

March 6, 2023

VIA ELECTRONIC SUBMISSION

Secretary Xavier Becerra
Director Melanie Fontes Rainer
Office for Civil Rights
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Room 509F, HHH Building
Washington, DC 20201

RE: Safeguarding the Rights of Conscience as Protected by Federal Statutes, RIN 0945-AA18

Dear Secretary Becerra and Director Fontes Rainer:

Physicians for Reproductive Health and providers at Planned Parenthood affiliates, joined by individual health care providers across the country, are pleased to have the opportunity to submit this comment to the Department of Health and Human Services (the Department) regarding its Notice of Proposed Rulemaking “Safeguarding the Rights of Conscience as Protected by Federal Statutes,” published in the Federal Register on January 5, 2023.

The more than 300 below signatories write in support of the Department’s proposal to rescind the most harmful components of the Trump Administration’s May 2019 Final Rule, “Protecting Statutory Conscience Rights in Health Care; Delegations of Authority” (2019 Rule). The 2019 Rule attempted to drastically expand the scope and reach of existing federal health care refusal statutes beyond what was intended by Congress. The Rule sought to allow virtually anyone—from a hospital’s Board of Directors to the individual who schedules a patient’s appointment—to deny health care services and information based on their religious or personal beliefs, without regard for patient wellbeing, even in emergencies. The 2019 Rule was discriminatory, violated multiple federal statutes, ignored congressional intent, fostered confusion, and would have harmed the health and well-being of patients across the country, contrary to the Department’s stated mission.

As health care providers, we have witnessed first-hand the harm health care refusals have on our patients and communities. We share in this comment just some of the countless stories of patients who have been denied medically appropriate and often lifesaving care because of the objections of their provider or health care facility. In 2010, Tamesha Means began miscarrying and went to a religiously affiliated hospital in Muskegon, Michigan. The hospital refused to end her pregnancy because of its religious policies, did not inform her that terminating her pregnancy was the safest course of action, and sent her home twice. When she returned to the hospital for a third time in excruciating pain, the hospital only began treating her when she began delivering, and her baby died within hours.¹ Another woman experiencing pregnancy loss was denied care for ten days at a

¹ American Civil Liberties Union, “Tamesha Means v. United States Conference of Catholic Bishops,” June 30, 2015, <http://www.aclu.org/cases/tamesha-means-v-united-states-conference-catholic-bishops>.

religiously affiliated hospital outside Chicago, Illinois.² In 2015, Jionni Conforti scheduled a gender-affirming surgery at a Catholic hospital in Paterson, New Jersey and was denied the procedure because of the hospital's religious affiliation.³ In Arkansas, Jennafer Norris endured a number of dangerous pregnancy complications and could not risk becoming pregnant again. She requested a sterilization procedure at the time of her Cesarean delivery, but her Catholic hospital provider refused to give her the procedure.⁴ In 2016 in Albuquerque, New Mexico, a 13-year-old girl was prescribed an IUD to treat menstrual complications and the hormone misoprostol to make the IUD insertion easier. But when her mother went to fill her prescription at Walgreens, the pharmacist refused to fill the misoprostol because of his "personal beliefs," telling her to try another pharmacy.⁵ And just last month the National Catholic Bioethics Center put out statements questioning the mechanism of action for emergency contraception and arguing that religious providers should not be forced to dispense or provide this essential care.⁶ Refusals of care based on personal beliefs undermine open communication between providers and patients, interfere with providers' ability to provide care according to medical standards, and ignore the reality that as providers we want to provide care that is aligned with our professional, ethical, and moral convictions.

Health care refusals force patients to delay or forgo the care they seek, threatening their health and their lives. A refusal itself is a stigmatizing and harmful experience, and the delay in treatment while a patient locates another provider or institution, if they are able to do so, can result in worse health outcomes. For patients who live in rural areas or in areas with a high proportion of religiously affiliated health systems, they may have no alternative providers to which they can turn. Moreover, patients that are uninsured, whose insurance networks do not include providers that will meet their needs, or who are unable to afford to pay out of pocket for services or travel to another location, may also effectively be blocked from necessary care. For patients in medical emergencies, these refusals can have dire consequences.

