ETHICS AND PUBLIC POLICY CENTER

June 9, 2026

Via Federal eRulemaking Portal

Robert F. Kennedy, Jr.
Secretary
Centers for Medicare & Medicaid Services
Department of Health and Human Services
P.O. Box 8013
Baltimore, MD 21244-801

Re: Centers for Medicare & Medicaid Services' Proposed Rule "Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals (IPPS) and the Long-Term Care Hospital Prospective Payment System and Policy Changes and Fiscal Year (FY) 2027 Rates; Requirements for Quality Programs; and Other Policy Changes" (file code CMS-1849-P; RIN 0938-AV79)

Dear Secretary Kennedy:

We are scholars at the Ethics and Public Policy Center (EPPC). Rachel Morrison is a Fellow, Director of EPPC's Administrative State Accountability Project, and former attorney at the Equal Employment Opportunity Commission. Aaron Kheriaty is a physician, Fellow, and Director of EPPC's Bioethics, Technology and Human Flourishing Program. Dr. Kheriaty was Residency Training Director in Psychiatry at the University of California, Irvine, for six years. Devorah Goldman is a Fellow in EPPC's Bioethics, Technology, and Human Flourishing Program, and a former legislative staff member in the U.S. Senate.

We write to offer public comment in response to the Department of Health and Human Services' (HHS) Centers for Medicare & Medicaid Services (CMS) proposed rule "Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals (IPPS) and the Long-Term Care Hospital Prospective Payment System and Policy Changes and Fiscal Year (FY) 2027 Rates; Requirements for Quality Programs; and Other Policy Changes."[1] In the rule, CMS proposes revisions, changes, and updates to various Medicaid regulations. Our comments focus on the proposed regulation stating approved medical residency training programs and approved nursing and allied health education programs "must not discriminate, or promote or encourage discrimination, on the basis of race, color, national origin, sex, age, disability, or religion, including the use of those characteristics or intentional proxies for those characteristics as a selection criterion for employment, program participation, resource allocation, or similar activities, opportunities, or benefits."[2] As we explain below, **CMS should adopt its proposal to prohibit unlawful discrimination for approved medical residency training programs and approved nursing and allied health education programs, and it should modify its regulations to further protect conscience and religious freedom rights.**

[1] 91 Fed. Reg. 19312 (April 14, 2026), https://www.federalregister.gov/d/2026-07203.

[2] *Id.* at 19315, 19504.

I. CMS should adopt the regulation prohibiting unlawful discrimination.

A. CMS proposes a regulation to prohibit unlawful discrimination in certain medical programs.

CMS proposes requirements to prohibit unlawful discrimination in approved medical residency training programs and approved nursing and allied health education programs.[3] Specifically, CMS would add 42 CFR § 413.84 "Prohibition against unlawful discrimination" to read[4]:

> (a) An approved medical residency training program, as defined in §§ 412.105(f)(1)(i), 413.75(b), and 415.152 of this chapter, or an approved nursing and allied health education program, as defined in § 413.85 of this chapter, must not discriminate, or promote or encourage discrimination, on the basis of race, color, national origin, sex, age, disability, or religion, including the use of those characteristics or intentional proxies for those characteristics as a selection criterion for employment, program participation, resource allocation, or similar activities, opportunities, or benefits.
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> (b) An accrediting organization of approved medical residency training programs under §§ 412.105(f)(1)(i), 413.75(b), and 415.152 of this chapter, or of approved nursing and allied health education programs under § 413.85 of this chapter, and any publications cited in the regulations that list specialties or subspecialties of such programs, must not use criteria that discriminate, or promote or encourage discrimination, on the basis of race, color, national origin, sex, age, disability, or religion, including the use of those characteristics or intentional proxies for those characteristics as a selection criterion for employment, program participation, resource allocation, or similar activities, opportunities, or benefits.
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> (c) Approved medical residency training programs and approved nursing and allied health education programs include programs that would be accredited except for the accrediting agency's reliance upon an accreditation standard that requires an entity to—
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> > (1) Discriminate, or promote or encourage discrimination, on the basis of race, color, age, disability, or religion, including the use of those characteristics or intentional proxies for those characteristics as a selection criterion for employment, program participation, resource allocation, or similar activities, opportunities, or benefits; or
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> > (2) Perform an induced abortion or require, provide, or refer for training in the performance of induced abortions, or make arrangements for such training, regardless of whether the standard provides exceptions or exemptions.

