



Secretariat for Pro-Life Activities

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FEDERAL LAWS PROTECTING CONSCIENCE RIGHTS IMPLEMENTED THROUGH HHS PROPOSED RULE OF AUGUST 21, 2008

Over the past thirty-five years, Congress has enacted many laws to protect rights of conscientious objection in health care. Three such laws – enacted by Congress in 1973, in 1996, and in 2004 and subsequent years as an appropriations rider – will be clarified and enforced through the proposed rule issued by the Department of Health and Human Services on August 21, 2008:

1973 Public Health Service Act (the “Church amendment”): Declares that hospitals or individuals’ receipt of federal funds in various health programs will not require them to participate in abortion and sterilization procedures, if they object based on moral or religious convictions. It also forbids hospitals in these programs to make willingness or unwillingness to perform these procedures a condition of employment. Another provision protects the general conscience rights of individuals in federally funded health service programs. A final provision prohibits entities that receive public health service funds from discriminating against applicants who decline to participate in abortions or sterilizations on account of religious beliefs or moral convictions.

42 U.S.C. § 300a-7(b). Prohibition of public officials and public authorities from imposition of certain requirements contrary to religious beliefs or moral convictions. The receipt of any grant, contract, loan, or loan guarantee under the Public Health Service Act (42 U.S.C. 201 et seq.), the Community Mental Health Centers Act (42 U.S.C. 2689 et seq.), or the Developmental Disabilities Services and Facilities Construction Act (42 U.S.C. 6000 et seq.) by any individual or entity does not authorize any court or any public official or other public authority to require -

(1) such individual to perform or assist in the performance of any sterilization procedure or abortion if his performance or assistance in the performance of such procedure or abortion would be **contrary to his religious beliefs or moral convictions**; or

(2) such entity to -

(A) make its facilities available for the performance of any sterilization procedure or abortion if the performance of such procedure or abortion in such facilities is **prohibited by the entity on the basis of religious beliefs or moral convictions**,

or

(B) provide any personnel for the performance or assistance in the performance of any sterilization procedure or abortion if the performance or assistance in the performance of such procedures or abortion by such personnel would be **contrary to the religious beliefs or moral convictions of such personnel**.

42 U.S.C. 300a-7 (c) Discrimination prohibition.

(1) No entity which receives a grant, contract, loan, or loan guarantee under the Public Health Service Act (42 U.S.C. 201 et seq.), the Community Mental Health Centers Act (42 U.S.C. 2689 et seq.), or the Developmental Disabilities Services and Facilities Construction Act (42 U.S.C. 6000 et seq.) after June 18, 1973, may -

(A) discriminate in the employment, promotion, or termination of employment of any physician or other health care personnel, or

(B) discriminate in the extension of staff or other privileges to any physician or other health care personnel, because he performed or assisted in the performance of a lawful sterilization procedure or abortion, because he refused to perform or assist in the performance of such a procedure or abortion on the grounds that his performance or assistance in the performance of the procedure or abortion would be contrary to his **religious beliefs or moral convictions**, or because of his **religious beliefs or moral convictions** respecting sterilization procedures or abortions.

(2) No entity which receives after July 12, 1974, a grant or contract for biomedical or behavioral research under any program administered by the Secretary of Health and Human Services may -

(A) discriminate in the employment, promotion, or termination of employment of any physician or other health care personnel, or

(B) discriminate in the extension of staff or other privileges to any physician or other health care personnel, because he performed or assisted in the performance of any lawful health service or research activity, because he refused to perform or assist in the performance of any such service or activity on the grounds that his performance or assistance in the performance of such service or activity would be contrary to his **religious beliefs or moral convictions**, or because of his **religious beliefs or moral convictions** respecting any such service or activity.

42 U.S.C. 300a-7 (d). Individual rights respecting certain requirements contrary to religious beliefs or moral convictions. No individual shall be required to perform or assist in the performance of any part of a health service program or research activity funded in whole or in part under a program administered by the Secretary of Health and Human Services if his performance or assistance in the performance of such part of such program or activity would be contrary to his **religious beliefs or moral convictions**.

42 U.S.C. 300a-7 (e). Prohibition on entities receiving Federal grant, etc., from discriminating against applicants for training or study because of refusal of applicant to participate on religious or moral grounds. No entity which receives, after September 29, 1979, any grant, contract, loan, loan guarantee, or interest subsidy under the Public Health Service Act (42 U.S.C. 201 et seq.), the Community Mental Health Centers Act (42 U.S.C. 2689 et seq.), or the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.) may deny admission or otherwise discriminate against any applicant (including applicants for internships and residencies) for training or

study because of the applicant's reluctance, or willingness, to counsel, suggest, recommend, assist, or in any way participate in the performance of abortions or sterilizations contrary to or consistent with the applicant's **religious beliefs or moral convictions**.

1996 Protecting health care entities that decline involvement in abortions for any reason: Prohibits the federal government and state and local governments receiving federal funds from discriminating against health care entities (including residency programs) and individual health care providers that do not provide, train in or refer for abortions.

42 U.S.C. § 238n. Abortion-related discrimination in governmental activities regarding training and licensing of physicians. The Federal Government, and any State or local government that receives Federal financial assistance, may not subject any health care entity to discrimination on the basis that -

- (1) the entity refuses to undergo training in the performance of induced abortions, to require or provide such training, to perform such abortions, or to provide referrals for such training or such abortions;
- (2) the entity refuses to make arrangements for any of the activities specified in paragraph (1); or
- (3) the entity attends (or attended) a post-graduate physician training program, or any other program of training in the health professions, that does not (or did not) perform induced abortions or require, provide or refer for training in the performance of induced abortions, or make arrangements for the provision of such training.

2004 Hyde/Weldon Conscience Protection Amendment: Protects physicians and nurses, hospitals, health insurance companies, and other health care entities from being forced by state or federal governments to perform, pay for, provide coverage of, or refer for abortions. Approved every year since 2004. Current version:

Sec. 508 (d) of Title V of Division G (Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act) of the Consolidated Appropriations Act, 2008, Pub. L. No. 110-161. (1) None of the funds made available in this Act may be made available to a Federal agency or program, or to a State or local government, if such agency, program, or government subjects any institutional or individual health care entity to discrimination on the basis that the health care entity does not provide, pay for, provide coverage of, or refer for abortions. (2) In this subsection, the term "health care entity" includes an individual physician or other health care professional, a hospital, a provider-sponsored organization, a health maintenance organization, a health insurance plan, or any other kind of health care facility, organization, or plan.

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