This reality is especially troubling because individuals who already face multiple and intersecting forms of discrimination are more likely to encounter refusals. Research shows that Black, Indigenous, and other people of color disproportionately give birth at Catholic hospitals and are more likely to be denied necessary care.⁷ Furthermore, in 2022, nearly a third of transgender or nonbinary respondents to a nationally representative survey, including almost half of transgender

² Julia Kaye et al., "Health Care Denied: Patients and Physicians Speak Out About Catholic Hospitals and the Threat to Women's Health And Lives" (American Civil Liberties Union, May 2016), https://www.aclu.org/sites/default/files/field_document/healthcaredenied.pdf.

³ Lambda Legal, "Lambda Legal Files Federal Lawsuit Against NJ Catholic Hospital That Denied Care to Transgender Man," Lambda Legal, January 5, 2017, https://www.lambdalegal.org/blog/20170104_lambda_legal_sues_nj_catholic_hospital-for-trans-man.

⁴ Julia Kaye et al., "Health Care Denied."

⁵ ACLU of New Mexico, "ACLU of New Mexico and Southwest Women's Law Center File Human Rights Complaints against Walgreens," June 2, 2017, <https://www.aclu-nm.org/en/press-releases/aclu-new-mexico-and-southwest-womens-law-center-file-human-rights-complaints-against>.

⁶ The National Catholic Bioethics Center, "Press Release: The NCBC Responds to FDA Action on Plan B One-Step Label," February 2, 2023, <https://www.ncbcenter.org/ncbc-news/fdaplanb>.

⁷ Kira Shepherd and Katherine Franke, "Bearing Faith: The Limits of Catholic Health Care for Women of Color" (Public Rights/Private Conscience Project, Columbia Law School and Public Health Solutions, January 2018), <https://lawrightsreligion.law.columbia.edu/sites/default/files/content/BearingFaith.pdf>.

or nonbinary respondents of color, reported that they experienced at least one kind of refusal by a health care provider in the past year.⁸

These existing harms are being further compounded by the Supreme Court’s decision in *Dobbs v. Jackson Women’s Health Organization* and state efforts to ban access to abortion and gender affirming care. Due to the constantly shifting legal landscape patients are being forced to leave their communities and travel further and further distances to get necessary care. It is critical that patients do not face refusals in the shrinking areas where such care is available.

The relationship between a patient and a provider is predicated on trust. As health care providers, we have a duty to provide high-quality, medically appropriate care and information to our patients. When a provider refuses to treat or provide information to a patient based on a personal objection, they violate this trust, disregard their ethical and legal duty to provide informed consent, and abuse the inherent power differential between patient and provider, which harms a patient and may ultimately discourage them from seeking care elsewhere. Indeed, health care is not a commodity, whereby if a patient cannot obtain a service from one provider they can simply seek it from the next. It is deeply problematic that many federal refusal statutes only seek to protect the morals of providers who refuse care, when as providers, we consider our duty to serve patients and provide them the care they need a deeply personal and moral responsibility.

We are grateful the Department recognizes the harm caused by refusals and is moving to rescind the most harmful parts of the 2019 Rule. As states continue to restrict access to sexual and reproductive health care, it is critical that the Administration continues to act to protect patients from discrimination based on the personal beliefs of individuals and institutions. Access to comprehensive sexual and reproductive health care, including abortion, miscarriage care, gender affirming care, and contraception, is essential to the dignity and well-being of all. We look forward to continuing to work with you to make this a reality.

Sincerely,

Jenny Abrams, MD (Washington)
Louise Acheson, MD, MS (Ohio)
Cindy Adam, MS, FNP-C (California, Colorado, Illinois, New Mexico, Maine, Virginia)
Pamela Adelstein, MD (Massachusetts)
Mehruba Alam OMS-1 (Utah)
Rebecca C. Amaru, MD (New York)
Grace Andrews RN, CRNP (Pennsylvania)
Amna Anees, MD (West Virginia)
Amanda Antonio, MD (Florida)
Sara Aoun, DPS, PA-C (New York)
Andrea Arena, MD (Rhode Island, Connecticut)
Rev. Emmie Arnold, Chaplain (New York)

⁸ Caroline Medina and Lindsay Mahowald, “Advancing Health Care Nondiscrimination Protections for LGBTQI+ Communities” (Center for American Progress, September 8, 2022), <https://www.americanprogress.org/article/advancing-health-care-nondiscrimination-protections-for-lgbtqi-communities/>.

