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***Current Issues in
Reproductive Health Care***

Allen Killworth Jennifer Nelson Carney

**Ohio Hospital Association Annual Meeting
May 20, 2025**

Agenda



- Status of Abortion Law in Ohio
- HIPAA Reproductive Health Care Rule
- Gender Affirming Care
- Church Amendments and other Right of Conscience Laws

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Status of Abortion Law in Ohio

Status of Abortion Law in Ohio

- The Last Three Years:
 - *Dobbs* and Heartbeat
 - Ohio Constitutional Amendment
 - Ohio Litigation
- Ohio Law - Current status

Status of Abortion Law in Ohio

The Last Three Years – Dobbs and Heartbeat

- *Ohio Pre-Dobbs*
 - Many, many abortion-related laws + the (enjoined) 2019 *Heartbeat* laws
 - *Heartbeat* banned abortion after fetal cardiac activity is detected (around six weeks)
 - Two major tests in effect:
 - Ban on abortion after viability – ORC 2919.17
 - Ban an abortion after 20 weeks “probable post-fertilization age” – ORC 2919.205
- *Dobbs v. Jackson Women’s Health*
 - Supreme Court of the United States - June 24, 2022
 - “The Constitution does not confer a right to abortion. Roe and Casey are overruled, and the authority to regulate abortion is returned to the people and their elected representatives.”
- *Post - Dobbs*
 - *Heartbeat* was in effect for several months after the *Dobbs* decision; then enjoined

Status of Abortion Law in Ohio

The Last Three Years – Constitutional Amendment

- Issue 1: The Right to Reproductive Freedom with Protections for Health and Safety
 - Passed on November 7, 2023; effective December 7, 2023.
 - 56.78% voted to add this amendment to the Ohio Constitution
 - New Article I, Section 22 of the Ohio Constitution:
 - *Every individual has a right to make and carry out one's own reproductive decisions, including... contraception, fertility treatment, ... miscarriage care, and abortion.*
 - *The State shall not... burden, penalize, prohibit ... voluntary exercise of this right...unless the State demonstrates that it is using the least restrictive means to advance the individual's health in accordance with widely accepted and evidence-based standards of care.*
 - *However, abortion may be prohibited after fetal viability. But in no case may such abortion be prohibited if in the professional judgment of the pregnant patient's treating physician it is necessary to protect the pregnant patient's life or health.*

Status of Abortion Law in Ohio

The Last Three Years – Constitutional Amendment

- Amendment Impact on *Heartbeat* litigation (in litigation since 2019)
 - October 24, 2024: Hamilton County Court of Common Pleas issued a permanent injunction blocking *Heartbeat* from taking effect
 - “Ohio voters have spoken. The Ohio Constitution now unequivocally protects the right to abortion. The State cannot properly undermine this right unless it satisfies an exception set forth in the Amendment by using the least restrictive means to advance the individual’s health in accordance with widely accepted and evidence-based standards of care. Article I section 22 of the Ohio Constitution is unambiguous. To give meaning to the voice of Ohio’s voters, the amendment must be given full effect, and laws such as those enacted by S.B. 23 must be permanently enjoined.”

Status of Abortion Law in Ohio

Post-Amendment Litigation

- On August 23, 2024, the Franklin County Court of Common Pleas granted a *preliminary* injunction of the Ohio law that requires patients to wait 24 hours following their first appointment to obtain an abortion.
- On August 29, 2024, the Hamilton County Court of Common Pleas *temporarily* blocked a law that contained numerous restrictions on medication abortions in Ohio:
 - Enjoined the restriction that prevented advanced practice clinicians from prescribing and dispensing mifepristone.
 - Extended the window that prescribers can prescribe mifepristone in Ohio from nine weeks, six days (the 10-week period) to up to 12 weeks, 6 days.
 - Allowed medication abortions to be done via telehealth.

