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### HHS (Once Again) Ramps Up Enforcement of Religious Conscience Protections in Health Care

David O'Neal, Parker Hudson Rainer & Dobbs LLP

Drew Stevens, Parker Hudson Rainer & Dobbs LLP



Many industry observers will recall that, under the first Trump administration, the Department of Health and Human Services (HHS) Office for Civil Rights (OCR) created a new Conscience and Religious Freedom Division focused on enforcing federal religious conscience protections for patients and clinicians in health care. Those laws, which include an assortment of federal laws ([summarized by HHS OCR online](#)) known as the Church Amendments, the Coats-Snowe Amendment, the Weldon Amendment, and Section 1553 of the Affordable Care Act each seek to protect patients, clinicians, and health care staff from being forced to participate in actions that they find religiously or morally objectionable. Most notably, these laws protect individuals from being discriminated against on the basis that they object to participating in abortion-related care,<sup>[1]</sup> sterilization procedures,<sup>[2]</sup> or assisted suicide.<sup>[3]</sup>

Although courts have held that individuals do not have a private cause of action to enforce those laws,<sup>[4]</sup> HHS OCR has the authority to investigate and resolve complaints under these legal authorities. Consistent with the first Trump administration's earlier

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efforts, HHS [stated](#) at the outset of the new administration (in January 2025) that it would once again be a priority to “strengthen enforcement” of these laws, and that HHS also intended to reevaluate its regulations and guidance pertaining to these laws.

In recent weeks, HHS OCR has announced multiple investigations of hospitals and health care systems for their alleged failures to accommodate the conscience preferences of individual clinicians. The [first investigation](#) concerned allegations that a pediatric teaching hospital allegedly terminated a nurse for requesting a religious accommodation to avoid administering puberty blockers and sex hormones to children. In May, OCR [announced a second investigation](#) into a hospital based on information that the hospital’s ultrasound technicians had “allegedly faced potential termination because they have religious objections to conducting ultrasounds in abortion procedures.”

The third investigation, [announced on June 20](#), concerns alleged retaliation against an individual clinician for having requested an exemption from certain employment practices, such as being required to use a patient’s preferred pronouns and to assist in certain sex-trait modification procedures. As explained in the press release, HHS OCR intends for this investigation to focus not only on the specific circumstances underlying the alleged retaliation but also whether the health system’s policies are consistent with the Church Amendments.

In connection with the first of these announcements, the then-Acting Director for HHS OCR stated that his office was “committed to enforcement of our nation’s laws that safeguard the fundamental rights of conscience and religious exercise.” And according to OCR, these investigations are a “part of a larger effort to strengthen enforcement of laws protecting conscience and religious exercise.” Likewise, in [announcing](#) the appointment of the new HHS OCR Director Paula M. Stannard, HHS made clear that “the Office for Civil Rights will drive forward President Trump’s bold civil rights agenda with clarity, energy, and purpose.”

In other words, conscience-related enforcement actions are likely to increase significantly under the second Trump administration. In that vein, health care providers should not overlook that HHS has also published [new guidance](#) on protections for whistleblowers in health care and [announced](#) the launch of a new web portal where whistleblowers can submit complaints regarding the provision of certain gender-affirming procedures for minors. It is fair to expect that the Trump administration will conduct robust investigations into any complaints submitted to HHS OCR pursuant to these new efforts.

It also appears that, based on the investigations announced so far, the Trump administration has adopted an expansive view of the scope of appropriate conscience-accommodations in health care, which appears to extend to objections to providing certain gender-affirming care.

## A Note on the Current Conscience Protection Regulation and the Potential for a New Regulation

The current conscience-protection regulation was issued by the Biden administration in January 2024 and went effective on March 11, 2024. The regulation itself may be [accessed online](#), along with the initial [press release](#), and a [fact sheet](#) summarizing key aspects of the regulation. But the context is key here: this regulation followed an earlier version issued under the first Trump administration that had been enjoined by several federal courts and never went into effect. The Biden regulation reflects a significant “scaling back” of the first Trump administration’s regulation in several respects. Most notably, the current regulation does not require health care entities to post a formal notice to clinicians and staff concerning their conscience rights but merely encourages that step as a best practice. The Biden-era regulation also removed extensive recording-keeping requirements and emphasized that conscience-based investigations were to be handled “by informal means wherever possible.”