Elizabeth Baker (Minnesota)
Joey Banks, MD (Montana)
Emily Barker, MD (Illinois, Missouri)
Nicole Barrington (New York)
Carter Baxter, Chaplain, M.Div. (Maine)
Crystal Beal, MD (Alaska, California, Florida, Montana, Washington, Wyoming)
Paula Bednarek, MD, MPH (Oregon)
Michael A. Belmonte, MD (Colorado)
Alina Beltrami, MS, OMS Candidate Class of 2025 (Iowa)
Joanna Berg, MS3 (New York)
Cecelia Berkner, OMS I (Oregon)
Alenna Beroza, MS, Medical Student (Wisconsin)
Erin Berry, MD, MPH, FACOG (Washington, Oregon, Idaho, Georgia, Ohio)
Caroline Beshers (Illinois)
Amrita Bhagia, Medical Student (South Dakota)
Cristiana Bianchi PA-S (New York)
Hailey Bjerkestrand, PA-C (Washington)
Christina Blot, FNP-BC (New York)
Amy Gordon Bono, MD, MPH (Tennessee)
Claudia Borzutzky, MD (California)
Peter Bota, Medical Student (California)
Kristyn Brandi, MD MPH (New Jersey)
Debra E Bright, M.D. (California)
Rachelle Brilliant, DO, FAAFP (New York)
Mindy Brittner MD, MS, FAAFP (New York)
Chaplain Carolyn Browender, M. Div. (Minnesota)
Dr. MJ Brown, FAAEM (Tennessee)
Sarah Buchman, MD (Virginia)
Stephanie Bumgardner, RN, BSN (Oregon)
Amanda Burgess, MA, OMSII (Ohio)
Donna Burkett, MD (DC, Virginia)
Blythe Bynum, MD (Pennsylvania)
Annie Caffery, MPH, MD Candidate '26 (Louisiana)
Marie Caggiano, MD, MPH (Massachusetts)
Brittney Calatayud, BS, MS3 (Pennsylvania)
Sarah Caplan, OMS II (Colorado)
Smita Carroll, MD, MBA (New Mexico)
Arianna Cassidy, MD (California)
Mackenzie Cater, MD, MBA (Ohio)
Brianna Cathey (Texas)
Nicole Chaisson, MD, MPH (Minnesota)
Brianna Chambers, OMS, BS (Georgia)
Shannon Chiu, Medical Student (Missouri)
Sarah Coffey, BA, MD student (Missouri)
Vicki L Cohen, CNM (Oregon)
Ariella Coler-Reilly, MD PhD Candidate (Missouri)

