



July 14, 2025

BY ELECTRONIC SUBMISSION

Secretary Robert F. Kennedy Jr.
Department of Health and Human Services
200 Independence Avenue SW
Washington, D.C., 20201

Re: Request for Information: Ensuring Lawful Regulation and Unleashing Innovation To Make America Healthy Again; 2025-08384 (90 FR 20478)

Sir or Madam,

The Ethics & Religious Liberty Commission (ERLC) of the Southern Baptist Convention (SBC) respectfully submits the following comments regarding the Department of Health and Human Services Request for Information on ensuring lawful regulation.

The ERLC is the public policy and ethics entity for the SBC, which has nearly 13 million members in over 45,000 churches and congregations in the United States. We are charged by the SBC with addressing public policy affecting such issues as religious liberty, marriage and family, the sanctity of human life, and human dignity.

Throughout the duration of the Biden Administration, the ERLC filed over 25 public comments in response to proposed rules, agency actions, or guidances that threatened the sanctity of human life, infringed upon religious liberty, promoted a radical view of gender and sexuality, and undermined the inherent dignity of people. Here, we ask that you review and remove these “unnecessary, unlawful, unduly burdensome, or unsound” regulations within the Department of Health and Human Services in accordance with President Trump’s initiative on deregulation.¹

Nondiscrimination in Health Programs and Activities; RIN 0945-AA17

The ERLC strongly objects to the rule interpreting “sex” under Section 1557 of the Affordable Care Act (ACA) to include “sexual orientation and gender identity.” The previous administration’s commitment to advancing a radical gender ideology in our nation’s laws is evident, as several agencies across the executive branch instituted similar rules in response to Executive Order 13988.

The revision of Section 1557 mandates “gender affirming care” and impedes the work of healthcare professionals, faith-based hospitals and insurance providers, for which the provisions make only a narrowly tailored religious accommodation.

¹ [Unleashing Prosperity Through Deregulation – The White House](#)



While religiously affiliated hospitals routinely serve patients of any background, including those who identify as LGBT, providers who hold moral or religious beliefs cannot perform every procedure a patient requests. For example, doctors and nurses who object to gender reassignment surgeries for moral, religious, or scientific reasons would be forced to provide the procedure or risk losing their jobs.

The final rule fundamentally hinders human flourishing. It goes beyond the biblical truth that sex is binary, ignores biological realities, such as primary and secondary sex characteristics, and conflates “sex” with “gender.” As such, it actually undermines the human dignity of our fellow citizens.

The *Baptist Faith & Message* makes clear: “He created them male and female as the crowning work of His creation. The gift of gender is thus part of the goodness of God’s creation.” Sadly, however, the fall of man into sin has introduced brokenness into God’s good and perfect creation. While we lament the nature of the conflict that some experience between their biological sex and self-asserted “gender identity,” we long for their ultimate good. As such, we trust that God’s intentional design is what will ultimately bring about their flourishing.

Several states from across our country have successfully challenged this rule, preventing it from taking effect. In July 2024, a U.S. district court in Mississippi issued a nationwide preliminary injunction against the rule pertaining to the provisions extending sex-based discrimination protections to sexual orientation and gender identity.² Another district court in Florida issued a preliminary injunction against enforcement within the state.³

On the grounds that this rule threatens to steamroll the religious consciences of millions of Americans and advances medically unsound procedures that ultimately harm our neighbors, we urge HHS to rescind it.

HIPAA Privacy Rule to Support Reproductive Health Care Privacy; RIN 0945-AA20

At the time this rule was proposed, the stated intention was to “modify existing standards permitting uses and disclosures of protected health information (PHI) by limiting uses and disclosures of PHI for certain purposes where the use or disclosure of information is about reproductive health care that is lawful under the circumstances in which such health care is provided.” The agency claims that due to the decision in *Dobbs v. Jackson Women's Health Organization*, it is “more likely than before that individuals' PHI may be disclosed in ways that cause harm to the interests that HIPAA seeks to protect.”

