

# U.S.: New HHS civil rights division to shield health workers with moral or religious objections

By Juliet Eilperin and Ariana Eunjung Cha

The Washington Post (17.01.2018) – <http://wapo.st/2Dzg8kL> – The Trump administration will create a new conscience and religious freedom division within the Health and Human Services Department to ease the way for doctors, nurses and other medical professionals to opt out of providing services that violate their moral or religious beliefs.

Specific details are scheduled to be announced Thursday. But the new policy appears to be broad and aimed at protecting health-care workers who cite those reasons for refusing to take part in abortions, treat transgender patients or participate in other types of care.

Conservative groups praised the move Wednesday as upholding providers' right to religious liberty.

"We think the Trump administration should set an example in enforcing the multiple conscience laws that have been passed since the 1970s to prevent the government from punishing people who have objections to participating in abortions," said David Christensen, vice president of government affairs

at the Family Research Council.

But a number of women's and LGBT rights and physician groups expressed worry that such a policy would further discriminate against vulnerable populations and worsen inequities within health care. Even before the official announcement, several groups vowed to challenge it.

"This will impose a broad religious refusal policy that will allow individuals and institutions to deny basic care for women and transgender people. We know from experience that denial of care compromises care," said Dana Singiser, vice president of government affairs for Planned Parenthood.

By empowering an enforcement authority, the action will reverse policies put in place under President Barack Obama, and resurrect and expand "conscience protections" introduced under President George W. Bush. The new division, which will be part of the HHS Office for Civil Rights, will not only accept complaints from health-care professionals but will be responsible for ensuring that hospitals, clinics and other institutions across the country are accommodating their beliefs.

The previous administration, Christensen said, had "significantly narrowed enforcement of the laws" in place to safeguard those who oppose abortion or hold other religious convictions.

The president signed an executive order last year instructing

agencies to expand religious liberty under federal law, and HHS has been at the leading edge of implementing that directive. The department issued rules in October that provided broad religious and moral exemptions to the Affordable Care Act's mandate that employers, including for-profit companies, provide no-cost contraception coverage.

"President Trump promised the American people that his administration would vigorously uphold the rights of conscience and religious freedom," HHS Acting Secretary Eric Hargan said in a release Wednesday night. "That promise is being kept today. The Founding Fathers knew that a nation that respects conscience rights is more diverse and more free, and OCR's new division will help make that vision a reality."

Critics, however, said that the move represented a major civil rights rollback.

"The administration appears set to go far, far beyond the reasonable accommodations that have long existed in our laws. This is the use of religion to hurt people because you disapprove of who they are," Harper Jean Tobin, the National Center for Transgender Equality's director of policy, said in a statement. "The vast majority of the medical community is against any form of license to discriminate. That the administration is rushing out such a momentous rule in secret, hiding behind a vague description and potentially circumventing normal procedures, just underscores how far they have been straying from established law in this area."

Sarah Warbelow, legal director for the Human Rights Campaign,

said the policy seeks to “devalue the humanity of LGBTQ people.”

“Every American deserves access to medically necessary health care, and that health care should not be determined by the personal opinions of individual health care providers or administrative staff,” she said.

“Conscience” protections have been around for decades, whether in state statutes or as part of hospital policies, but some health-care providers have said those have not been enough to protect them.

In 2009, Cathy Cenzone-DeCarlo, a nurse at Mount Sinai Hospital in New York, was forced to assist in a second-term abortion or face disciplinary action. She sued, but a court rejected her claim that Mount Sinai had violated federal protections because it received nearly \$375 million in research funding from the National Institutes of Health. DeCarlo’s complaint with the HHS Office of Civil Rights was not addressed until 2013, when the hospital changed its policies and procedures so employees were no longer forced to participate in abortions over their objections.

“We look forward to seeing protections for pro-life nurses like Cathy DeCarlo . . . and other health care professionals from being forced to participate in the destruction of innocent lives,” Mallory Quigley, communications director for the antiabortion Susan B. Anthony List, said in an email.

Yet Ben Brown, a gynecologist-obstetrician in Chicago and a fellow with Physicians for Reproductive Health, said the administration's new rule appears to go against the oaths that health-care providers take when they enter their professions, ethics policies at many hospitals and state statutes in many parts of the country that require basic care be delivered to those who need it.

"Imposing their values on a patient is not in consort with our professional job as doctors," he said.

Louise Melling, deputy legal director for the American Civil Liberties Union, said Wednesday that federal employment law allows workplaces to accommodate individuals' beliefs as long as they do not impose an undue hardship.

"Religious liberty gives you a right to your beliefs, but it doesn't give you the right to impose your beliefs on others or harm others, including to discriminate against others," Melling said.

[Website: HHS.gov, Department of Conscience and Religious Freedom](http://www.hhs.gov/department-of-conscience-and-religious-freedom)

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