Jennifer E Coles MD, MPH (Pennsylvania)
Em Covert, MD (New York)
Chris Creatura MD (New York)
Dr. Kay Daniels (California)
Joanna Darnell BSN, RN (North Carolina)
Gillian Dean, MD, MPH (New York)
Cara DelVecchio DNP, AGNP-C (California)
Kelley Dennings, MPH, FPHW (Florida)
Chanelle Diaz, MD, MPH (New York)
Daphne Du MS3 (California)
Rachel Duncan, MS3 (Texas)
David L. Eisenberg, MD, MPH, FACOG (Missouri, Illinois)
Talia Eisenstein, MD (Illinois)
Holly Elgas, M.D. (Colorado)
David Emanuels, MS4 (California)
Marsha Epstein MD (California)
Ava Erulker, Medical Student (New York)
Constance Evans PAS23 (New York, Nevada)
Katherine Farris, MD, CMO (North Carolina, South Carolina, Virginia, West Virginia)
Charis Fasoldt, PA-S (New York)
Geetha Fink, MD, MPH (Washington)
Joshua Finlay, MS (Medical Student, Illinois)
Shelbie Fishman, MS2 (Missouri)
Montida Fleming, MD (California)
Mary Flynn MD (Massachusetts)
Bridget Foley, OMSI BCOM (New Mexico)
Charles Forster MD (Washington)
Alhambra Frarey, MD, MSHP (Pennsylvania)
Jessica Friedman MD, MPH (Maryland)
Cassy Friedrich MD (California)
S. Frome, FNP (Oregon, Washington)
Joanne Fruth, MD (North Carolina)
Lindsey Fuller, MD, MPH (Georgia, Florida)
Sarah Galloway, Medical Student (California)
Sabrina Gamm PA-S (New York, Massachusetts)
Sarah Gantley MSN, APRN, FNP-BC (Connecticut)
Erika Beatriz Garcia, MD (Texas)
Andrea Gersh, APRN, FNP-C (Texas, California, Utah, Nevada, Oregon)
Mimi Giang (Missouri)
Nancy Marie Gibson, FNP, MSN (Oregon)
Natalie Gladstein, MD (Michigan)
Samantha Glass, MD (Washington)
Meghan Kate Goddard, BS (New York)
Emily Godfrey MD (Washington)
tatiana gonzalez (California)
Tania Gonzalez, MPH (Puerto Rico)

Suzan Goodman MD MPH (California)
Lisa Gorham, BA (Missouri)
Caroline Grace, OMS-I, M.S. (Kirksville, Missouri)
Madeleine Graziano BS, PA-S (New York, Massachusetts)
Katrina Green, MD FAAEM (Tennessee)
Jesse Hackell MD FAAP (New York)
Leila Hagshenas, MD, MS, FAAFP, AAHIVS (New York)
Rachel Han, Medical Student (California)
Stephanie Hanna, CNM (Connecticut)
Laura Harris MD MPH MS (California)
Scott Hartman, MD, FAAFP (New York)
Katie Hartnett (New Hampshire)
Sally Hellerman, MS, FNP-BC (Connecticut)
Christine Henneberg MD MS (California)
Christian Garcia Hernandez MS4 (California)
Gregory D Hirsch MD Chief Medical Officer (New Jersey)
Jennifer L. Hoffman, CRNP (Pennsylvania)
Jessica Holmes, MD (Arizona)
Diane Horvath, MD, MPH, FACOG (Maryland)
Jennifer K Hsia, MD, MPH (California)
Maureen Hurley, MS1 (South Dakota)
Elaine Jaworski, MD (New York)
N. Sydney Jemmott, MD, MPH (Georgia)
Brenda Ji (California)
Judith Johnson MD (Minnesota)
William B. Jordan, MD, MPH (New York)
Megan Jorgensen, Medical Student (South Dakota)
Dr Karen Kade (Florida)
Madeleine Karpiuk (Utah)
Anne Kaufhold MD (California)
Lisa Keegan, AGPCNP-BC, WHNP-BC (Massachusetts)
Courtney Kerestes, MD MSCTR (Ohio)
Cartney Kesten, ARNP (Washington)
Zara Khan, Medical Student (Texas)
Betty Kolod, MD, MPH (New York)
Julia Kooser BS (Pennsylvania)
Atsuko Koyama, MD, MPH (Arizona)
John S. Kruse, MD, PhD (California, Hawaii)
Bhavik Kumar, MD MPH (Texas)
Liza Kunz, MD, FACOG (California, New York)
Josh Lambert (South Dakota)
Eric Lantzman MD (Florida, Pennsylvania)
Sarra Larif, Medical Student (California)
Janelle Lee, MD, MS (Arizona)
Isabel Lee, MD (California)
Amy Levi, PhD, CNM, WHNP-BC (New Mexico)