These requirements would be similar to 42 CFR §§ 412.105(f)(1)(i), 413.75(b), and 415.152—requirements proposed in July 2025[5] and finalized in November 2025[6] that apply to graduate medical

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[3] *Id.* at 19504. An "approved medical residency program" is defined in 42 CFR §§ 412.105(f)(1)(i), 413.75(b), and 415.152, and is generally "a program accredited by one of several national accrediting bodies or that leads toward board certification by the American Board of Medical Specialties (ABMS)." *Id.*

[4] *Id.* at 19771.

[5] *See* CMS, Medicare and Medicaid Programs: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems; Quality Reporting Programs; Overall Hospital Quality Star Ratings; and Hospital Price Transparency, 90 Fed. Reg. 33476 (July 17, 2025), https://www.federalregister.gov/d/2025-13360.

[6] *See* CMS, Medicare Program: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems; Quality Reporting Programs; Overall Hospital Quality Star Rating; Hospital Price Transparency; and Notice of Closure of a Teaching Hospital and Opportunity To Apply for Available Slots, 90 Fed. Reg. 53448 (Nov. 25, 2025), https://www.federalregister.gov/d/2025-20907.

education accrediting bodies and prohibit "accreditation criteria that promote or emphasize diversity, equity, inclusion, or awareness based on race, color, sex, sexual orientation or identity, national origin, or any other characteristic which serves as a proxy to achieve the same ends."[7]

B. The proposed regulation is important, especially in light of the ACGME's DEI-related requirements, to ensure medical programs do not discriminate in violation of federal law.

As we explained in our public comment on the 2025 proposal, those nondiscrimination regulations will "ensur[e] equal opportunity and eliminat[e] race-based and other unlawful preferences … in compliance with the U.S. Constitution and federal civil rights laws while still maintaining high standards for medical education."[8] The same is true here for CMS's 2026 proposed regulation.

Like the nondiscrimination requirements for graduate medical accrediting bodies, the nondiscrimination requirements for approved medical residency training programs and approved nursing and allied health education programs are necessary to ensure that (even in the absence of discriminatory accreditation standards) individual programs do not implement policies that constitute unlawful discrimination under federal law.

These requirements are especially important considering the pervasive focus on diversity, equity, and inclusion (DEI) in medical education by the Accreditation Council for Graduate Medical Education (ACGME) and under the prior administration, which can suggest or encourage actions by programs that could result in unlawful discrimination.

For example, the ACGME's 2025 "Guide to the Common Program Requirements" for medical residencies and fellowships lists "diversity, equity, and inclusion" as a core component of its vision "to advance a transformed system of graduate medical education with global reach."[9] The Guide also cites "eliminating health disparities" as a central goal of the medical profession.[10] Similar references to DEI can be found in other formal documents by the ACGME. This indicates that accreditation for graduate medical education may be contingent upon the availability of programming such as, for instance, the "Racial Justice and Equity" initiative at the Brigham and Women's Hospital's residency program.[11] To achieve their stated aim of becoming an "anti-racist medical center," the residency program at Brigham and Women's Hospital promotes a "Racial Justice Committee," which, among other things, organized a hospital "Demonstration for Black Lives."[12]

Our public comment on the 2025 proposal aptly explained why DEI is not only bad policy but

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[7] *See id.* at 19504.

[8] EPPC Scholars' Comment re: Centers for Medicare & Medicaid Services' Proposed Rule "Medicare and Medicaid Programs: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems" (Docket ID CMS-1834-P, RIN 0938-AV51), at 4 (Sept. 15, 2025), https://media.eppc.org/2025/09/EPPC-Scholars-Comment-on-CMS-2026-Medicare-Payment-Proposed-Rule.pdf.

[9] Accreditation Council for Graduate Medical Education, *Guide to the Common Program Requirements*, https://www.acgme.org/education-and-resources/program-directors-guide-to-the-common-program-requirements/ (last visited June 9, 2026).

[10] *Id.*

[11] Brigham & Women's Hospital Internal Medical Residency, *Racial Justice and Equity*, https://imacademics.brighamandwomens.org/racial-justice-and-equity/ (last visited June 9, 2026).

