that complaints and violations have been resolved.

The rule no longer refers complainants to the Department of Justice, nor does it require the relevant authorities (HHS, OCR) to address complaints. Thus, the rule utterly fails to protect complainants from retaliation.

Our nation's Founders recognized common values among diverse groups and acted to protect both speech and religious faith for all in the Bill of Rights. We share many of the same concerns regarding this NPRM with other organizations of many and no faiths, despite the philosophical and religious differences we may have with their ideologies.

The changes open all practitioners to discrimination, leaving them without recourse to the law that guarantees their rights. And as a rabbinic public policy organization, CJV is also particularly concerned that the changes will expose Jewish doctors to bad actors who will take advantage of the lack of oversight to engage in Antisemitic discrimination.

In its press release announcing the NPRM, HHS claims that the “[p]roposed changes would increase access to care and prevent discrimination.” In fact, the federal government’s decision to abandon conscience protection has already spurred an exodus of principled providers who no longer feel welcome in medicine.

We are in contact with numerous Jewish pre-med and medical students who believe that were they to choose certain medical specialties, they would soon be forced to choose between their beliefs and their careers. Some, in fact, have decided to leave medicine altogether.

Simply by proposing regulations that would require medical procedures be performed despite the practitioner’s beliefs, and by threatening to strip protection of conscience as in the current case, the government has already harmed medical care for all Americans by driving practitioners from the field.

It is with great sadness that we must now contemplate an America where the only people able to work in healthcare would be those who surrender their personal moral judgment to the will of the state, those who believe government determines what is moral and good, and those willing to obey orders no matter how irrational or immoral. As Jews, we find this frankly terrifying, given our experience with just this sort of regime and its “healthcare” system less than a century ago.

We strongly oppose the proposed rulemaking, because removing the concrete demands for oversight and enforcement would leave the government paying lip service to conscience protections, while leaving all doctors, including those following Jewish practice, exposed to unfair discrimination without recourse.

Yours sincerely,

Rabbi Yaakov Menken
Managing Director
Coalition for Jewish Values

Yehuda Mond, M.D.
Chairman
CJV Healthcare Council