Sara B. Levine, MD, MPH (Connecticut, New York, California, Ohio, North Carolina, Michigan, Colorado)
Samantha Levy, PMHNP, DNP, MPH (New York, Rhode Island)
Hannah Light-Olson (Nashville, Tennessee)
Allison Linton, MD MPH (Wisconsin)
Sarah Lloyd, MD (Washington)
Aria Lucchesi, M.S. (New York, California)
Lindsay Mahaney, Medical Student (Iowa)
Ayiti-Carmel Maharaj-Best, MD (Connecticut, Rhode Island)
Katelyn Maliszewski (Iowa)
Nora Malloy, MD student (Missouri)
Megan Malone-Franklin (Pennsylvania)
Kathryn Mancini, MS2 (New York)
Hayley Marcus, MD (Colorado)
Angela Maresca PA-C (Connecticut)
Kristin Mason, OMS1 (New Mexico)
Heather Maune, MD, FACOG (Nashville, Tennessee)
Shannoa May, APRN (Washington, Nevada)
Isabella Mazzei, OMS II (Des Moines, Iowa)
Dr. Julia McDonald, DO MPH (Maine)
Sharon McEvoy ARNP (Washington)
Lucia McLendon, MD (New York)
Sarah McNeil, MD, FAAFP (California)
Rebecca Miller, MD (Pennsylvania)
Elissa Moody, BA (M4 at UVA) (Virginia)
Joann Moschella, DO (California)
Julie Mullette, RN (Montana)
Karissa Murray, PA-S (New York)
Nicole Muskett PA-C (Montana)
Suhas Nareddy (California)
Scott Nass, MD MPA FAAFP AAHIVS (California, New Jersey)
Rachel Neal, MD (Georgia)
Ella Nettnin (California)
Bich-May Nguyen, MD, MPH (Texas)
Rhonda Nichols MD, FACOG (New Jersey)
Mollie Nisen, MD (Washington)
Olivia Nixon-Hemelt, medical student (Texas)
Grace Obanigba, MS3 (Texas)
Aishat Olatunde, MD, MS, FACOG (Pennsylvania)
Lauren Ondrejka, MS1 (Arizona)
Michelle Orengo-McFarlane, MD (California)
Estefannia Palacio, abortion and birth doula (Montana, New York)
Medha Palnati, MS1 (New York)
Jill Pasewark, Abortion Doula (Montana)
Neha Patel, B.S. (Texas)
Jessica Patton (Oklahoma)

Ian Peake (Oklahoma)
Marina Perez-Plazola, MD Candidate (Missouri)
Claire Perry, Medical Student (Connecticut)
Emily Petersen, MSII (South Dakota)
Kristin D. Pfeifauf, JD (MD Candidate, 2023) (Missouri)
Joanna Pham, PA-S (Albany, New York)
Emmet Phipps FNP-BC (New York)
Lindsay Pierce, PA-S (New York)
Sriya Podila MS1 (Massachusetts)
Sara Poindexter, PA-C (Connecticut)
Neha Pondicherry, BA (California)
Holly Pranaat, CNM, MS (New York)
Tala Radejko, MD MSc PGY-2 (Massachusetts)
Uma Reddy, Medical Student (Texas)
Dominique Rehl, OMS-2 (Ohio)
Inés A. Riera, APRN (Connecticut)
Danielle Rinaldi, MS3 (Virginia)
Zoe Robinow, MS4 (California)
Catherine Romanos (Ohio, Michigan)
Amanda Rook, Medical Student (South Dakota)
Kate Rooney, DNP, APRN, AGPCNP-BC (Connecticut)
Frances A. Rosario (Albany County)
Mark Rose, M.D. Candidate 2024 (California)
Dr Stephanie Rose, Do (North Carolina)
Anna Roselle (Massachusetts)
Nicole Roselli, MD, MBA, FACOG (New York)
Robert A Rosen MD FACEP (Tennessee, Virginia)
Jessica Rosen, MD (Tennessee)
Rachel Rosenberg, MD (New Jersey)
Dannaca Lynn Ross (Nashville, Tennessee)
Ashley Rousseau, OMSI (Colorado)
Susan Rubin, MD, MPH (New York)
Stacey Leigh Rubin, MD MPH (Maryland)
Randi Rubovits-Seitz, M.D. (DC)
Parivash A. Sanders, DO (California)
Ololade Sanusi, MD (Maryland)
V. Claire Saux, 2nd year medical student (Louisiana)
Robyn Schickler, MD (Florida)
Lauren Schild, MS1 (South Dakota)
Samuel E. Schneider, DO. Medical Director, Range Community Clinic (Washington)
Olivia Schneider, First Year Medical Student (New York)
Ann Schutt-Aine, MD (Texas)
Carter Scott, BSPH, Medical Student (Missouri)
Casi Scully, MSN, CRNP, FNP-BC (Pennsylvania)
Sarah Sebastian, Medical Student (Virginia)
Mark Segal MD (Ohio)