[12] *Id.*

also can violate federal civil rights laws and the U.S. Constitution[13]:

> DEI initiatives are often based on the fundamentally flawed and abstract premise, not supported by empirical evidence, that any disparities are per se discrimination. But there are many nondiscriminatory reasons why a specific workforce may not match the available labor market.[14] Disparities alone without evidence of actual disparate treatment should not be used as a proxy for unlawful discrimination or remedy general claims of group-based inequality. Too often, DEI initiatives can incentivize and induce unlawful preferences and disparate treatment.
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> Federal civil rights laws prohibit discrimination based on certain protected bases whether that discrimination is invidious or purportedly well-meaning. Nondiscrimination is the law, not diversity, equity, or inclusion. For instance, it is unlawful to discriminate in employment based on race, color, religion, national origin, sex, age (40 or older), genetic information, or disability.[15] The Supreme Court recently and unanimously held in *Ames* that these protections extend whether or not a person is a member of a minority or majority group.[16] As President Trump has recognized, "These civil-rights protections serve as a bedrock supporting equality of opportunity for all Americans."[17]
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> DEI initiatives can also run afoul of the U.S. Constitution. For instance, in *Student for Fair Admissions*, the Supreme Court held that DEI-related race-conscious admissions policies in higher education violated the Equal Protection Clause of the Fourteenth Amendment.[18] Any race-conscious decisions made in accreditation are similarly constitutionally suspect and likely violate the Equal Protection Clause unless it satisfies strict scrutiny—which general diversity goals do not.
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> …[M]edical programs not based on merit "raise particular concerns in the medical context, where patients and the larger society have a compelling need for medical education to be focused primarily on excellence and delivering the best possible care to patients."[19] … By prohibiting DEI-related criteria, medical [programs] will no longer diminish "the importance of individual merit, aptitude, hard work, and determination when selecting

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[13] EPPC Scholars' Comment re: Centers for Medicare & Medicaid Services' Proposed Rule "Medicare and Medicaid Programs: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems" (Docket ID CMS-1834-P, RIN 0938-AV51), at 3-4 (Sept. 15, 2025), https://media.eppc.org/2025/09/EPPC-Scholars-Comment-on-CMS-2026-Medicare-Payment-Proposed-Rule.pdf.

[14] *See generally* Thomas Sowell, *Discrimination and Disparities* (2019) (gathering empirical evidence to challenge the idea that different outcomes can be explained by discrimination or any other single factor).

[15] *See* Title VII, 42 U.S.C. §§2000(e) et seq.; the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634; the Genetic Information Nondiscrimination Act, 42 U.S.C. §§ 2000(ff); and the Americans with Disabilities Act (ADA), 42 U.S.C. § 12101 et seq.

[16] *Ames v. Ohio Department of Youth*, No. 23-1039, 05 U.S. __, at *6 (2025) (slip op.) ("[T]he standard for proving disparate treatment under Title VII does not vary based on whether or not the plaintiff is a member of a majority group.").

[17] Exec. Order 14173, Ending Illegal Discrimination and Restoring Merit-Based Opportunity, 90 Fed. Reg. 8633 (Jan. 21, 2025), https://www.federalregister.gov/d/2025-02097.

[18] *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College*, 600 U.S. 181 (2023).

[19] 90 Fed. Reg. at 33811.

people for jobs and services in key sectors of American society, including ... the medical ... communities."[20]

In short, DEI criteria in admissions and employment are often a guise for unlawful discrimination. And racially charged medical education risks violating "the text and spirit of our longstanding Federal civil-rights laws."[21] Taken together, they "undermine our national unity, as they deny, discredit, and undermine the traditional American values of hard work, excellence, and individual achievement in favor of an unlawful, corrosive, and pernicious identity-based spoils system."[22]

Like the 2025 regulations, CMS's proposal here aligns well with President Trump's executive orders on "Reforming Accreditation to Strengthen Higher Education," "Ending Illegal Discrimination and Restoring Merit Based Opportunity," and "Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government."[23]

C. The proposed regulation's inclusion of conscience protections for abortion is important to maintain.

On the matter of conscience protections for abortion articulated in § 413.84(c)(2) of the proposed rule, we affirm that such protections are necessary. Multiple reports describe applicants being rejected or facing conditions for matching into OB/GYN or other residencies unless they agreed to abortion training. For example, one physician recounted being offered positions in New York/New Jersey programs only if she learned to perform abortions, despite stating her moral and religious objections. This candidate ultimately matched elsewhere. Similar experiences led to initiatives like the "Conscience in Residency" project (founded by Dr. Cara Buskmiller, a Catholic OB/GYN), which supports trainees facing pressure and documents challenges in secular programs.[24] Studies and reports note medical students and residents often face discrimination, blacklisting, or hostile environments due to pro-life views. For example, a survey from the Christian Medical and Dental Association found that three in five (60%) of faith-based health professionals report that it is common that doctors, medical students or other healthcare professionals face discrimination for declining to participate in activities or provide medical procedures to which they have moral or religious objections, and nearly one in four (23%) report having been discriminated against in the workplace or training because of moral or religious beliefs.[25]

