

June 17, 2019

ATTORNEY GENERAL RAOUL SEEKS PRELIMINARY INJUNCTION TO STOP HEALTH CARE DISCRIMINATION

HHS Final Rule Would Expand Ability of Hospitals, Businesses, and Individuals to Refuse to Provide Necessary Health Care

Chicago — Attorney General Kwame Raoul, along with a coalition of 23 cities, states, and municipalities, filed a motion to seek a preliminary injunction to stop the U.S. Department of Health and Human Services (HHS) from adopting a Final Rule that would expand the ability of hospitals, businesses, and individuals to refuse to provide necessary health care on the basis of businesses' or employees' "religious beliefs or moral convictions."

"We must not tolerate discrimination of any kind, particularly when it deprives people of important health care services," Raoul said. "I am proud to stand with my fellow attorneys general to defend in court patients' right to make their own health care decisions in consultation with their providers."

[The preliminary injunction](#) seeks to stop the Final Rule from taking effect in July 2019, arguing that it would undermine the delivery of health care by giving a wide range of health care institutions and individuals a right to refuse care, based on the health provider's own personal views. The Rule drastically expands the types of providers eligible to make such refusals, ranging from ambulance drivers to emergency room doctors to receptionists to customer service representatives at insurance companies. The Rule makes this right absolute and categorical, and no matter what reasonable steps a health provider or employer makes to accommodate the views of an objecting individual, if that individual rejects a proposed accommodation, a provider or employer is at risk of noncompliance with the Final Rule.

Under the Rule, a hospital could not inquire, prior to hiring a nurse, whether he or she objected to administering a measles vaccination – even if this was a core duty of the job in the middle of an outbreak of the disease. Or an emergency room doctor could refuse to assist a woman who arrived with a ruptured ectopic pregnancy, even if the woman's life was in jeopardy.

Raoul and the coalition filed a lawsuit against HHS in May 2019 to challenge this rule. The lawsuit further alleges that the risk of noncompliance is the termination of billions of dollars in federal health care funding. If HHS determines, in its sole discretion, that states or localities have failed to comply with the Final Rule – through their own actions or the actions of thousands of sub-contractors relied upon to deliver health services – the federal government could terminate funding to those states and localities, to the price tag of hundreds of billions of dollars. States and localities rely upon those funds for countless programs to promote the public health of their residents, including Medicaid, the Children's Health Insurance Program, HIV/AIDS and STD prevention and education, and substance abuse and mental health treatment.

Raoul and the coalition argue that this drastic expansion of refusal rights, and the draconian threat of termination of federal funds, violates the federal Administrative Procedures Act and the Spending Clause and separation of powers principles in the U.S. Constitution.

Joining Raoul in filing the lawsuit are the attorneys general of Colorado, Connecticut, Delaware, the District of Columbia, Hawaii, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New Mexico, New York, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia, and Wisconsin, as well as Chicago, New York City, and Cook County, Ill.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

STATE OF NEW YORK, et al.,

Plaintiffs,

v.

UNITED STATES DEPARTMENT
OF HEALTH AND HUMAN
SERVICES, et al.,

Defendants.

19 Civ. 4676 (PAE)

**PLAINTIFFS’ NOTICE OF MOTION
(Fed. R. Civ. P. 65 and 5 U.S.C. § 705)**

PLEASE TAKE NOTICE that pursuant to Federal Rule of Civil Procedure 65, Plaintiffs hereby move the Court for a preliminary injunction to enjoin Defendants from implementing, applying, or taking any action under the Final Rule entitled *Protecting Statutory Conscience Rights in Health Care: Delegations of Authority*, 84 Fed. Reg. 23,170 (May 21, 2019), in order to preserve the status quo until this case is decided on the merits and final judgment is entered.

Alternatively, pursuant to 5 U.S.C. § 705, Plaintiffs move for a stay postponing the effective date of the Final Rule until this case is decided on the merits and final judgment is entered.

In support of this motion, Plaintiffs rely on the accompanying Memorandum of Law, the Declaration of Matthew Colangelo, the exhibits attached to that Declaration, the pleadings and papers on file in this action, and any argument and evidence that is presented on the hearing of this motion.

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Steven C. Wu
Deputy Solicitor General
Ester Murdukhayeva
Assistant Solicitor General

Of Counsel

ZACHARY W. CARTER
Corporation Counsel of the City of New York

By: /s/ Tonya Jenerette
Tonya Jenerette
Deputy Chief for Strategic Litigation
Cynthia Weaver, Senior Counsel
Otis Comorau, Assistant Corporation Counsel
100 Church Street, 20th Floor
New York, NY 10007
Phone: (212) 356-4055
tjeneret@law.nyc.gov
cweaver@law.nyc.gov
ocomorau@law.nyc.gov