Given the second Trump administration’s renewed interest in enforcing conscience-protection laws in health care, it is likely that the administration may once again promulgate a stronger version of the regulation, which may resemble in large part the prior regulation issued during President Trump’s first term. In the meantime, covered health care providers should strongly consider posting the voluntary notice of their intent to comply with federal conscience laws (a model notice is attached as an appendix to the regulation). Beyond that, health care entities should revisit their compliance with federal conscience laws to ensure that, operationally, they are able to do so without compromising patient care or other critical workflows. Lastly, health care providers should continue to monitor HHS OCR’s enforcement efforts in this space, which will provide further insight into OCR’s enforcement priorities in this area.

## Possible False Claims Act Risk Associated with Conscience Protection Laws

It is also important to note the potential connection between these investigations and emerging risk under the False Claims Act (FCA). As discussed in a [recent article](#) regarding the Department of Justice’s (DOJ’s) Civil Rights Fraud Initiative, DOJ intends to “aggressively pursue” FCA actions against recipients of federal funds who commit what the administration believes to be civil rights violations. According to DOJ’s [May 19, 2025 memorandum](#) announcing the initiative, the FCA “is implicated whenever federal-funding recipients or contractors certify compliance with civil rights laws while knowingly engaging in racist preferences, mandates, programs, and activities, including through diversity, equity, and inclusion (DEI) programs that assign benefits or burdens on race, ethnicity, or national origin.”

Assistant Attorney General (AAG) Brett Shumate then reiterated this focus in [announcing](#) DOJ Civil Division’s Enforcement priorities on June 11, 2025, which

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promised that combating discriminatory practices and policies was the top enforcement priority for the Civil Division. AAG Shumate further promised to “use all available resources to pursue affirmative litigation combating unlawful discriminatory practices in the private sector.”

The exact details of the legal theories underpinning DOJ’s Civil Rights Fraud Initiative remain unclear. But as discussed in the [previous article](#), health care providers applying for participation in Medicare Part A must receive clearance from OCR, and as part of that process, providers must submit the [HHS Form 690 Assurance of Compliance](#), which certifies compliance with a panoply of civil rights laws, including each of the conscience laws cited above: the Church Amendments, the Coats-Snowe Amendment, the Weldon Amendment, and Section 1553 of the Affordable Care Act.

To be clear, however, entities receiving federal financial assistance and facing FCA investigations are likely to have strong legal defenses to these types of FCA claims, including on materiality grounds. That said, health care providers should be prepared for the possibility that DOJ will attempt to predicate FCA actions on alleged violations of these conscience-protection laws instead of (or in addition to) administrative enforcement by HHS OCR.

## Renewed Attention to Federal Conscience Law is Required

In light of the multiple investigations announced above and the potential connection with the Civil Rights Fraud Initiative, health care providers must renew their attention to federal conscience-protection laws. Effectively complying with these laws while also preventing patient discrimination or disruption in the provision of patient care, however, is no small challenge. Striking the appropriate balance to mitigate risk in this area requires careful consideration of the enforcement environment, guidance offered in the preamble to the current regulation, and advice from experienced counsel.

## About the Authors

**David O’Neal** is a partner at Parker Hudson Rainer & Dobbs LLP, where he defends companies and individuals in government investigations, False Claims Act litigation against the government and whistleblowers, and complex civil litigation. Prior to joining Parker Hudson, David spent eleven years as an Assistant U.S. Attorney for the Northern District of Georgia, where he was a criminal prosecutor in the Complex Frauds & Cybercrime Section, and also in the Civil Division, where he investigated and litigated False Claims Act cases.

**Drew Stevens** is Of Counsel at Parker Hudson Rainer & Dobbs LLP in Atlanta, Georgia where he practices in complex litigation. In his health care practice, Mr. Stevens counsels hospitals and health systems on compliance with federal nondiscrimination laws, including Title III of the Americans with Disabilities Act, Section 1557 of the

Affordable Care Act, and Title VI of the Civil Rights Act of 1964. He also represents health care providers in litigation brought under these statutes and in civil rights investigations brought by the Department of Justice and the Office for Civil Rights at the Department of Health and Human Services.

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[1] See 42 U.S.C. 300a-7, et seq.

[2] See 42 U.S.C. 300a-7(c)(1).

[3] See 42 U.S.C. 18113.

[4] See, e.g., *Hellwege v. Tampa Fam. Health Ctrs.*, 103 F. Supp. 3d 1303, 1312–13 (M.D. Fla. 2015) (collecting case law). In response to these holdings, federal legislation has been introduced multiple times over the years to create a private cause of action to enforce these laws, but no such legislation has ever been enacted.