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[20] Exec. Order 14173, Ending Illegal Discrimination and Restoring Merit-Based Opportunity, 90 Fed. Reg. 8633 (Jan. 21, 2025), https://www.federalregister.gov/d/2025-02097.

[21] Exec. Order 14173, Ending Illegal Discrimination and Restoring Merit-Based Opportunity, 90 Fed. Reg. 8633 (Jan. 21, 2025), https://www.federalregister.gov/d/2025-02097.

[22] *Id.*

[23] Exec. Order 14279, Reforming Accreditation To Strengthen Higher Education, 90 Fed. Reg. 17529 (April 23, 2025), https://www.federalregister.gov/executive-order/14279; Exec. Order 14173, Ending Illegal Discrimination and Restoring Merit-Based Opportunity, 90 Fed. Reg. 8633 (Jan. 21, 2025), https://www.federalregister.gov/d/2025-02097; Exec. Order 14168, Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government, 90 Fed. Reg. 8615 (Jan. 20, 2025), https://www.federalregister.gov/d/2025-02090.

[24] *About,* Conscience in Residency, https://conscienceinresidency.com/about/ (last visited June 9, 2026).

[25] Letter from Jonathan Imbody, Christian Med. Ass'n & Freedom2Care, to HHS, Office for Civil Rights, Re: Nondiscrimination in Health and Health Education Programs or Activities, RIN 0945-AA11, Docket No. HHS-OCR-2019-0007, Comment No. HHS-OCR-2019-0007-127215, at 5 (Aug. 12, 2019), https://downloads.regulations.gov/HHS-OCR-2019-0007-127215/attachment_1.pdf.

Federal laws—such as the Church Amendments, Coats-Snowe Amendment, and Weldon Amendment, among others[26]—explicitly protect against such discrimination in federally funded programs and yet published examples of such discrimination suggest that the practice remains widespread. Protecting conscience rights, especially for abortion, is consistent with other actions HHS has taken under the Trump Administration.[27]

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For all these reasons, CMS should adopt the proposed regulation to prohibit unlawful discrimination.

II. CMS should modify its regulation to further protect conscience and religious freedom rights.

As we suggested in our public comment on the 2025 proposal,[28] CMS should adopt additional criteria related to procedures implicating conscience and religious freedom concerns to expand protections beyond unlawful discrimination related to abortion. This could easily be done, for example, by adding an additional subsection to 42 CFR § 413.84(c)(3) to read:

> (c) Approved medical residency training programs and approved nursing and allied health education programs include programs that would be accredited except for the accrediting agency's reliance upon an accreditation standard that requires an entity to—
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> > (1) Discriminate, or promote or encourage discrimination, on the basis of race, color, age, disability, or religion, including the use of those characteristics or intentional proxies for those characteristics as a selection criterion for employment, program participation, resource allocation, or similar activities, opportunities, or benefits; or
> >
> > (2) Perform an induced abortion, or require, provide, or refer for training in the performance of induced abortions, or make arrangements for such training, regardless of whether the standard provides exceptions or exemptions.
> >
> > (3) Prescribe or provide procedures for contraception, sterilization, assisted suicide, euthanasia, or sex-rejecting interventions (what advocates call "gender affirmative care"), or require, provide, or refer for training in the performance of such procedures, or make

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[26] *See, e.g.*, HHS, Office for Civil Rights, Dear Colleague Letter on Safeguarding Federal Conscience and Related Protections in Health Care (Jan. 21, 2026), https://www.hhs.gov/sites/default/files/conscience-dcl.pdf (summarizing federal health care conscience protection statutes).