² *State of Tennessee v. Xavier Becerra*, July 3, 2024.

https://litigationtracker.law.georgetown.edu/wp-content/uploads/2024/06/State-of-Tennessee_2024.07.03_PRELIMINARY-INJUNCTION.pdf

³ *State of Florida v. Department of Health & Human Services*, July 3, 2024.

<https://adfmmedia.org/wp-content/uploads/2024/07/FloridaCMADistrictRuling.pdf>



The ERLC is deeply troubled by the conflation of abortion as healthcare under this rule. The ERLC affirms that God created every person—male and female—in His own image endowed with equal value and dignity. We also affirm that every life is worthy of protection. Life begins at conception and abortion denies precious human lives both personhood and protection.

The ERLC also affirms the inherent value and dignity of women. We recognize that women need access to high quality healthcare, including care for reproductive health and pregnancy. Yet, we reject the premise that abortion is health care. Health care preserves human life while abortion ends it. To conflate the two is unjust to both the preborn children whose life the procedure ends, and the dignity and health of the mothers who carry the lives in their wombs.

The ERLC has two primary concerns with the rule.

- (1) The rule changes the term “person” which was previously defined as “natural person, trust or estate, partnership, corporation, professional association or corporation, or other entity, public or private,” to specify that a natural person means “a human being who is born alive.” The Department’s decision to render an entire class of human beings unprotected under the law is tantamount to eliminating legal protections and recognition for other classes of human beings based on age or development.
- (2) The rule is in conflict with the Supreme Court’s decision in *Dobbs v. Jackson Women’s Health Organization*. The Supreme Court held in *Dobbs* that a presumption of legitimacy should be given to state laws, holding “the Constitution does not prohibit the citizens of each State from regulating or prohibiting abortion” and thus “returns that authority to the people and their elected representatives.”⁴ By allowing federal employees to interpret state laws and give the presumption of invalidity to entire categories of state laws, the rule is in direct conflict with the Supreme Court’s holding in *Dobbs*. The Department’s directive allows federal bureaucrats to be both the judge and jury for how to interpret state law and to make decisions on when such laws should be followed or not.

The language of the rule is far too broad, complex and confusing. It is at odds with both congressional intent, existing federal and state laws, and Supreme Court precedent. For all of these reasons, the ERLC requests that the Department repeal its rule, leaving in place the safeguards found in the original statute.

Safeguarding the Rights of Conscience as Protected by Federal Statutes; RIN 0945-AA18

The stated intention of this rule is to rescind much of the 2019 Final Rule regarding conscience rights for healthcare workers. The Department proposed to rescind portions of the 2019 Final Rule claiming those portions are (1) redundant, unlawful, confusing, (2) undermine the balance Congress struck between safeguarding conscience rights and protecting access to health care, and (3) raised significant questions as to their legal authorization.

⁴ *Dobbs v. Jackson Women’s Health Organization*, 597 U.S. 215 (2022)



We are specifically concerned with the rescission of the explanation of the applicability and prohibitions of requirements under conscience protection laws, as this weakens understanding and ultimately enforceability of conscience rights. Additionally, we are concerned with the elimination of definitions for critical terms including “assist in the performance,” “discriminate or discrimination,” “health care entity,” and “health service program,” as these terms are crucial for both entities understanding the applicability of the law and for individuals in proving violation of rights.

Furthermore, canceling requirements relating to compliance, including the requirement to maintain records, cooperate with Office of Civil Rights (OCR) enforcement, and refrain from intimidation or retaliatory acts, is contradictory to the stated goal of protecting conscience rights.

And finally, removing language related to the rule of construction “in favor of a broad protection of the free exercise of religious beliefs and moral convictions,” is incongruent with a Department that understands the fundamental nature of these rights, and thus intends to uphold and protect them.

