

HHS Proposes Rule Against Conscience and Religious Discrimination

Healthcare Law Update

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On December 29, 2022, the U.S. Department of Health and Human Services (HHS), Office for Civil Rights (OCR) published a [Notice of Proposed Rulemaking](#) intended to strengthen protections against moral and religious discrimination for those seeking or providing healthcare. The proposed rule partially rescinds a 2019 OCR regulation that provided broad definitions for moral and religious protections, created new compliance regulations, and established a new enforcement mechanism for conscience and religious protections for certain federally funded healthcare entities and providers. The 2019 rule also provided protections for medical professionals who chose not to administer, participate in, pay for, or provide coverage for a medical procedure that was against their beliefs.

In publishing the new proposed rule, HHS noted that the 2019 final rule undermined the statutory balance between safeguarding conscience rights and protecting healthcare access. Under the new rule, the OCR would maintain some aspects of the 2019 rule, including certain enforcement provisions and voluntary notice provisions, and would restore the process for the handling of conscience complaints that was in effect before the 2019 rule. The proposed rule would also provide additional safeguards to protect against conscience and religious discrimination.

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