Attorneys for the City of New York

Respectfully submitted,

LETITIA JAMES
Attorney General of the State of New York

By: /s/ Matthew Colangelo
Matthew Colangelo
Chief Counsel for Federal Initiatives
Lisa Landau, *Chief, Health Care Bureau*
Justin Deabler, *Assistant Attorney General*
Brooke Tucker, *Assistant Attorney General*
Amanda Meyer, *Assistant Attorney General*
Office of the New York State Attorney
General
28 Liberty Street
New York, NY 10005
Phone: (212) 416-6057
Matthew.Colangelo@ag.ny.gov

Attorneys for the State of New York

PHILIP J. WEISER
Attorney General of the State of Colorado

By: /s/ Jennifer L. Weaver
Eric R. Olson
Solicitor General
Jennifer L. Weaver
First Assistant Attorney General
W. Eric Kuhn
Senior Assistant Attorney General
1300 Broadway, 10th Floor
Denver, CO 80203
Phone: (720) 508-6548
eric.olson@coag.gov
jennifer.weaver@coag.gov
eric.kuhn@coag.gov

Attorneys for the State of Colorado

WILLIAM TONG
Attorney General of Connecticut

By: /s/ Maura Murphy Osborne
Maura Murphy Osborne
Assistant Attorney General
Office of the Attorney General
55 Elm Street
P.O. Box 120
Hartford, CT 06141-0120
Phone: (860) 808-5020
Maura.MurphyOsborne@ct.gov

Attorneys for the State of Connecticut

KARL A. RACINE
*Attorney General
District of Columbia*

Robyn R. Bender
Deputy Attorney General

By: /s/ Valerie M. Nannery
Valerie M. Nannery
Assistant Attorney General
Office of the Attorney General for
the District of Columbia
441 4th Street, N.W., Suite 630 South
Washington, DC 20001
Phone: (202) 442-9596
Fax: (202) 730-1465
robyn.bender@dc.gov
valerie.nannery@dc.gov

Attorneys for the District of Columbia

KATHLEEN JENNINGS
Attorney General of Delaware

AARON R. GOLDSTEIN
Chief Deputy Attorney General
ILONA KIRSHON
Deputy State Solicitor

By: /s/ David J. Lyons
David J. Lyons
Deputy Attorney General
Delaware Department of Justice
Phone: (302) 577-8413
Fax: (302) 577-6630
david.lyons@state.de.us

Attorneys for the State of Delaware

CLARE E. CONNORS
Attorney General of the State of Hawai'i

By: /s/ Diane K. Taira
Diane K. Taira, Supervising Deputy Attorney
General, Health Division
Jill T. Nagamine, Deputy Attorney General
Andrea J. Armitage, Deputy Attorney General
Department of the Attorney General
State of Hawai'i
425 Queen Street
Honolulu, Hawai'i 96813
Phone: (808) 587-3050
Fax: (808) 587-3077
Diane.K.Taira@Hawaii.gov
Jill.T.Nagamine@Hawaii.gov
Andrea.J.Armitage@Hawaii.gov

Attorneys for the State of Hawai'i

KWAME RAOUL
Attorney General of the State of Illinois

By: /s/ Sarah Gallo
Sarah Gallo, Assistant Attorney General
Lauren Barski, Assistant Attorney General
100 West Randolph Street, 12th Floor
Chicago, IL 60601
Phone: (312) 814-8309
sgallo@atg.state.il.us

Attorneys for the State of Illinois

MAURA HEALY
Attorney General of the Commonwealth of Massachusetts

By: /s/ Abigail Taylor
Abigail Taylor
Jon Burke
Assistant Attorneys General
Civil Rights Division
Massachusetts Attorney General's Office
One Ashburton Place
Boston, MA 02108
Phone: (617) 727-2200
Fax: (617) 727-5762
Abigail.Taylor@mass.gov
Jonathan.Burke@mass.gov

Attorney for the Commonwealth of Massachusetts

BRIAN E. FROSH
Attorney General of Maryland

By: /s/ Steve M. Sullivan
Steve M. Sullivan
Solicitor General
Kimberly S. Cammarata
Jeffrey P. Dunlap
Assistant Attorneys General
200 St. Paul Place
Baltimore, MD 21202
Phone: (410) 576-6325
Fax: (410) 576-6955

Attorneys for the State of Maryland

DANA NESSEL
*Attorney General
State of Michigan*

By: /s/ Fadwa A. Hammoud
Fadwa A. Hammoud (P74185)
Solicitor General
Toni L. Harris (P63111)
Assistant Attorney General
Michigan Department of Attorney General
P.O. Box 30758
Lansing, MI 48909
Phone: (517) 335-7603
HammoudF1@michigan.gov
Harrist19@michigan.gov

Attorneys for the State of Michigan

KEITH ELLISON
Attorney General
State of Minnesota

By: /s/ Scott H. Ikeda
Scott H. Ikeda
Assistant Attorney General
Atty. Reg. No. 0386771
445 Minnesota Street, Suite 1100
St. Paul, Minnesota 55101-2128
Phone: (651) 757-1385
Fax: (651) 282-5832
scott.ikeda@ag.state.mn.us