Despite the countless federal statutes that protect the conscience rights of Americans, these statutes are rendered meaningless unless they are adequately promoted and enforced by the Department. Amongst the laws that require such enforcement are the Church Amendment that ensures conscience protections for individuals and entities related to abortion, sterilization, and certain other health services; the Coats-Snowe Amendment that ensures conscience protections for health care entities related to abortion provision or training, referral for such abortion or training, or accreditation standards related to abortion; and the Weldon Amendment that ensures conscience protections for healthcare providers related to abortion and assisted suicide, euthanasia, or mercy killing. Each of these laws, in addition to countless others, prohibits the coercion of those with religious and moral objections from participating in highly controversial “medical” procedures.

For Southern Baptists, conscience protections are fundamental to our ability to freely exercise our religion and live out the most basic tenets of our faith. We urge the Department to reinstate the robust conscience protections found in the 2019 Final Rule in order to fully comply with current federal law and the fundamental rights to freely exercise religion deeply enshrined in the Constitution of the United States.

Designated Placement Requirements Under Titles IV-E and IV-B for LGBTQI+ Children; RIN 0970-AD03

The ERLC is deeply concerned with the rule as the Department distorts the term “safe and proper” foster care as provided in Titles IV–E and IV–B of the Social Security Act to cultivate a narrative that religious and faith-based providers are unable to provide adequate care for children who identify as LGBTQ. Not only is this untrue, but such a position is indicative of prejudice against faith-based foster care providers.



HHS bases its regulation on language from the Social Security Act, which requires state and tribal agencies to ensure “safe and proper care” for children in foster care placements. HHS argues that under existing federal law, states must develop a plan to ensure foster children who identify as LGBTQ receive “safe and proper care,” defined as “an environment free of hostility, mistreatment, or abuse based on the child’s LGBTQI+ status.” Additionally, the language requires states and tribal agencies to ensure foster parents are prepared with “the appropriate knowledge and skills to provide for the needs of the child related to the child’s self-identified sexual orientation, gender identity, and gender expression.”

Religious and faith-based organizations’ belief in a biblical sexual ethic is not at odds with the ability of foster families to provide “safe and proper care” to foster children from any background. Although HHS claims it is not violating the free exercise of religion, the Department is functionally enforcing such discrimination by relying on the false assumption that only “affirmation” of a child’s LGBTQ beliefs is “safe and proper.” Contrary to such assertions by HHS, a foster family should not have to agree with every political, spiritual, and other beliefs of a child to be deemed “safe and proper.” A foster parent’s biblical belief regarding sexuality and gender identity does not detract from their ability to warmly welcome a vulnerable child into their home.

The cherry-picked statistical “evidence” cited in this rulemaking is both lacking in academic rigor on its own merit and contradicts other peer-reviewed research. While children who identify as LGBTQ do report significantly higher rates of anxiety, depression, and other comorbidities, contrary to HHS’s argument, these are not removed by the presence of healthcare or family placements that affirm the children’s LGBTQ identity.⁵ One of the most cited studies, often referred to as demonstrating causation between the affirmation of biological sex leading to increased suicidal behavior and self-harm, acknowledges that it could not actually show causation, only correlation.⁶ Time and again, substantive research indicates that the influence of care or counseling that affirms a child’s biological sex is not significant enough to prove causation.

Furthermore, the greatest predictor of psychological well-being is not significantly changed depending on whether the child was socially transitioned or not, but depends upon a child’s overall relationship to his or her peers.⁷ A similar result was found in a study of German families

⁵ D’Angelo, Roberto, Ema Syrulnik, Sasha Ayad, Lisa Marchiano, Dianna Theadora Kenny, and Patrick Clarke. “One Size Does Not Fit All: In Support of Psychotherapy for Gender Dysphoria.” *Archives of Sexual Behavior* 50, no. 1 (2020): 7–16. [One Size Does Not Fit All: In Support of Psychotherapy for Gender Dysphoria | Archives of Sexual Behavior](#).

