



Joint Statement on Discriminatory Proposed Healthcare “Conscience Rule”

The Proposed Rule on “Moral Exemptions & Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act” Harkeens Back to the Dark, Early Days of the AIDS Epidemic

WASHINGTON, DC (February 20, 2018) – It is the position of the ADAP Advocacy Association (aaa+®) and the Community Access National Network (CANN) that the proposed changes put forth by the Department of Health and Human Services (HHS) and the Office of Civil Rights (OCR) are unacceptable, at best, and unconscionable, at worst. People living with HIV/AIDS have been down this path, before; our community refuses to go down this path, again.

Under the guise of “religious freedom,” HHS and the OCR have put forth a proposal that would provide broad and seemingly unfettered “protections” for individuals and entities that refuse to provide healthcare services on the basis of religious, conscientious, and/or moral objections. Both Congress and courts have, in the past, allowed conscientious exemptions to stand for specific procedures and services – abortion, sterilization, contraception, and assisted suicide. These exemptions are, according to the document put forth by the Trump Administration, not good enough. As such, they propose expanding those exemptions to include virtually any healthcare service one may find objectionable, up to and including refusing to provide services to persons whom they find objectionable. This amounts to nothing less than sanctioned discrimination by the government.

For the past twenty years, both states and the federal government have been gradually inserting “religious exemption” privileges into our legislatures in an effort to appease the faux moral outrage expressed by a certain segment of Americans who feel they should not have to do their jobs if it means serving people they dislike or providing services that, while perfectly legal, they find objectionable. This broad overreach by the Executive Branch – a branch that is *not* responsible for crafting, drafting, or passing laws – allows that extreme segment the ability to deny service, so long as they evince barely a soupçon of religious, conscientious, and/or moral objection. This segment has won its exemption from reproductive and end of life services; they must not be granted *carte blanche* to refuse service to those most in need.

Moreover, the proposed rule goes further to suggest that those who refuse on religious, conscience, or moral grounds cannot be forced by current (and presumably future) federal agencies or state agencies to perform these tasks. If this sounds similar to clerks’ refusal to provide marriage services to same-sex couples based on these objections, that’s because it is.



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If the government pays individuals, then they should not be exempted from providing services for any reason other than ability or illegality. The compromise with the clerks involved allowing them to refer them to employees who were able to provide services without prejudice; the proposed rule allows objectors to refuse references to better suited healthcare providers.

We are not so far removed from when our own government, claiming it a “moral imperative,” funded and instituted a program of surreptitious sterilization against the poor, people of color, immigrants, unmarried mothers, the disabled, and the mentally ill. It is no coincidence that those most likely to be impacted by these objectors are one and the same – all people who are now covered by Medicaid, CHIP, and Medicare.

For those people who survived or lived through the HIV/AIDS epidemic in the 1980s and 1990s can attest to what happens when healthcare providers and workers refuse to treat patients on the basis of religious, conscientious, and/or moral objections – the cost is *always* paid in human lives. During the initial outbreak and spread of HIV/AIDS in the 1980s, many physicians and healthcare professionals refused to treat patients living with HIV/AIDS. While many ascribed their refusal to safety concerns, others spoke of their moral objections to treating patients whose “lifestyle choices” resulted in becoming infected with the HIV virus. It was unacceptable, then; it is unconscionable, now.

The proposed rule essentially provides healthcare providers and workers an “out” from having to perform routine services, so long as they protest a religious, conscientious, and/or moral objection to doing so. How far will these “protections” allow them to go? Will they be able to deny services to those whose religious or political affiliations they disagree? Will they be allowed to deny services to racial or ethnic minorities? Perhaps, they will be allowed to deny services to patients whose citizenship is in question? The document put forth by the Trump Administration does little to assuage these concerns, despite its handwringing about the protections put in place to protect providers.

HHS, with this proposed change, attempts to make the immoral moral by allowing objectors essentially blanket authority to deny services, and does so using the Office of Civil Rights – perhaps its most egregious display of enmity. That this Administration proposes allowing providers who serve the most vulnerable populations – recipients of Medicaid, CHIP, and Medicare benefits – to deny services is unconscionable. HHS should immediately remove from consideration this proposed rule.



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Those living with HIV/AIDS and any number of serious chronic medical conditions must be certain that they are always able to access healthcare services without fear of being refused treatment on the grounds of religious, conscientious, and/or moral objection. As such, both the ADAP Advocacy Association and Community Access National Network vociferously oppose this proposal, and invite other organizations to do so, as well.

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About the ADAP Advocacy Association: The ADAP Advocacy Association mission is to promote and enhance the AIDS Drug Assistance Programs (ADAPs) and improve access to care for persons living with HIV/AIDS. **aaa+**[®] works with advocates, community, health care, government, patients, pharmaceutical companies and other stakeholders to raise awareness, offer patient educational program, and foster greater community collaboration.

About the Community Access National Network: The mission of the Community Access National Network (CANN) is to define, promote, and improve access to healthcare services and supports for people living with HIV/AIDS and/or Viral Hepatitis through advocacy, education, and networking. These services must be affordable to the people who need them regardless of insurance status, income, or geographic location.