Status of Abortion Law in Ohio

Post-Amendment Litigation

- On February 13, 2025, the Hamilton County Court of Common Pleas permanently enjoined enforcement of S.B. 27, a group of laws requiring embryonic and fetal tissue from a procedural abortion to be disposed of by cremation or interment.
- The court stated that S.B. 27 is a restriction on abortion that clearly violates the Ohio Constitution.
- More litigation is expected to address other restrictions on abortion that plaintiffs believe run afoul of the new Constitutional Amendment.

Status of Abortion Law in Ohio

Current State

Ban on abortion after viability – ORC 2919.17

- *Exception:* to prevent the death of the pregnant woman or serious risk of the substantial impairment
 - **But... the Constitutional Amendment:** *But in no case may such abortion be prohibited if in the professional judgment of the pregnant patient's treating physician it is necessary to protect the pregnant patient's life or health.*
- *Requires:* viability testing after 20 weeks gestation prior to performing abortion except in medical emergency
- *Reporting:* by physician to ODH regarding these procedures
- *Penalty:* criminal

Ban on abortion after 20 weeks post-fertilization - ORC 2919.205

- *Exception:* to prevent the death of the pregnant woman or serious risk of the substantial impairment
- *Requires:* determination of probable post-fertilization age except in medical emergency
- *Other requirements:* notice, testing, and reporting requirements

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HIPAA

Reproductive Health Care Rule

Overview

- Following the U.S. Supreme Court’s decision in *Dobbs v. Jackson Women’s Health Organization* decision, HHS enacted “HIPAA Privacy Rule to Support Reproductive Health Care Privacy” in April 2024.
- Effective December 23, 2024 (except NPP revision requirement), the RHC Rule was intended to modify HIPAA to protect access to and the privacy surrounding reproductive health care.
- The RHC Rule does the following:
 1. New Prohibition. Prohibits the use or disclosure of PHI when it is sought to investigate or impose liability on individuals, health care providers, or others who seek, obtain, provide, or facilitate reproductive health care that is lawful under the circumstances in which such health care is provided, or to identify persons for such activities.
 2. Attestation Requirement. For certain requests for PHI potentially related to reproductive health care, RHC Rule requires CEs and BAs to obtain a signed attestation from the requestor stating request is not for prohibited purpose.
 3. Notice of Privacy Practices Revisions. Requires CEs to modify their NPPs regarding the RHC Rule and reproductive health care privacy. Compliance required by February 16, 2026.

Prohibition

- Under 45 CFR 164.502, the RHC Rule prohibits the use of or disclosure by a CE/BA for either of the following activities:
 1. To conduct a criminal, civil, or administrative investigation into or impose criminal, civil, or administrative liability on any person **for the mere act of seeking, obtaining, providing, or facilitating reproductive health care, where such health care is lawful under the circumstances in which it is provided.**
 2. The identification of any person for the purpose of conducting such investigation or imposing such liability.
- Under the RHC Rule, the prohibition applies where a CE/BA has reasonably determined that one or more of the following conditions exists:
 1. The reproductive health care is lawful in the state in which such health care is provided under the circumstances in which it is provided (e.g., if a resident of one state traveled to another state to receive reproductive health care, such as an abortion, that is lawful in the state where such health care was provided).
 2. The reproductive health care is protected, required, or authorized by Federal law, including the U.S. Constitution, regardless of the state in which such health care is provided (e.g., if the reproductive health care, such as contraception, is protected by the Constitution).

Presumption

- Presumption that reproductive health care provided by a person other than the CE/BA receiving the request was lawful. In such cases, the reproductive health care **is presumed to be lawful under the circumstances in which it was provided** unless one of the following conditions are met:
 1. The CE/BA has **actual knowledge** that the reproductive health care was not lawful under the circumstances in which it was provided.
 2. The CE/BA receives factual information from the person making the request that demonstrates a **substantial factual basis** that the reproductive health care was not lawful under the circumstances in which it was provided (e.g., a law enforcement official provides evidence that the information being requested is related to an abortion that was illegal under state law where the procedure was performed).
- Note: Law enforcement request for such information, by itself, is **not** enough to overcome the presumption.