⁶ Turban, Jack L., Noor Beckwith, Sari L. Reisner, and Alex S. Keuroghlian. “Association between Recalled Exposure to Gender Identity Conversion Efforts and Psychological Distress and Suicide Attempts among Transgender Adults.” *JAMA Psychiatry* 77, no. 1 (2020): 68. [Association Between Recalled Exposure to Gender Identity Conversion Efforts and Psychological Distress and Suicide Attempts Among Transgender Adults | LGBTQIA Medicine | JAMA Psychiatry](#).

⁷ Wong, Wang Ivy, Anna I. van der Miesen, Tjonnie G. Li, Laura N. MacMullin, and Doug P. VanderLaan. “Childhood Social Gender Transition and Psychosocial Well-Being: A Comparison to Cisgender Gender-Variant



and children, finding that “claims that gender affirmation through transitioning socially is beneficial for children with GD (gender dysphoria) could not be supported from the present results.”⁸

Finally, foster care is designed to be a temporary placement to solve underlying issues preventing parents from adequately caring for their child. As such, the rights of biological parents are worthy of protection—including the right to oppose damaging gender ideology. As such, it is crucial to consider the impact that this rule will have on the religious liberty of the parents of children placed in foster care.

States like Texas challenged the rule for significantly burdening their foster care systems, forcing states to choose between affirming LGBT identities or risk losing federal funding. In March 2025, a U.S. district court in Texas stayed the final rule nationwide for finding it is likely to succeed on the merits because the rule will “radically reshape its foster care system, imposing requirements that not only upend longstanding state authority but also jeopardize the welfare of vulnerable children in foster care.”⁹

In light of these concerns, we strongly urge the Department to rescind this rule in the best interest of foster children across the country.

Unaccompanied Children Program Foundational Rule; RIN 0970-AC93

In evaluating this rule, the ERLC has an overarching desire to ensure that unaccompanied children are protected from exploitation and abuse, in keeping with the Office of Refugee Resettlement’s (ORR) duties. Messengers to the Southern Baptist Convention’s annual meeting have urged “our government to take swift and bold action to protect and prevent the exploitation of unaccompanied immigrant children arriving to the United States.”¹⁰ In doing so, our churches and members affirmed that a key tenet of our faith includes caring for the vulnerable, including unaccompanied children who arrive at our borders.

To that end, this rule does much good in establishing stronger standards to ensure that these vulnerable children are not exploited and receive proper care. This rule helpfully codifies many standards and practices established in the *Flores* settlement, individualizes assessment in

Children.” *Clinical Practice in Pediatric Psychology* 7, no. 3 (2019): 241–53. [Childhood Social Gender Transition and Psychosocial Well-Being: A Comparison to Cisgender Gender-Variant Children - Wang Ivy Wong, Anna I. R. van der Miesen, Tjonnje G. F. Li, Laura N. MacMullin, Doug P. VanderLaan, 2019.](#)

⁸ Sievert, Elisabeth DC, Katinka Schweizer, Claus Barkmann, Saskia Fahrenkrug, and Inga Becker-Hebly. “Not Social Transition Status, but Peer Relations and Family Functioning Predict Psychological Functioning in a German Clinical Sample of Children with Gender Dysphoria.” *Clinical Child Psychology and Psychiatry* 26, no. 1 (2020): 79–95. <https://doi.org/10.1177/1359104520964530>.

⁹ *Texas v. Becerra*. 12 Mar. 2025, www.texasattorneygeneral.gov/sites/default/files/images/press/Foster%20Care%20Memo%20and%20Order.pdf. Accessed July 14, 2025.

¹⁰ “On Wisely Engaging Immigration.” SBC.net. Accessed July 14, 2025. <https://www.sbc.net/resource-library/resolutions/on-wisely-engaging-immigration/>



placements to prioritize the best interest of the child, improves standards for placements that will assist in preventing trafficking, and increases legal representation for these unaccompanied children.

