

JOSEPH H. HUNT
Assistant Attorney General

MICHELLE R. BENNETT
Assistant Branch Director

ANDREW M. BERNIE (DC Bar No. 995376)
R. CHARLIE MERRITT (VA Bar No. 89400)
Trial Attorneys
U.S. Department of Justice
Civil Division, Federal Programs Branch
1100 L Street NW
Washington, DC 20005
Tel.: (202) 616-8098
Fax: (202) 616-8470
andrew.m.bernie@usdoj.gov
robert.c.merritt@usdoj.gov

Attorneys for Defendants

**UNITED STATES DISTRICT COURT
DISTRICT OF OREGON**

STATE OF OREGON et al.,

Plaintiffs,

v.

ALEX M. AZAR II et al.,

Defendants.

Consolidated Civil Action Nos.
6:19-cv-00317-MC (Lead Case)
6:19-cv-00318-MC

NOTICE

AND

**AMERICAN MEDICAL ASSOCIATION
et al.,**

Plaintiffs,

v.

ALEX M. AZAR II et al.,

Defendants.

Defendants submit this notice to inform Plaintiffs and the Court of a new rule issued by the Office of Civil Rights (OCR) in the Department of Health and Human Services (HHS) concerning federal conscience-protection statutes. The rule was published on the website of HHS today and will be published in the Federal Register in the near future. The version that was posted on HHS's website is included as an exhibit to this notice. The rule creates procedures for HHS to enforce 25 federal conscience-protection statutes and anti-discrimination statutes, including the Church Amendments, the Coats-Snowe Amendments, and the Weldon Amendment. It does not amend Title X regulations, nor does it change the status quo of the Title X program as the Department implemented that program prior to publication of the 2019 Title X Final Rule, the enforcement of which this Court has preliminarily enjoined. As HHS explains in the rule issued today, the enjoined "rule did not alter HHS's preexisting policy dating back at least to 2008 of not enforcing requirements of the 2000 regulations where they may conflict with the federal conscience statutes as explained in this rule." Exhibit A at 92 n.64. "This rule, similarly, does not alter that status quo, but sets forth general processes for enforcement of the Federal conscience and anti-discrimination laws." *Id.*

For these reasons, Defendants do not believe that the new rule conflicts with the preliminary injunction this Court issued on April 29. Nonetheless, in an abundance of caution, Defendants are filing this notice to inform the Court of this development.

Dated: May 2, 2019

Respectfully submitted,

JOSEPH H. HUNT
Assistant Attorney General

MICHELLE R. BENNETT
Assistant Branch Director

/s/ R. Charlie Merritt
ANDREW M. BERNIE (DC Bar No. 995376)

R. CHARLIE MERRITT (VA Bar No. 89400)
Trial Attorneys
U.S. Department of Justice
Civil Division, Federal Programs Branch
1100 L Street NW
Washington, DC 20005
Tel.: (202) 616-8098
Fax: (202) 616-8470
andrew.m.bernie@usdoj.gov
robert.c.merritt@usdoj.gov

Attorneys for Defendants