Attestation Requirement

- RHC Rule requires, for certain requests, that a CE/BA upon receipt of a request for PHI **potentially related to** reproductive health care, obtain a signed attestation that the use or disclosure is not for a prohibited purpose. This attestation requirement applies when the request is for PHI for any of the following:
 - Health oversight activities under 45 CFR 164.512(d).
 - Judicial and administrative proceedings under 45 CFR 164.512(e).
 - Law enforcement purposes under 45 CFR 164.512(f).
 - Disclosures to coroners and medical examiners under 45 CFR 164.512(g)(1).
- HHS states that the attestation (1) gives a CE/BA a means of obtaining written representations from persons requesting PHI that their requests are not for a prohibited purpose, and (2) puts requestors on notice of the potential criminal penalties for those who knowingly and in violation of HIPAA obtain PHI for a prohibited purpose.

Revisions to Notice of Privacy Practice

- The RHC Rule requires Covered Entities to revise their NPPs to account for this new rule.
- Regarding the RHC Rule, the revised NPP must include:
 - A description, including at least one example, of the types of uses and disclosures prohibited by the RHC Rule (under 45 CFR 164.502(a)(5)(iii)) in sufficient detail for an individual to understand the prohibition.
 - A description, including at least one example, of the types of uses and disclosures for which an attestation is required by the RHC Rule (under 45 CFR 164.509).
- In addition:
 - New requirement that NPP must include a statement adequate to put the individual on notice of the potential for information that is disclosed pursuant to HIPAA rules to be subject to redisclosure by the recipient and no longer protected by HIPAA.
 - NPP is required to address Part 2 by (1) if CE creates or maintains Part 2 records, providing notice regarding uses and disclosures of Part 2 records and individual's rights and CE's duties regarding Part 2 records; (2) including statement related to prohibition on use of Part 2 records in civil, criminal, administrative, or legislative proceedings, and exceptions.

Status of RHC Rule?

- RHC Rule challenged in federal court in Texas. *Purl v. HHS*, 2:24-CV-228-Z. On December 22, 2024, court issued a preliminary injunction prohibiting enforcement of the RHC Rule **but only** against the plaintiff in this case.
- In issuing the preliminary injunction the court found plaintiff likely to succeed on the merits, holding that the RHC Rule exceeds the statutory authority of HHS as Congress had stated “[n]othing in [HIPAA] shall be construed to invalidate or *limit* the authority, power, or procedures established under any law providing for the reporting of disease or injury, child abuse, birth or death, public health surveillance, or public health investigation or intervention.”
- Uncertain whether Trump administration will enforce RHC Rule or seek to rescind the RHC Rule. Note that RHC Rule resulted, in part, from Biden’s EO 14076 “Protecting Access to Reproductive Health Care Services” which, among other things, directed HHS to consider HIPAA guidance to strengthen protection of PHI related to reproductive health care. Trump revoked that EO in EO 14079 “Enforcing the Hyde Amendment.”

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Gender Affirming Care

Gender Affirming Care

- What is Gender Affirming Care?
- Ohio
- Federal activity
 - Executive Orders
 - Agency Activity
 - Lawsuits

Gender Affirming Care

What is Gender Affirming Care?

- GAC is an umbrella term covering a range of different medical interventions used to support individuals where there is a conflict between the individual's gender identity and the gender they were assigned at birth. It includes:
 - Social affirmation which includes changes to appearance and pronouns
 - Medications like puberty blockers and hormone therapy
 - Surgical procedures that are gender affirming
 - Legal affirmation which is things like changing gender and names on legal documents
- The United States has approximately 1.6 million people ages 13 and older who identify as transgender.
- Most of the legal and political focus on GAC has been related to care for minors.