However, this rule goes beyond ensuring appropriate care is provided to unaccompanied children and contains components that will harm many people serving these children, violate conscience and religious liberty rights, and ultimately hurt the minors who have already experienced deep trauma.

The use of federal funding to facilitate abortion-related travel and ensure access to abortion for unaccompanied children is in contradiction to existing appropriations provisions, undermines the intent of Congress when passing spending bills, and violates the consciences of ORR staffers and American taxpayers.

ORR incorrectly bases their ability to fund abortion-related travel for these unaccompanied children by arguing that funding travel to obtain abortions is a separate issue from directly funding abortions prohibited by the Hyde Amendment. As the ERLC has advocated time and again, abortion-related travel is inherently included as a prohibited measure under the Hyde Amendment since doing so subsidizes the abortion industry with federal funding. This is consistent with President Trump's executive order on fully Enforcing the Hyde Amendment, which instructs OMB to give direction to the agency heads on ending "the forced use of Federal taxpayer dollars to fund or promote elective abortion."¹¹

Additionally, the regulation seeks to fund and enable harmful "gender transitions" for unaccompanied children, further exploiting vulnerable children and violating fundamental parental rights. The Department included a provision within the regulation granting authority to ORR to transport minors for a broad range of medical services, including across state lines for "gender transition" procedures.

Such regulations discriminate against religious ORR staff members, faith-based, foster care providers, and parents by forcing them to choose between their deeply held convictions and their desire to live out their faith by caring for some of the most vulnerable children in our society.

We urge the Department to amend this regulation to ensure unaccompanied children are truly protected from exploitation and harm and remove the pro-abortion, pro-radical gender ideology provisions that further endanger these children.

Ensuring Access to Equitable, Affordable, Client-Centered, Quality Family Planning Services; RIN 0937-AA11

The Departments stated intention for the rule is "to revoke the requirements of the 2019 regulations, including removing restrictions on non directive options counseling and referrals for

¹¹ [Enforcing the Hyde Amendment – The White House](#)



abortion services and eliminating requirements for strict physical and financial separation between abortion-related activities and Title X project activities, thereby reversing the negative public health consequences of the 2019 regulations.”

However, it was not just the 2019 regulations that placed limitations on counseling for abortions and the financial separation of abortion-related activities and Title X projects, but federal law and congressional appropriations. Section 1008 of the Public Health Service Act provides that “[n]one of the funds appropriated under this subchapter shall be used in programs where abortion is a method of family planning.” 42 U.S.C. § 300a-6. This provision has been part of Title X since its inception in 1970. In addition to being codified in permanent law, Congress has regularly reiterated the funding prohibition in appropriations for Title X. Thus, both Title X and the appropriations enactments that fund it draw a sharp distinction between family planning and abortion. Congress intended to create “a wall of separation” between family planning and abortion by broadly prohibiting abortion-related activities.

In 1978, during debate on possible amendments to Title X, Congressman Dornan proposed amending the statute to say, “No grant or contract authorized by this Title may be made or entered into with an entity which directly or indirectly provides abortion, abortion counseling, or any abortion referral services.”¹²

The House rejected the amendment on the ground that Section 1008 already encompassed the proffered prohibitions, signalling the original congressional intent to keep abortion separate from Title X.

The Department cited the departure of a number of abortion providers, including Planned Parenthood, from participation in Title X as a reason to eliminate abortion restrictions in Title X. Such reasoning seems backwards. The departure of providers such as Planned Parenthood from the Title X program is not a reason to eliminate abortion restrictions from Title X. It is, instead, a reason to ensure that Title X grants will be made only to those providers who will respect the separation that Congress mandated between abortion and Title X. Put another way, Planned Parenthood’s departure from the Title X program is no reason to attempt by regulation to revise Title X, but simply underscores why Planned Parenthood’s insistence on the integration of abortion into family planning services makes it an unsuitable provider of Title X services.

