

HHS DELAYS IMPLEMENTATION OF THE CONSCIENCE RULE

The U.S. Department of Health and Human Services (“HHS”) **agreed** on June 28, 2019, to delay implementation of the recently finalized Conscience Rule. We wrote about the Final Conscience Rule and its potential impact on health care employers and organizations in **our recent blog**.

The Conscience Rule prohibits discrimination of individuals who refuse to participate in health care services they find religiously or morally objectionable, such as the provision of abortion or performance of certain advance directives. It was published with the aim of buttressing the enforcement of conscience and anti-discrimination laws already in effect by imposing additional requirements on covered employers to maintain records, cooperate with OCR’s investigations and compliance reviews and submit written assurances and certifications of compliance to HHS related to protected employees’ exercise of conscience. The rule also prohibits retaliation against those asserting their rights.

The final rule was **published** on May 21, 2019 and was set to take effect on July 22, 2019. In May, several states, cities and municipalities collectively filed suits against HHS in the U.S. District Court of the Southern District of New York and in the U.S. District Court of the Central District of California, alleging that the Conscience Rule will undermine the states’ ability to run their health care programs effectively. In response to a stipulated request for an order to postpone the Conscience Rule’s effective date, HHS agreed to postpone the effective date of the Conscience Rule until November 22, 2019, while the litigation is pending.

WHAT DOES THE DELAY MEAN FOR YOUR ORGANIZATION?

The stipulation to delay implementation of the final rule means that HHS will no longer require health care employers to come into compliance on July 22, 2019. For now, health care employers can anticipate they may have to come into compliance as early as November 22, 2019, but they may elect to wait and see what happens in the pending litigation before spending significant time and money on written assurances, policy development and staff training. Hall Render will continue to follow developments in the pending litigation and the effective date of enforcement.

The information provided above is solely for educational purposes and does not constitute legal advice with respect to your particular situation. If you have questions about the New Conscience Rule or if you would like to be updated on these developments, please don’t hesitate to contact:

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