Gender Affirming Care

Ohio

- Ohio's law setting forth prohibitions on gender affirming care for minors – ORC Chapter 3129
 - HB 68 was originally to be effective April 24, 2024.
 - On April 16, 2024, a temporary restraining order stopped it from taking effect.
 - On August 6, 2024, a Franklin County judge allowed it take immediate effect.
 - On March 18, 2025, the Tenth District Court of Appeals reversed Franklin County, ordered an injunction.
 - On April 29, 2025, the Supreme Court of Ohio allowed the law to take effect while the appeal proceeds.

Gender Affirming Care

Ohio

Physician Restrictions – ORC 3129.02

- Physicians are prohibited from knowingly:
 - Performing gender reassignment surgery on a minor.
 - Prescribing cross-sex hormones or puberty blocking drugs for the purpose of assisting the minor with gender transition.
 - Engaging in conduct that aids or abets in the practices described above.
- Physicians **MAY CONTINUE** to prescribe hormones or puberty blocking drugs to a minor if the minor has been a continuous Ohio resident since April 24, 2024, and the physician has:
 - Initiated a course of treatment for the minor prior to April 24, 2024, that includes the prescription of cross-sex hormones or puberty blocking drugs; and
 - Determined and documented in the minor's medical record that terminating the minor's prescription for the cross-sex hormones or puberty blocking drugs would cause harm to the minor.

Gender Affirming Care

Ohio

Mental Health Professional Restrictions – ORC 3129.03

- Mental health professionals are prohibited from diagnosing or treating a minor who presents for diagnosis or treatment of a gender-related condition :
 - Without first obtaining the consent of at least one parent, at least one legal custodian, or the minor individual’s guardian.
 - Without screening the minor for both of the following during the course of diagnosis and treatment: 1) other comorbidities that may be influencing the minor’s gender related condition and 2) physical, sexual, mental, and emotional abuse and other traumas.

Gender Affirming Care

Ohio

Exceptions – ORC 3129.04

- Treatment (including surgery and drugs/hormones) is still permitted for any minor who:
 - Was born with a medically verifiable disorder of sex development.
 - Received a diagnosis of a disorder of sexual development, in which a physician determined through genetic or biochemical testing that the individual does not have normal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action for a biological male or biological female.
 - Needs treatment for any infection, injury, disease, or disorder that has been caused or exacerbated by the performance of gender transition services, whether or not the services were performed in accordance with state or federal law.

Gender Affirming Care

Ohio

Enforcement, Medicaid coverage

- Violations are considered unprofessional conduct and subject to discipline by the applicable licensed board. The statute specifies that other private causes of action arising under common law are not preempted. The Ohio AG may bring an action to enforce compliance with the statute. ORC 3129.05.
- Medicaid will not cover gender transition services for minors, with the following exceptions: 1) one of the exceptions applies; 2) mental health services provided for a gender-related condition; or 3) any services that are not gender transition services. ORC 3129.06

Gender Affirming Care

Ohio

Administrative Rules

- It is impermissible for gender reassignment surgery or genital gender reassignment surgery **or any direct or indirect referral** for such procedures to be provided **at a health care facility** to any minor individual. (1) "Direct or indirect referral" includes, but is not limited to, in any way facilitating such care at another facility or providing any resources or information on where or how to receive such care. OAC 3701-83-60(B)
- It is impermissible for gender reassignment surgery or genital gender reassignment surgery **or any direct or indirect referral** for such procedures to be provided **at a hospital** to any minor individual. (1) "Direct or indirect referral" includes, but is not limited to, in any way facilitating such care at another facility or providing any resources or information on where or how to receive such care. OAC 3701-59-06(B)

Gender Affirming Care

Federal activity – Executive Orders

- ***Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government*** - January 20, 2025
 - States the “policy of the United States to recognize two sexes, male and female” and indicates that the “sexes are not changeable.”
 - Directs federal agencies to enforce laws protecting men and women as biologically distinct sexes and to use the term sex and not the term gender, and the EO also prohibits the federal government from expending federal funds to promote “gender ideology,” which is the idea that gender identity can differ from biological sex.
- ***Protecting Children From Chemical and Surgical Mutilations*** – January 28, 2025
 - Directs the federal agencies to take “appropriate steps” to ensure that institutions receiving Federal research or education grants (like medical schools and hospitals) end the “chemical and surgical mutilation of children.”
 - Terminates coverage for certain GAC government-provided medical benefits and orders HHS to withdraw its March 2022 guidance on Gender Affirming Care, Civil Rights, and Patient Privacy, and to issue new guidance protecting whistleblowers who take action related to ensuring compliance with this EO.
 - Directs the DOJ to prioritize enforcement of an existing law prohibiting female genital mutilation (18 USC 116).

