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# Insights

## OCR Concludes Investigation of Allegations that the State of Hawaii Unlawfully Discriminated Against Pregnancy Resource Centers

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On March 21, 2019, the Office for Civil Rights ("OCR") at the U.S. Department of Health and Human Services ("HHS") issued a resolution to resolve complaints brought against the State of Hawaii by two pregnancy resource centers (the "Centers"). The Centers brought the complaints in 2017 alleging that Hawaii engaged in impermissible discrimination when it required the Centers to "disseminate a government-scripted notice that promotes abortion—a service for which they do not counsel, recommend, refer, or offer."

In September 2018, the U.S. District Court for the District Court of Hawaii entered permanent injunctions against the Hawaii Attorney General in favor of the Centers, based on the Centers' claims that Hawaii law violated their free speech rights under the First Amendment. The District Court's ruling is similar to the ruling made by the U.S. Supreme Court holding that California's FACT Act was likely unconstitutional based on claims of First Amendment violations. As previously noted, OCR also took action with respect to California's FACT Act.

Through its investigation, OCR determined that Hawaii Act 200 may have violated the Weldon and Coats-Snowe Amendments. The Weldon and Coats-Snowe Amendments prevent state and local governments that receive federal funds from discriminating against a health care entity or provider on the basis that the entity or provider does not refer, perform, or make arrangements for abortions.

Hawaii took action following OCR's investigation and the District Court's injunctions by issuing a memorandum to resolve the complaints. Hawaii's Department of the Attorney General will no longer enforce Act 200 against limited service pregnancy centers.

If you or your organization has any questions about this article or OCR's Resolution, please contact Robert A. Anderson at randerson@kdlegal.com or Alexandria M. Foster at afoster@kdlegal.com.