

“An educational group for pro-life nurses”

Conscience Protection

**By Ann Bellar, RN, rCNP, Ph.D.
MNFL Board Member**

President Trump is fulfilling his promise of protecting conscience and religious freedom, especially related to the rights of health care workers and health care entities. He has done this by reversing the contraceptive mandate in the Affordable Health Care Act (ACA) in October of 2017, and by creating the new Conscience and Religious Freedom Division (CRFD) within the Department of Health and Human Services (HHS) in January of 2018. The CRFD is housed within the Office of Human Rights in HHS.

This article will review the purpose of the CRFD, existing law related to conscience protection, who and what is covered under existing law, criticisms of the creation of this department, and how to file a complaint

The purpose of the CRFD is two-fold. This division has the mandate to enforce already existing federal laws that cover conscience and religious freedom rights of health care workers and entities, and to handle complaints. The main laws covering conscience of health care workers are: the Church Amendment (1970s), Coates-Snowe Amendment (1996), the Weldon Amendment (2000), and the rules in the ACA.

The Church Amendment protects the rights of individuals and entities that object to performing abortions or sterilization procedures. The Coates-Snowe Amendment bans discrimination against any person or entity that refuses to undergo training to provide abortions, refuses to require or provide such training, or refuses to refer to such training. Additionally, the amendment bans discrimination against health care providers who attend post-physician training programs that do not contain abortion education. The Weldon Amendment states that HHS funds may be withheld from any agency (federal, state or local) that discriminates against a health care entity that does not perform, pay for, provide coverage for, or refer for abortions. The ACA



reaffirmed existing conscience rights laws and added assisted suicide to the list of conscience-protected procedures.

Through enforcing existing law, the CRFD considers the following as covered by these laws: individuals, institutions such as hospitals and other health care facilities, health care insurers and insurance plans including the exchanges, HMOs, all health care workers, researchers, and applicants for internships and residencies. Conscience issues covered by existing law and enforced by CRFD at the present are the following: abortion, contraception, sterilization, and euthanasia.

The years under President Obama were characterized by delays in responding to conscience complaints, refusal to enforce the law, and infringement of health care workers' rights and health care entity rights. Hospitals that refused to do abortions were pressured to provide abortions. Mount Sinai Hospital forced Cathy De Carlo to participate in a late-term abortion by threatening her job, and Vanderbilt School of Nursing made applicants to the Nurse Residency program sign an agreement to participate in abortions as part of the application process.

The creation of the CRFD remedies the flaws of the Obama years. CRFD, through the Office of Civil Rights in the HHS, has the authority to do the following things to protect religious freedom and conscience in health care: receive and handle complaints, initiate compliance reviews with existing law, conduct investigations,

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...To promote public education and awareness about life issues on both ends of the spectrum, from abortion to euthanasia

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From the President

Dear Colleagues,

The content of this issue of our newsletter is very timely. It is becoming increasingly difficult for anyone, health care professional or individual citizen, to speak out with a view on any issue that is contrary to what we see from the mainstream media.

Those who see a broader or different picture of health care, or an opposing view of immigration, or civil rights, or individual rights, than what is espoused by well-funded advocacy organizations, are painted as racist, misogynist, homophobic, anti-civil rights and the list goes on. We hear the demand for "reproductive rights" and "aid in dying" as a practical response to human problems and we should recommend them even if we disagree with them.

In a *New England Journal of Medicine* article, authored by Dr. Ezekiel Emanuel and Ronit Y. Stahl, PhD., the authors insist that "health care professionals who are unwilling to provide referrals to others who are willing to do what they will not, have two choices—"select an area of medicine, such as radiology, that will not put them in situations that conflict with their personal morality, or, if there is no such area, leave the profession."

It is not my intent to make this column a political rant, but to encourage you to become as well-informed as possible on the issues of conscience protection. I don't believe that anyone should be required to check their sincerely-held moral beliefs at the door when they practice their profession.

We can and we must state our positions and require that we not be penalized for them. At present, we are in grave peril of being run over by popular ideas that fly in the face of our humanity.

Love Life!
Diane Trombley



Conscience Protection

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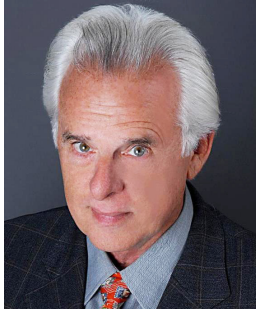
use enforcement tools comparable to other civil rights laws to address violations, and resolve complaints including referral for prosecution to the Department of Justice.