Gender Affirming Care

Federal activity – Litigation

PFLAG v. Trump. District of Maryland (February 4, 2025)

- Argues the EOs are unconstitutional presidential action and infringe upon Congress's powers; that the EOs discriminate on the basis of sex and disability in violation of current US laws; that the EOs violate the Fifth Amendment's equal protection and substantive due process guarantees; and that the EOs violate the First Amendment's free speech clause.
- Plaintiffs have asked for temporary, preliminary, and permanent injunctive relief to keep the agencies from implementing or enforcing the EOs or otherwise withholding federal funding based upon the fact that a healthcare entity provides GAC.
- On March 4, the court granted a preliminary injunction which enjoins the federal government from conditioning, withholding or terminating federal funding under Section 3(g) of the Gender Ideology EO and Section 4 of the Mutilation EO based on the fact that a healthcare entity or health professional provides gender-affirming medical care to a patient under the age of nineteen.

Gender Affirming Care

Federal activity – Litigation

State of Washington v. Trump Western District of Washington (February 7, 2025)

- Three states and three physicians filed suit, arguing that the Mutilation EO violates Fifth Amendment equal protection by creating classifications based upon transgender status and sex and facially discriminating on the basis of transgender status and sex without sufficient government interest.
- Plaintiffs also allege that the order violates separation of powers by imposing conditions on the receipt of federal funding by medical institutions, despite the fact that Congress never authorized such a provision and Congress explicitly barred medical institutions from denying individuals access to federally funded services based on gender dysphoria under 29 U.S.C. § 794 (a law relative to nondiscrimination under federal grants and programs).
- Finally, the plaintiffs allege that the order violates the Tenth Amendment by regulating the practice of medicine without congressional authorization.
- This case is currently under a preliminary injunction against enforcement of the majority (but not all) of the Mutilation EO.

Gender Affirming Care

Federal activity – Litigation

United States v. Skrmetti – Supreme Court (April 2023)

- Tennessee Senate Bill 1, which prohibits all medical treatments intended to allow “a minor to identify with, or live as, a purported identity inconsistent with the minor’s sex” or to treat “purported discomfort or distress from a discordance between the minor’s sex and asserted identity,”
- Case was brought by families of transgender minors who claim this law violates the equal protection clause of the 14th Amendment of the U.S. Constitution.
- The Biden administration intervened in the case to challenge the state’s law. After the U.S. Court of Appeals for the 6th Circuit upheld Tennessee’s ban, both the Biden administration and the families asked the Supreme Court to take the case.
- The Supreme Court heard oral arguments on December 4, 2024. Then in early February, the Trump administration notified the Supreme Court that, in its view, the TN law does not violate the Constitution. However, the Trump administration did still urge the Court to decide the case.
- A decision in this case is expected in June 2025.

Gender Affirming Care

Federal activity – Agency Activity

- **February 20, 2025 HHS Notice**
 - <https://www.hhs.gov/sites/default/files/ocr-rescission-february-20-2025-notice-guidance.pdf>
 - Rescission of HHS Notice and Guidance on Gender Affirming Care, Civil Rights, and Patient Privacy
- **March 5, 2025 CMS Quality and Safety Special Alert Memo**
 - <https://www.cms.gov/files/document/qssam-25-02-hospitals.pdf>
 - Alerting providers to the “dangerous chemical and surgical mutilation of children”
 - CMS “may begin taking steps in the future to align policy”
- **March 6, 2025 HRSA letter to Hospitals and Grant Recipients**
 - <https://www.hrsa.gov/sites/default/files/hrsa/grants/march-2025-letter-hospital-admins-grantees.pdf>
 - Notice that HRSA will review its policies, grants and programs and “may begin taking steps”

