

April 3, 2009

Office of Public Health and Science  
Department of Health and Human Services  
Attention: Rescission Proposal Comments  
Hubert H. Humphrey Building  
200 Independence Avenue, SW  
Washington, DC 20201



Re: Notice of Proposed Rulemaking on Rescission of Conscience Clause  
Regulation  
RIN 0991-AB49

Dear Sir or Madam:

I am writing on behalf of the Catholic Health Association of the United States concerning the proposal to rescind regulations, effective on January 20, 2009, implementing existing provisions of federal law that protect the conscience rights of health care workers. The conscience regulations are intended to promote awareness of and to enforce the existing laws. The Catholic Health Association supported the promulgation of those regulations, and CHA opposes the current proposal to rescind them.

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The Catholic Health Association of the United States (CHA) is the national leadership organization of the Catholic health ministry, representing more than 2,000 Catholic health care sponsors, systems, hospitals, long-term care facilities, and related organizations. CHA represents the largest group of not-for-profit providers of health care services in the nation:

- 1 in 6 patients in the United States are cared for in a Catholic hospital each year.
- All 50 states and the District of Columbia are served by Catholic health care organizations.
- More than 2,000 sponsors, systems, facilities, and related organizations serve the full continuum of health care.
- Approximately 725,000 individuals are employed in Catholic hospitals.

For over two hundred years, individual and institutional Catholic health care providers have served the common good of our nation and its citizens by caring for persons of all ages, races and religious faces, in a manner consistent with our consciences. For the past three decades, we have done so with the explicit protection

of federal laws which defend our right to provide health care in accord with our religious and moral convictions. These convictions are the source of both the work we do and the limits on what we will do. In recent years, these limits, particularly as they affect health care, have increasingly become a focus of vigorous public debate. While many important constitutional, legal and social theories and arguments are involved, ultimately the central question is whether organizations and individuals should be required to participate in, pay for, provide coverage for or refer for services that directly contradict their deeply held religious or moral beliefs and convictions.

For this reason, CHA has long supported and worked for the enactment of conscience clause protections such as the Church Amendments, Section 245 of the Public Health Service Act, and the Weldon Amendment. These legal protections are essential for the continuation of both our own ministry and our nation's commitment to freedom of religion and of conscience. While these laws and the protections they provide do not depend on the regulations for their force or validity, the regulations do serve an important and necessary purpose: to increase awareness of and compliance with these federal conscience protections.

There are many examples demonstrating ignorance about, or disregard for, the rights of health care providers to act in accord with their conscience. Over the past few years, we have seen a variety of efforts that attempt to force Catholic and other health care providers to perform or refer for abortions and sterilizations, including national advocacy campaigns targeting Catholic hospitals; efforts by state governments to undermine the conscience rights of health care providers; and the American College of Obstetricians and Gynecologists proposing to redefine the standards for ethical practice to force doctors to provide or refer for abortions or sterilizations.

CHA's mission and ministry are grounded in the values that drive each of our organizations. Our ethical standards in health care flow from the Catholic Church's teachings about the dignity of the human person and the sanctity of human life from conception to natural death. These values are the foundation of our commitment to the moral dimensions of health care. They direct us to insist on accessible and affordable health care for all, to care for the sick and dying, and to defend the conscience rights of all health care providers, Catholic and non-Catholic alike.

Our society's commitment to pluralism lies at the heart of our diverse and vibrant nation. For this pluralism to flourish the health care system should allow and encourage involvement of the public and private sectors including voluntary, religious and not-for-profit organizations, and it should respect the religious and ethical values of patients and health care providers alike. Catholics and others with deep respect for the sanctity of life must not be forced to perform procedures – such as the taking of the life of the unborn – that are contrary to their deeply held moral beliefs and principles.

The Notice of Proposed Rulemaking communicates the Department's intent to rescind the conscience rule. However, it also suggests that the Department intends to review the regulation to "reevaluate the necessity for regulations implementing the statutory requirements." CHA believes there is a need to supplement existing legal protections with education and enforcement measures, and urges the Department to reconsider the proposal to rescind the rule.

Because the Notice of Proposed Rulemaking communicates the Department's intent to rescind the conscience rule, I would ask at a minimum that you make clear that it is the Department's intent only to remove the regulations it considers unnecessary, but that the Department is completely supportive of the conscience clause protections such as the Church Amendments, Section 245 of the Public Health Service Act and the Weldon Amendment. Doing this will give providers some assurance of your respect for this essential right.

Conscience is the seat of the moral and ethical convictions that have been the greatest source of protection and commitment to quality care of patients throughout the history of our country. It is the reason the Catholic health ministry is able to maintain our commitment to serving the sick and working to achieve genuine health reform that recognizes the dignity and rights of every person.

I will be very pleased to discuss these comments with you and thank you for your consideration of them.

Sincerely,

A handwritten signature in cursive script that reads "Sr. Carol Keehan". The signature is written in black ink and is positioned above the typed name.

Sr. Carol Keehan, DC  
President and CEO