

Insights

Six States and Various Religious Organizations File Suit to Invalidate the New Office of Civil Rights Anti-Discrimination Regulations

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The Franciscan Alliance and Christian & Medical Dental Associations joined six states in a lawsuit filed against Health and Human Services (“HHS”) in a Texas federal court on August 23, 2016, challenging the regulations that the HHS’ Office of Civil Rights (“OCR”) finalized this past May (“Final Rules”). The Plaintiffs requested that the court declare the Final Rules to be unconstitutional and a violation of various federal laws. Additionally, Plaintiffs asked to enjoin the OCR from beginning to enforce the Final Rules. HHS has yet to formally respond to the lawsuit.

The suit primarily concerns the OCR’s redefinition of the term “on the basis of sex” to include prohibiting discrimination against individuals on the basis of “gender identity,” “sex stereotypes,” and “termination of pregnancy” in the Final Rules. According to the Final Rule, covered entities must treat individuals consistent with their gender identity, and covered entities’ health plans cannot offer discriminatory coverage on the basis of sex, as that term is now defined. The Plaintiffs allege that these provisions, including the OCR’s interpretation of the rules, force providers to cover gender transition services against their medical judgment and requires providers to cover services related to abortions or sterilizations notwithstanding their religious objections to the contrary. The lawsuit claims that such requirements are unconstitutional, violate various federal laws, and exceed the OCR’s authority.

The Court has not issued a ruling on the lawsuit at present. Until a court has ruled otherwise, the anti-discrimination requirements, including the publication of the required notices by October 16, 2016 is a valid regulatory requirement. We will keep you updated on any developments as the lawsuit progresses.

If you have any questions about this matter or the Final Rules, please contact Brandon Shirley at bshirley@kdlegal.com or by telephone at (317) 238-6229.