Gender Affirming Care

Federal activity – Agency Activity

- **April 11, 2025 letter from HHS to State Medicaid Directors**
 - <https://www.cms.gov/files/document/letter-stm.pdf>
 - Reminds states of their responsibility to ensure that Medicaid payments are consistent “efficiency, economy, and quality of care” under the Social Security Act.
 - Notes that federal Medicaid regulations prohibit federal funding for coverage of services whose purpose is to permanently render an individual incapable of reproducing, and under 42 CFR 441.253(a), is specifically prohibited for such procedures performed on a person under age 21.
 - Encourages states to review their Drug Utilization Review programs to ensure alignment with current medical evidence and federal requirements, including the evidence outlined in the letter.

Gender Affirming Care

Federal activity – Agency Activity

- **April 22, 2025 Memo from the U.S. Attorney General to DOJ employees**
 - <http://bit.ly/3H3sCGO>
 - Puts “medical practitioners, hospitals, and clinics on notice” that female genital mutilation is a felony, instructs the FBI to investigate potential criminal acts, and directs U.S. Attorneys to prosecute such acts.
 - Directs the Consumer Protection Branch to investigate violations of the Food, Drug, and Cosmetic act for alleged misbranding of puberty blockers and hormones.
 - Directs the Civil Fraud section to conduct FCA investigations of false claims submitted for any non-covered services related to radical gender experimentation.
 - Notifies whistleblowers that DOJ is eager to work with them.
 - Eradicates from use guidelines from the World Professional Association for Transgender Health (WPATH).
 - Offers partnership with states to “identify leads, share intelligence, and build cases against hospitals and practitioners violating federal or state laws banning female genital mutilation and other, related practices.”
 - Describes an initiative to draft legislation creating a federal private right of action for children and parents of children who have received gender affirming care and later wish to impose liability on providers of such care.

Gender Affirming Care

Federal activity – Agency Activity

■ May 1, 2025 HHS Review of Evidence and Best Practices

- <https://opa.hhs.gov/gender-dysphoria-report>
- 400-page document in response to the Executive Order directing the HHS Secretary to publish an evidence review related to gender dysphoria in young people
- Has received criticism by researchers, advocates, and medical associations for its “methods, lack of alignment with current guidance, promotion of misinformation, support of certain practice, and decision not to disclose the authors” – Kaiser Family Foundation
- The American Academy of Pediatrics said it is "deeply alarmed" by the HHS report. "For such an analysis to carry credibility, it must consider the totality of available data and the full spectrum of clinical outcomes rather than relying on select perspectives and a narrow set of data... This report misrepresents the current medical consensus and fails to reflect the realities of pediatric care."

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Church Amendments and Other Right of Conscience Laws

Background

- Health care “right of conscience” laws.
 - **Church Amendments (42 USC 300a-7)**. Enacted in the 1970s in part in response to the 1973 Supreme Court decision in *Roe v. Wade* and to address concerns that doctors and faith-based hospitals would be forced to perform abortions or sterilizations as a condition of receiving federal funds. Prohibits requiring individuals or institutions receiving grants under certain federal programs to perform or assist in abortions or sterilizations or to provide facilities or personnel for the same.
 - **Weldon Amendment**. Enacted in 2004, prohibits discrimination against health care providers who do not provide, pay for, provide coverage for (in the case of a health plan), or refer for, abortions.
 - **Public Health Service Act Section 245**. Enacted in 1996, prohibits discrimination against both individuals and institutions (including doctors, hospitals, and postgraduate training programs) that refuse to undergo training in, require or provide training in, provide referrals for, or perform, abortions.
 - **ORC 4743.10**. Enacted in 2021, general medical conscience clause providing that “a medical practitioner, health care institution, or health care payer has the freedom to decline to perform, participate in, or pay for any health care service which violates the practitioner's, institution's, or payer's conscience as informed by the moral, ethical, or religious beliefs or principles held by the practitioner, institution, or payer.”

