



THE NATIONAL CATHOLIC BIOETHICS CENTER

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The Totalitarian Fiasco of the HHS 1557 Rule

It is hard to know where to begin to comment on the over 300-page proposed revised regulations recently published by the Department Health and Human Services (HHS) on [Nondiscrimination in Health Programs and Activities](#). The proposed federal rule would “force health care workers to perform gender transition procedures, require health insurance issuers to cover them, and entertain a mandate to perform elective abortions,” according to a [statement](#) by the United States Conference of Catholic Bishops.

The Obama administration’s interpretation of section 1557 of the Affordable Care Act (Obamacare) banned discrimination on the basis of various characteristics, including sexual orientation. The Trump administration replaced the Obama administration rule in 2020. Now the Biden administration wants to replace the 2020 rule and go much further than did President Obama. “The Department also proposes to address nondiscrimination on the basis of sex, including gender identity and sexual orientation, consistent with *Bostock* and related case law, as well as subsequent Federal agency interpretations.”

It is hard to overstate the radicalness of the change that the Biden administration wants to impose on our nation. If this rule went into effect, it would force health insurers to cover a myriad of surgical and pharmacological interventions based on a diagnosis of gender dysphoria and mandate the delusion that it is possible to change a person’s biological sex. Anyone who has a minimal grasp of genetics knows that every cell in our bodies reveals our biological sex, and no amount of surgeries or cross-sex hormones can change more than someone’s exterior appearance. The cost and negative side effects of trying to help a man or a woman pass as a member of the opposite sex are nightmarish. According to traditional Judeo-Christian anthropology, it is profoundly immoral to reject God’s creation of our bodies.

Any health care worker who rejects gender ideology, denies that someone can change his or her sex, or disagrees that attempts to do so are therapeutic could be targeted for exclusion from the healing professions by Joe Biden and Xavier Becerra’s HHS. One of the most disturbing aspects of the proposed rule is its demand for compelled speech. It is profoundly evil to attempt to force people to say things they believe are lies. Alexander Solzhenitsyn pointed out how the communist regime in the Soviet Union habitually forced the population to affirm what they knew to be lies and imposed grave penalties on those who refused. How different is the current proposal to force people to use “preferred pronouns” that frequently mean calling a biological male “she” or a biological female “he”? Under this rule, if someone does not comply with the demand to use preferred pronouns, he could lose his job and even the ability to work in health care.

Fortunately, there are effective ways to block this outrageous attempt to impose an extreme agenda on the United States. Legal challenges can give judges an opportunity to this rule or to enjoin HHS from implementing it. More immediately, everyone has the right to contribute public comments on the rule [here](#) for a 60-day period ending in October. These

comments must be taken into consideration by HHS and, because HHS must respond to them, could even delay the process if there is a sufficiently large number of comments. I encourage individuals and institutions to join The National Catholic Bioethics Center and many other groups who will be fighting the good fight on this.

Also outrageous is the flagrant attempt to impose abortion on health care just after the Supreme Court's repudiation of *Roe v. Wade* in the *Dobbs* decision. The Biden administration wants the federal government to declare the refusal to perform an abortion a form of unlawful discrimination! Medical professionals and Catholic hospitals would not be allowed the right to reject abortion. Religious liberty and conscience rights that are guaranteed by law in the US would be subject to "review" and rejection by the Office of Civil Rights of HHS. This would be laughable if it were not seriously proposed by bureaucrats in positions of power.

I am also struck by the hypocrisy of those who claim to stand for diversity and inclusion and yet do not hesitate to drive out of health care anyone who disagrees with them. Make no mistake, the targets of this attack are more than conservative Catholics or Christians. They include many Muslims and Jews and other strong adherents of the world's religions. It would also include liberals who simply cannot accept the nonsensical notion that a woman can become a man or a man a woman. If it goes forward, there will be no diversity of views on transgenderism or abortion in health care and tremendous discrimination against huge numbers of people who do not accept a radical modern ideology with totalitarian tendencies. How is that in conformity with the so-called ideal of "diversity and inclusion"?

Above all, we need to protect the most vulnerable. Our brothers and sisters who suffer anguish and despair from gender confusion deserve better than mutilating surgeries and dangerous drug regimens that leave them sterile and facing many other negative health consequences. Pregnant mothers in distress should receive compassionate care and real support, not abortion. The tragedy of transgender and abortion advocates is that they make bad situations worse. It is a medical and cultural challenge to provide positive solutions in these difficult circumstances, but there should be a clear consensus that vulnerable people are not helped by victimizing others or trampling on the religious liberty and conscience rights of so many.