

March 26, 2018

Alex Azar
Secretary, Health and Human Services
200 Independence Ave, SW
Washington, DC 20201

Re: Protecting Statutory Conscience Rights in Health Care; Delegations of Authority [HHS-OCR-2018-0002]

Dear Secretary Azar:

On behalf of the Endocrine Society, I write to share our concerns with the Proposed Rule, "Protecting Statutory Conscience Rights in Health Care."

Access to Health Care

We are concerned that the proposed rule will put in place regulations that will limit access to health care. The Endocrine Society is the oldest and largest organization of endocrinologists who are dedicated to research on endocrine conditions and care for patients with these conditions. Our members treat people with endocrine-related conditions, including diabetes, obesity, and PCOS, and several vulnerable patient groups, including transgender, intersex, and pregnant women.

The Proposed Rule identifies specific statutes that protect the rights of health care providers to refuse to offer or participate in care to which they have a moral or religious objection. Most of the statutes identified for enforcement by the Office of Civil Rights address the provision of abortion services, sterilization, assisted suicide, and advanced directives. The Society is concerned that some of the statutes, although not explicitly stated, can be interpreted broadly to include provision of any service to which the health care provider objects and could result in discrimination of certain vulnerable patient populations.

While the Society understands that there are health care providers who have objection to providing certain health care services against their will, we believe that every person has the right to comprehensive care that is affordable and easily accessible. While many communities offer alternative providers should one provider object to participating in a person's care, this places an undue burden on the patient to seek out a new health care provider. Transgender individuals, for example, face challenges finding a provider knowledgeable in their transition-related care, and often depend on primary care physicians to provide emergency or preventive care. Refusal to provide this care because they are transgender places the patient's health in jeopardy and violates the Physician Code of Ethics that states that a physician must provide emergency services to a patient in need.



Furthermore, there are residents of many rural and underserved communities that may have access to only one health care provider. We are concerned that the proposed rule would result in forcing them to travel great distances to access care or obtain contraception, for reproductive planning or to treat a medical condition, and may result in the individual forgoing necessary preventive health care, ultimately at a higher cost to both the individual and the healthcare system.

The Society believes that while a physician may want to refuse to perform a service based on a personal moral or religious objection, we need to ensure that this does not open the door to allowing the medical community to discriminate. We recommend that any health care provider who exercises his or her right to refuse to provide or participate in health care that is against their moral or religious beliefs must be responsible for identifying an easily accessible, affordable alternative for the patient to receive care. This allows the provider to follow his or her beliefs without placing an undue burden on the patient.

Administrative Burden

President Trump's administration has prioritized eliminating or modifying regulations that result in a significant administrative burden on an individual or organization. Sections 88.5 and 88.6 of this Proposed Rule identify specific requirements for health care providers and health care organizations to notify the public, patients, and employees of their protections under the conscience and associated anti-discrimination statutes and maintain records evidencing compliance with regulations. We are concerned that these requirements will create an administrative requirement that will result in added expense and additional staff time. We urge the Department to minimize these requirements to the greatest extent possible while still ensuring that an individual is aware of their rights should they be refused treatment.

Thank you for considering our comments. We support the rights of health care providers to follow their religious and moral beliefs but believe that patients must have affordable and accessible health care options as well. If we can provide any additional information, please contact Stephanie Kutler, Director of Advocacy & Policy, at skutler@endocrine.org.

Sincerely,

Susan Mandel, MD
President, Endocrine Society