Church Amendments Regulations

- 2008: Final Rule enacted under Bush Administration.
- 2011: Final Rule enacted under Obama Administration rescinding much of the 2008 Final Rule.
- 2019: Final Rule enacted under Trump Administration reinstated much of the 2008 Final Rule while revising and expanding on its provisions, including by (1) adding additional statutory provisions to the rule's enforcement scheme; (2) adopting definitions of various statutory terms; (3) imposing assurance and certification requirements; (4) reaffirming OCR's enforcement authority; (5) imposing record-keeping and cooperation requirements; (6) establishing enforcement provisions and penalties; and (7) adopting a voluntary notice provision.
- 2024: Final Rule enacted under Biden Administration rescinds much of the 2019 Final Rule.
 - Maintains the general framework that OCR has used since 2011 to examine potential violations of federal refusal of care laws.
 - Allows OCR to initiate compliance reviews; conduct investigations; utilize existing enforcement regulations (and withhold funding) for grants, contracts, and other programs and services; and make enforcement referrals to the U.S. Department of Justice.
 - Failure to respond to a request for information or to a data or document request will result in a negative inference.
 - Less flexibility for OCR interpretation of the various right of conscience laws being enforced.

Executive Order and HHS Guidance

- EO 14187 “Protecting Children from Chemical and Surgical Mutilation” issued January 28, 2025.
- HHS issued “Guidance for Whistleblowers on the Chemical and Surgical Mutilation of Children” to explain existing protections for whistleblowers who take action related to ensuring compliance with EO 14187.
 - HIPAA – Guidance highlights existing whistleblower protections in HIPAA (45 CFR 164.502(j)(1)) and says:
Note that the protection from liability for covered entities under 45 C.F.R. 164.502(j)(1) applies even where a disclosure that falls within the Privacy Rule’s whistleblower provisions might otherwise violate another provision of the Privacy Rule, including the modifications made to the Privacy Rule by the HIPAA Privacy Rule to Support Reproductive Healthcare Privacy.
 - Legal Protections – Guidance describes various federal law protections for whistleblowers including HIPAA prohibition on retaliation (45 CFR 164.530(e)(1)).
 - <https://www.hhs.gov/protect-kids/whistleblower-guidance/index.html>
- HHS launched portal “where whistleblowers can submit a tip or complaint regarding the chemical and surgical mutilation of children.”
 - <https://www.hhs.gov/protect-kids/index.html>

HHS Initiative & OCR Investigations

- New initiative by HHS to strengthen enforcement of laws protecting conscience and religious exercise. Announced January 27, 2025: “It shall be a priority of the Department to strengthen enforcement of these laws. To this end, the Office for Civil Rights will reevaluate its regulations and guidance pertaining to Federal laws on conscience and religious exercise.”

- OCR Investigations

- April 2025, OCR investigation of a major pediatric teaching hospital for allegedly “firing a whistleblower nurse after she requested a religious accommodation to avoid administering puberty blockers and cross-sex hormones to children, which she opposed due to religious beliefs about the sterilization effects of these interventions.”

<https://www.hhs.gov/press-room/hhs-launches-whistleblower-form-to-protect-kids.html>

- May 2025, OCR investigation of hospital’s compliance with federal law, including the Church Amendments, “based on information that ultrasound technicians employed by the hospital allegedly faced potential termination because they have religious objections to conducting ultrasounds in abortion procedures.”

<https://www.hhs.gov/press-room/hhs-protects-workers-conscience-rights.html>

Presented by



Jennifer Nelson Carney
614-872-2430
jnelsoncarney@ebglaw.com



Allen Killworth
614-872-2415
akillworth@ebglaw.com



The Trump Administration: Resources for Employers and Health Care Organizations

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