

PACIFIC INSTITUTE FOR WOMEN'S HEALTH



September 16, 2008

The Honorable Michael O. Leavitt, Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue, S.W.  
Washington, D.C. 20201

Dear Secretary Leavitt:

I have read with much concern the proposed “Provider Conscience Regulations” from the U.S. Department of Health and Human Services (HHS). On behalf of the Pacific Institute for Women’s Health, an organization dedicated to women’s access to the full range of reproductive healthcare options, we believe the proposed regulations will effectively put women’s health, as well as timely, vital health services, at serious risk.

First and foremost, the proposed regulations are extremely broad and offer vague or no definitions for terms the rulemaking proposes to define. For example, HHS says the regulations are intended to clarify nondiscrimination provisions in current law that protect any individual or entity that refuse to participate in medical services based on religious or moral objections. Yet the agency fails to clarify what actions, policies or requirements fall within the prohibitions of the regulations. Equally disturbing is that noncompliance to these obscure regulations will mean loss of essential federal funding.

Secondly, while the regulations cite as a backgrounder current law that protects “health care entities” who do not want to participate in abortion services from discrimination, they offer no definition for “abortion” and leave open the definition of “health care entity” to a sweeping list of options – from individual MDs, to a post grad MD training program. Moreover, the regulations provide an all-encompassing definition of “assist in performance” to mean any activity with a reasonable connection to a procedure, health care service or health service program or research activity.

California already has strong legal protections on its books that protect both the individual who refuses to participate in any medical service based on moral objections, as well as protections for patients seeking care. For example, California pharmacy conscience law sets out a procedure for individuals (i.e. pharmacists) who have objections to dispensing specific types of medications while ensuring patient access to the timely medication or device. How will the proposed regulations reconcile the employer’s accommodation for the objecting pharmacist? Is that discrimination? If so, where does that leave the patient seeking to fill a legal prescription?

The Honorable Michael O. Leavitt, Secretary  
U.S. Department of Health and Human Services, page 2

The Pacific Institute for Women's Health strongly urges HHS to reconsider these proposed regulations as they are much too vague and offer broad interpretations that will potentially put essential services and programs, including access to emergency contraception and hormonal contraception, comprehensive sex education as well as legal sterilization, at serious risk.

Sincerely,



Belle Taylor-McGhee  
President and CEO  
Pacific Institute for Women's Health