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Insights

OCR Seeks Balance Between COVID-19 Precautions and Fundamental Religious Liberties

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In a pair of press releases, the Office of Civil Rights ("OCR") announced that it had resolved unrelated complaints relating to religious liberty in the context of overzealous Covid-19 precautions. The **first case** involved a hospital preventing a Catholic priest from visiting with a seriously injured patient. OCR referred to guidance previously published by CMS regarding **access to chaplains or clergy** (page 8). In the **second case**, OCR persuaded a hospital to accommodate a Muslim medical student opposed to shaving his beard on religious grounds. In both cases, OCR announced amicable resolutions within one month of first receiving each complaint.

A serious accident in late May of 2020 sent a married couple to the hospital in Maryland. The wife requested that Prince George's Hospital Center of the University of Maryland Medical System permit a Catholic priest to visit her seriously injured husband. He was in intensive care, and his condition was deteriorating. Despite the priest's willingness to wear any necessary personal protective equipment, the hospital refused to allow him to visit. Acting in partnership with CMS, OCR "provided technical assistance" to the hospital. OCR noted that CMS guidance provides that "facilities must ensure patients have adequate and lawful access to chaplains or clergy." Shortly thereafter, the hospital and the University of Maryland Medical System modified its visitation policy at all of its hospitals permitting visits by clergy, even in COVID-19 units. The system requires clergy to sign a written waiver as a condition to visiting. The OCR press release quotes its Director, Roger Severino, as saying, "We applaud the University of Maryland Medical System for working to save lives while respecting what people live for, which for many includes the exercise of their faith. Too many people have died alone during this crisis, but this resolution shows that hospitals can practice compassion and safety without sacrificing either."

In a separate matter, OCR intervened when Staten Island University Hospital ("SIUH") in New York City required a Muslim medical student to shave his beard, take a fit-test, and wear an N95 respirator mask while serving patients. Shaving his beard violated the student's religious beliefs. He passed a fit test using a beard gown. Nonetheless, SIUH required that he shave the beard. He filed a complaint in June, and OCR intervened.

SIUH accommodated the medical student by allowing him to wear an alternative form of PPE referred to as a Powered Air Purifying Respirator. OCR wrote, "Accommodations like these avoid forcing people to choose between following their profession or following their faith. Religious freedom and patient safety should both be preserved, even and especially during times of crisis."