There is opposition to the creation of CRFD. Those opposed to this department and its enforcement capabilities, claim that protecting health care workers' rights to religious freedom jeopardizes patients' rights to care. Those claiming this in written and public forums have failed to provide examples of care not being delivered. The opposition also claims that LGBTQ people will be denied emergency care and lifesaving services. One physician claiming this said that LGBTQ people are denied care all the time by religious people, but this physician also failed to give a concrete case. These criticisms are fear mongering at its worst and cast those health care workers who follow a moral code as immoral people.

In summary, CRFD, a new department, has been created at HHS under the Office of Civil Rights to enforce existing law on conscience and religious freedom of health care entities and health care workers. This department has been empowered to reverse the previous administration's policy of non-enforcement. To report an incident of discrimination against religious freedom or conscience, call toll free **1-800-368-1017**.

Opposing Medical Conscience With a Soft Touch

By Wesley J. Smith



When the Department of Health and Human Services announced its intention to create a new office to emphasize the protection of medical conscience, the screaming from the usual suspects was so loud one would have thought *Roe v. Wade* had been overturned.

Now, *The New England Journal of Medicine* has published an abstruse opinion piece by one Lisa Harris, a professor concerned with “issues along the reproductive justice continuum,” whatever that means.

I bring this up because medical conscience is a burning issue for pro-life medical professionals and those who believe in Hippocratic medicine. The issue is whether doctors, nurses, pharmacists, and others can be forced to participate in requested interventions with which they have a strong religious or moral objection—such as abortion, assisted suicide, and suppressing normal puberty in children with gender dysphoria.

But reading Harris, you would think it was just about “partisans” not understanding the gray areas and nuances of contentious social issues. From, “Divisions Old and New—Conscience and Religious Freedom at HHS”:

I feel an angry argument building in response to HHS’s one-sided framing. But I resist it. Because my challenge these days is to avoid further entrenching polarized positions and to reject the divisiveness that poisons contemporary life. Is it possible, once again, to hold in tension seemingly opposite ideas about abortion? Can we understand abortion as both something that “stops a beating heart” and a fundamental right, rather than insisting it’s only one or the other?

But the conscience issue isn’t about whether we can all just get along and understand people have differences of opinion. It isn’t about “holding in tension seemingly opposite ideas.” It is about protecting doctors from being forced to take a human life or engage in another act in the clinical setting that is violative of their faith or moral beliefs.

Harris just doesn’t get it—or doesn’t want to:

Abortion and parenthood are not mutually exclusive; loving children and ending pregnancies are compatible in patients’ lived experience.

So is loving abortion work and questioning it: abortion providers might express an enormous sense of pride, purpose, and fulfillment in their work, and also say they felt weak-kneed the first time they saw a second-trimester abor-

tion. Some feel sad that in different circumstances, many women would continue their pregnancies, in particular if poverty and economic strain were not issues. There is sometimes a point at which, when pressed, ardently pro-choice caregivers become uncomfortable with abortion. For some, it is a matter of pregnancy duration; for others, the circumstances of an abortion, such as sex selection.

Conversely, some caregivers whose religious beliefs lead them to strongly oppose abortion nevertheless offer assistance. Some religious nurses give medications and offer comfort, compassion, and care during an abortion because they see these tasks as shared purposes of nursing and religion. Sometimes doing so requires “sitting with discomfort in real time” and holding “the tension of two contradictory positions simultaneously.”

To which I respond, bully for them, but so what?

Harris should read Ezekiel Emanuel’s article in the *NEJM* from not too long ago advocating that doctors who refuse to participate in legal procedures requested by the patient should be kicked out of medicine. No balancing of “tensions” and “sitting with discomfort in real time” for him!

And there is nothing in Harris’s piece to make me think she isn’t just as opposed to medical-conscience rights as Emanuel. She just says it indirectly, in a passive-aggressive manner, and with a softer touch.

I believe the real reason the medical establishment, the secular Left, and bioethicists like Emanuel and (I believe) Harris oppose strong legal conscience protections is precisely due to the powerful moral message sent when a respected doctor or nurse says to a patient: “No. I can’t do this thing you request. It is wrong.”

There is an old saying in pro-abortion advocacy: “If you don’t believe in abortion, don’t have one.”

Comments—To which I add a medical-conscience corollary: If you want an abortion, don’t force a doctor to give you one.

Sometimes comity requires living with unambiguity too.

—*National Review*, April 12, 2018
Wesley J. Smith is a senior fellow at the Discovery Institute’s Center on Human Exceptionalism.

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George Delgado, MD, Medical Director of APR
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Tracey Fish, MS, PA-C and Kirstie Almy, MS, PA-C
are physician assistants at Crossroads Care Center.
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