Susan Seibold-Simpson, PhD, MPH, RN, FN (New York)
Karol Serafin, MD (New York)
Brandi Shah, MD, MPH (Alabama)
Tasha Shaulis, CNM (Oregon)
Divya Shenoy, MD, MPH (DC, Maryland, Virginia)
Erin Silliman MS, OMS I (Arizona, Washington)
Rebecca Simon, MD (Pennsylvania)
Taryn Sirias, MD applicant (California)
Angelina R. Skokan, CNM, WHNP-BC (Oregon, Washington)
Candace Smith, MD (Boston MA)
Juliana Smith, medical student (California)
Rachel Joy Smith, BS, Medical Student (Massachusetts)
Karina Smolyar (California)
Dr Jessica Snyder, DO (South Carolina)
Arielle Soldatenko, Medical Student, Washington University School of Medicine (Missouri)
Shane Solger, MD (New York)
Kimberly Sorensen MSN, FNP-C (California)
Joshua St. Louis, MD, MPH, FAAFP, FASAM, AAHIVS (Massachusetts, New Hampshire)
Nancy L. Stanwood, MD, MPH (Connecticut)
Zoey Stealey, PA-S '24 (New York)
Lee Stetzer, MD, MPH (New York)
Melinda Strnad, MD (Oregon)
Olivia Suozzo, MD Candidate (Missouri, Vermont)
Sasha Susman, APRN (Connecticut)
Samantha Sutcliffe, CNM, WHNP (Rhode Island, Connecticut, DC)
Kristin A Swedish, MD, MPH (New York)
Samantha Cohen Tamulis, CNM, PhD (Connecticut)
Jennifer Tang, MD, MSCR (North Carolina)
Lynn E. Taylor, MD (Rhode Island)
Zoe Taylor, MD MBA (Washington)
Brianna Tebo PA-S (New York)
C. Thompson, MD, FACOG (Tennessee)
Maren Thorson, RN, BSN (Washington, California)
Angeline Ti, MD, MPH (Georgia)
Dr. Leah Torres (Alabama)
Gaura Tulsyan, MS1 (Washington)
Alyssa Turner, OMS-II (West Virginia)
Student Doctor Brianne Vanderheyden (Colorado)
Lisandra Veliz (California)
Emily Venner (Virginia)
Rohini Verma, MD Candidate at Washington University in St. Louis (Missouri)
Olivia Villers, MS2 (California)
Maya Vishnia (Virginia)
Y. Wade, MD (Georgia)
Pooja Wall, PA-C (California)
Robin Wallace, MD MAS (North Carolina)

Sarah Walleth, MD MPH (Michigan)
Lin-Fan Wang, MD MPH (Pennsylvania)
Kevin Wang, MD (Washington)
Helen Weems, MSN, APRN, FNP (Montana)
Alise Wenner OMS-I (Alabama)
Libby Wetterer MD (New York)
Kiley C. Whalen, PA-S (New York)
Jessica B. Wilder, CNM, NP (Rhode Island, Connecticut)
Kristin L Wiley, CNM (Connecticut)
Sarah Wilhelm, MD (Washington)
Tracey Wilkinson, MD, MPH (Indiana)
Emory Williams MD (Washington, New Mexico)
Gregory J. Wong, MD (California)
Melissa L. Wong, MD (Massachusetts)
Meggie Woods MD (California)
Diana Wu, MD (California)
Susan Yanow MSW (Massachusetts)
Leilah Zahedi-Spung, MD (Colorado)
Jessica Zaman, CNM (Oregon, Washington)
Ismat Zerín, MS (New York)
Nikki Zite, MD, MPH (Tennessee)