[27] *See, e.g.*, Press Release, HHS, *HHS' Office for Civil Rights Investigates Thirteen States Under Federal Conscience Law* (Mar. 19, 2026), https://www.hhs.gov/press-room/hhs-ocr-investigates-thirteen-state-abortion-coverage-mandates-under-federal-conscience-law.html; Press Release, HHS, *HHS Takes Comprehensive Action to Enforce Conscience Rights and Protect Human Life* (Jan. 21, 2026), https://www.hhs.gov/press-room/conscience-dlc.html; HHS, *Fact Sheet: HHS Takes Comprehensive Action to Enforce Conscience Rights and Protect Human Life* (Jan. 21, 2026), https://www.hhs.gov/press-room/fact-sheet-announcements-on-conscience-and-life.html; Press Release, HHS, *HHS Takes Action to Protect Whistleblowers who Defend Children and Launches First Conscience Investigation* (Apr. 14, 2025), https://www.hhs.gov/press-room/hhs-launches-whistleblower-form-to-protect-kids.html.

[28] *See* EPPC Scholars' Comment re: Centers for Medicare & Medicaid Services' Proposed Rule "Medicare and Medicaid Programs: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems" (Docket ID CMS-1834-P, RIN 0938-AV51), at 5 (Sept. 15, 2025), https://media.eppc.org/2025/09/EPPC-Scholars-Comment-on-CMS-2026-Medicare-Payment-Proposed-Rule.pdf. Others, such as Alliance Defending Freedom, also made similar suggestions. *See EPPC Scholars Submit Comment Supporting Eliminating DEI in Medical Education Accreditation*, EPPC (Sept. 15, 2025), https://eppc.org/publication/eppc-scholars-submit-comment-supporting-eliminating-dei-in-medical-education-accreditation/ (collecting comments).

arrangements for such training, regardless of whether the standard provides exceptions or exemptions.

Adding the above criteria (in addition to the criteria related to nondiscrimination and abortion) will aid compliance with federal conscience and religious freedom protection laws that HHS is tasked with enforcing.[29] Indeed, federal healthcare conscience and religious freedom protections extend not only to abortion, but also to contraception, sterilization, assisted suicide, euthanasia, and sex-rejecting drugs, surgeries, and other interventions.[30] HHS under the Trump Administration has already taken bold actions to protect conscience and religious freedom rights,[31] and we urge CMS to do the same here.

Adding this criteria also aligns with President Trump's priorities and executive actions related to conscience, religious liberty, anti-Christian bias, protecting children from sex-rejecting procedures, and combatting gender ideology.[32] It would help implement President Trump's executive orders on "Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government," "Protecting Children From Chemical and Surgical Mutilation," and "Eradicating Anti-Christian Bias."[33]

Expanding the criteria beyond nondiscrimination and abortion is necessary to more fully protect conscience and religious freedom rights. Consider, for example, in his recent testimony to the President's Religious Liberty Commission earlier this year, one of the co-signers of this letter (Dr. Kheriaty) described an instance of retaliatory discrimination against him as a medical student after he refused to

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[29] *See generally Your Protections Against Discrimination Based on Conscience and Religion*, HHS Office for Civil Rights (last reviewed Jan. 23, 2026), https://www.hhs.gov/conscience/your-protections-against-discrimination-based-on-conscience-and-religion/index.html ("OCR enforces Federal protections against discrimination based on conscience and religion in specific programs funded by HHS federal financial assistance."); HHS, Office for Civil Rights, Dear Colleague Letter on Safeguarding Federal Conscience and Related Protections in Health Care (Jan. 21, 2026), https://www.hhs.gov/sites/default/files/conscience-dcl.pdfhttps://www.hhs.gov/sites/default/files/conscience-dcl.pdf (summarizing "the principal federal health care conscience protection authorities that OCR enforces").

[30] *Cf.* Eric Kniffin, Mary Hasson, & Rachel N. Morrison, Terminology and Definition: Replacing "Gender-Affirming Care" with "Sex-Rejecting Procedures", EPPC (May 2, 2025), https://eppc.org/replacement-term-for-gac/ (explaining why "sex-rejecting procedures" is superior terminology to "gender-affirming care" and other variants).

[31] *See supra* note 27; *see also* Press Release, HHS, *HHS Announces Restructuring of its Office for Civil Rights* (May 18, 2026), https://www.hhs.gov/press-room/hhs-announces-restructuring-of-its-office-for-civil-rights.html (restoring OCR's Conscience and Religious Freedom Division).