Ironically, this concern did not extend to all Title X recipients as the Department removed Title X funding from states like Oklahoma and Tennessee, thereby limiting family planning services to millions because their state laws prohibit counseling or referring for abortion.¹³ As noted in the letter referenced, funding to these states has been reinstated, however, it is essential to rescind this rule to protect states from this unjust, illegal enforcement in the future.

¹² 124 Cong. Rec. 37045 (1978).

¹³ Memo Re: *Oklahoma v. Department of Health and Human Services*, No. 24-437, Office of the Solicitor General, April 5, 2025, https://www.supremecourt.gov/DocketPDF/24/24-437/355644/20250415154510044_Letter%2024-437.pdf



Partnerships With Faith-Based and Neighborhood Organizations; RIN 0991-AC13

The stated intention of this regulation in relation to partnerships with faith-based and neighborhood organizations is to “promote maximum participation by beneficiaries and providers in the Agencies’ covered programs and activities and ensure consistency in the implementation of those programs and activities.” The agencies claim that the regulation will (1) ensure “federally funded services and programs . . . reach the widest possible eligible population, including historically marginalized communities,” and (2) “address and correct inconsistencies and confusion raised by the 2020 Rule.”

Faith-based organizations are indispensable service-providers in meeting the needs of America’s most vulnerable populations. Without faith-based organizations, millions of Americans would not receive the critical services they need to thrive and flourish. From services for mental health and addiction, to homeless shelters, to healthcare, to immigrant and refugee services, all across America, faith-based organizations are at the forefront of serving our country’s most needy communities.

Religious congregations provide 7.6 million volunteers to run 1.5 million social programs in America each year.¹⁴ And the impact of these groups continues to grow. Researchers Brian and Melissa Grim report that “religious organizations have tripled the amount of money spent on social programs in the last 15 years - to \$9 billion.¹⁵ They also explain that 40% of the top 50 charities in the US are faith-based, with combined operating budgets of over \$45.3 billion.¹⁶

Though the regulation allows for faith-based organizations to receive federal funding, the ERLC is concerned it infringes on the rights of faith-based organizations in its explicit attempts to separate the designated services offered by faith-based organizations from their various “religious activities.” This creates status-based discrimination against faith-based organizations due to the increased stipulations that they accommodate beneficiaries and adjust their programming.

In 2017, the Supreme Court held in *Trinity Lutheran v. Comer* that states may not prevent faith-based organizations from receiving state funds generally available to the public, simply by virtue of the fact that the organization is faith-based. In the majority opinion, Chief Justice Roberts wrote, “this Court has repeatedly confirmed that denying a generally available benefit solely on account of religious identity imposes a penalty on the free exercise of religion that can

¹⁴ “The Socio-economic Contribution of Religion to American Society: An Empirical Analysis,” Grim, Brian & Grim, Melissa, *Interdisciplinary Journal of Research on Religion*, Volume 12, Article 3, 2016.

¹⁵ *Id.*

¹⁶ Faith-based charities identified by their self-description from a list of the 50 largest U.S. charities on the Forbes top charities list: <http://www.forbes.com/top-charities/list/>.



be justified only by a state interest ‘of the highest order.’”¹⁷ In light of *Trinity Lutheran*, the ERLC believes the Department needs to remove these additional burdens placed on faith-based organizations.

We find it incumbent upon our government to promote the things we should value as a society and work toward the common good. We urge you to take the necessary steps to remove these burdensome rules and unsound actions that undermine our fundamental freedoms, endanger preborn life, and encourage a rogue view of gender and sexuality that is inconsistent with biblical truth and biological realities.

Thank you for the opportunity to comment.

Respectfully submitted,

Fredrick Brent Leatherwood
President
Ethics & Religious Liberty Commission
of the Southern Baptist Convention

¹⁷ *Trinity Lutheran v. Comer*, June 26, 2017. [15-577 Trinity Lutheran Church of Columbia, Inc. v. Comer \(06/26/2017\)](#)