Attorneys for the State of Minnesota

GURBIR S. GREWAL
Attorney General
State of New Jersey

By: /s/ Glenn Moramarco
Glenn Moramarco
Assistant Attorney General
Melissa Medoway, *Deputy Attorney General*
Marie Soueid, *Deputy Attorney General*
Deputy Attorneys General
Richard J. Hughes Justice Complex
25 Market Street
Trenton, NJ 08625
Phone: (609) 376-3232
Glenn.Moramarco@law.njoag.gov
Melissa.Medoway@law.njoag.gov
Marie.Soueid@law.njoag.gov

Attorneys for the State of New Jersey

AARON D. FORD
Attorney General
State of Nevada

By: /s/ Heidi Parry Stern
Heidi Parry Stern (Bar No. 8873)
Solicitor General
Craig A. Newby (Bar No. 8591)
Deputy Solicitor General
Office of the Nevada Attorney General
555 E. Washington Ave., Ste. 3900
Las Vegas, NV 89101
HStern@ag.nv.gov

Attorneys for the State of Nevada

HECTOR BALDERAS
Attorney General of New Mexico

By: /s/ Tania Maestas
Tania Maestas
Chief Deputy Attorney General
P.O. Drawer 1508
Santa Fe, New Mexico 87504-1508
tmaestas@nmag.gov

Attorneys for the State of New Mexico, by and through Attorney General Hector Balderas

ELLEN F. ROSENBLUM
Attorney General of the State of Oregon

By: /s/ Brian A. de Haan
Brian A. de Haan (NY Bar #4565396)
Eleanor H. Chin (OR#061484)
Senior Assistant Attorneys General
Oregon Department of Justice
1162 Court Street NE
Salem Oregon 97301
Phone: (503) 947-4700
elleleanor.chin@doj.state.or.us

Attorneys for the State of Oregon

PETER F. NERONHA
Attorney General of the State of Rhode Island

By: /s/ Michael W. Field
Michael W. Field
Assistant Attorney General
150 South Main Street
Providence, Rhode Island 02903
Phone: (401) 274-4400, ext. 2380
mfield@riag.ri.gov

Attorneys for the State of Rhode Island

JOSH SHAPIRO
Attorney General of the Commonwealth of Pennsylvania

By: /s/ Aimee D. Thomson
Aimee D. Thomson (NY Bar #5404348)
Deputy Attorney General, Impact Litigation
Section
Nikole Brock
Deputy Attorney General, Health Care
Section
Pennsylvania Office of Attorney General
1600 Arch St., Suite 300
Philadelphia, PA 19103
Phone: (267) 940-6696
athomson@attorneygeneral.gov

Attorneys for the Commonwealth of Pennsylvania

THOMAS J. DONOVAN, JR.
Attorney General of the State of Vermont

By: /s/ Eleanor Spottswood
Eleanor Spottswood
Assistant Attorney General
Office of the Attorney General
109 State Street
Montpelier, VT 05609-1001
Phone: (802) 828-3178
eleanor.spottswood@vermont.gov

Attorneys for the State of Vermont

MARK R. HERRING
Attorney General of the Commonwealth of Virginia

By: /s/ Toby J. Heytens
Toby J. Heytens
Solicitor General
Matthew R. McGuire
Principal Deputy Solicitor General
Michelle S. Kallen
Deputy Solicitor General
Brittany M. Jones
John Marshall Fellow
Office of the Attorney General
202 North Ninth Street
Richmond, Virginia 23219
Phone: (804) 786-7240
solicitorgeneral@oag.state.va.us

Attorneys for the Commonwealth of Virginia

MARK A. FLESSNER
Corporation Counsel of the City of Chicago

By: /s/ Stephen Kane
Stephen Kane, Acting Deputy
Rebecca Hirsch, Assistant Corporation
Counsel
Affirmative Litigation Division
City of Chicago Department of Law
121 N. LaSalle Street, Room 600
Chicago, IL 60602
Phone: (312) 744-8143
Rebecca.hirsch2@cityofchicago.org

Attorneys for the City of Chicago

JOSHUA L. KAUL
*Attorney General
State of Wisconsin*

By: /s/ Maura FJ Whelan
Maura FJ Whelan
Assistant Attorney General
Wisconsin Department of Justice
Post Office Box 7857
Madison, Wisconsin 53707-7857
Phone: (608) 266-3859
whelanmf@doj.state.wi.us

Attorneys for State of Wisconsin

KIMBERLY M. FOXX
Cook County Illinois State's Attorney

By: /s/ Kimberly M. Foxx
Kimberly M. Foxx, Cook County State's
Attorney
Amy Crawford, Assistant State's Attorney
Deputy Bureau Chief – Civil Actions Bureau
Jessica M. Scheller, Assistant State's
Attorney
Division Chief; Advice, Business & Complex
Litigation – Civil Actions Bureau
500 W. Richard J. Daley Center Place, Suite
500
Chicago, IL 60602
Phone: (312) 603-3116
Phone: (312) 603-6934
Amy.Crawford@cookcountyil.gov
Jessica.Scheller@cookcountyil.gov

Attorneys for Cook County, Illinois