[32] *See, e.g.*, Exec. Order 14182, Enforcing the Hyde Amendment, 90 Fed. Reg. 8751 (Jan. 24, 2025), https://www.federalregister.gov/d/2025-02175; White House, Fact Sheet: President Donald J. Trump Enforces Overwhelmingly Popular Demand to Stop Taxpayer Funding of Abortion (Jan. 25, 2025), https://www.whitehouse.gov/fact-sheets/2025/01/fact-sheet-president-donald-j-trump-enforces-overwhelmingly-popular-demand-to-stop-taxpayer-funding-of-abortion/; Exec. Order 14202, Eradicating Anti-Christian Bias, 90 Fed. Reg. 9365 (Feb. 12, 2025), https://www.federalregister.gov/d/2025-02611; White House, Fact Sheet: President Donald J. Trump Eradicates Anti-Christian Bias (Feb. 6, 2025), https://www.whitehouse.gov/fact-sheets/2025/02/fact-sheet-president-donald-j-trump-eradicates-anti-christian-bias/.

[33] Exec. Order 14168, Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government, 90 Fed. Reg. 8615 (Jan. 20, 2025), https://www.federalregister.gov/d/2025-02090; Exec. Order 14187, Protecting Children From Chemical and Surgical Mutilation, 90 Fed. Reg. 8771 (Feb. 3, 2025), https://www.federalregister.gov/d/2025-02194; Exec. Order 14202, Eradicating Anti-Christian Bias, 90 Fed. Reg. 9365 (Feb. 12, 2025), https://www.federalregister.gov/d/2025-02611.

participate in a permanent sterilization procedure on grounds of his religious conscience. As he recounted in his testimony[34]:

> Another thing I did not realize at the time was that I was supposed to have been protected from retaliation by federal laws, such as Church, Coats-Snowe, and Weldon Amendments. These laws protect the rights of healthcare workers to decline participation in medical interventions that violate their conscience, religious beliefs, or moral convictions—such as declining to participate in an abortion or sterilization procedure. Although I did not know this, healthcare workers and trainees are also protected by these laws from retaliation should they decline to assist on these procedures.
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> The Department of Health and Human Services issued a New Nondiscrimination Final Rule to Protect Conscience Rights two years ago in January 2024. It *encourages* (but does not *require*) hospitals and clinics to voluntarily post a notice of rights to ensure compliance and educate the public about conscience statutes and rights. These laws were in place when I went to medical school, but I had no understanding of them or of my rights under Federal law. As a medical student interested in ethics, I was better informed on these issues than most. Yet still, I was never advised of my rights, even after they were violated and the hospital leadership was notified.
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> Clearly, if healthcare providers and trainees are not informed of these rights at orientation, then the laws on the books remain a dead letter.... Furthermore, these protections need to be extended in Federal law to include other procedures, which were not common when these laws were enacted but are now ubiquitous, such as doctor-assisted suicide, euthanasia, and sex-rejecting procedures (what advocates euphemistically term "gender-affirmative care"). While euthanasia *is* briefly mentioned in the Affordable Care Act, this merely regulates payments to hospitals, and that law alone does not protect conscience rights of individuals.

Adding criteria such as the above will go a long way in signaling the importance of conscience and religious freedom in the medical field, particularly for trainees who are vulnerable to strong pressures to conform when institutions violate federal conscience protections.

III. The ACGME is a medical education accreditation monopoly that should be broken up.

The ACGME, a private entity controlled by a relatively small number of physicians, currently enjoys a monopoly on accreditation of residency training programs and subspecialty fellowships in medicine. This allows a relatively small group of people who may be ideologically motivated to influence and strong-arm virtually every training program in the country, reshaping the entire landscape of graduate medical education. Stipends for trainees are funded in large part by CMS, giving the federal government considerable leverage to ensure that the ACGME does not push programs to engage in practices that violate federal law or undermine the just practice of medicine. **CMS should consider ways to break up the current medical education accreditation monopoly**, for example, by a willingness to fund programs that meet federal requirements even if they are not ACGME accredited or by opening the field for new accreditation agencies to compete with the ACGME.

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[34] *See* Aaron Kheriaty, *Religious Liberty Commission Testimony*, Human Flourishing (Substack) (Mar. 17, 2026), https://aaronkheriaty.substack.com/p/religious-liberty-commission-testimony.

Conclusion

Thank you for the opportunity to provide comment. For the reasons above, we urge CMS to finalize its proposed regulation to prohibit unlawful discrimination and adopt additional criteria related to contraception, sterilization, assisted suicide, euthanasia, and sex-rejecting procedures to further protect conscience and religious freedom rights. We also urge CMS to consider ways to break up the ACGME monopoly on medical education accreditation.

Sincerely,

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