



Submitted to <https://www.regulations.gov/>

March 6, 2023

Melanie Fontes Rainer  
Director, Office for Civil Rights  
U.S. Department of Health and Human Services  
200 Independence Avenue, SW  
Washington, DC 20201

RE: Safeguarding the Rights of Conscience as Protected by Federal Statutes (RIN 0945-AA18)

Dear Director Fontes Rainer:

On behalf of the American Speech-Language-Hearing Association, I write to offer comments on the proposed rule, Safeguarding the Rights of Conscience as Protected by Federal Statutes.

The American Speech-Language-Hearing Association (ASHA) is the national professional, scientific, and credentialing association for 228,000 members and affiliates who are audiologists; speech-language pathologists; speech, language, and hearing scientists; audiology and speech-language pathology support personnel; and students.

ASHA supports the work of the Office for Civil Rights (OCR) to promote and protect the health care rights of all Americans by ensuring people maintain access and opportunity to participate in and receive health care services without discrimination. There is a need to ensure knowledge of, compliance with, and enforcement of federal laws and regulations to ensure the promotion and protection of individuals' rights extend to both service providers and recipients of services. ASHA applauds OCR's efforts in this proposed rule to find the proper balance between the protection of health care providers' rights of conscience and the rights of patients and communities to receive access to the care that they need.

However, ASHA requests that OCR provide clarification on the circumstances under which services may be denied, and on the documentation required. To ensure patient safety and a continuum of care, there should be clear guidelines for avoiding client/patient abandonment and blanket refusal of all services, which are both prohibited by our code of ethics.<sup>1,2</sup> As such guidance is established, care should be taken to mitigate the risk of making determinations based on stereotyping and visual assessment. Patient privacy, as well as that of the service provider, must be held paramount.

ASHA recommends that OCR clarify and explicitly state that the protections espoused in the proposed rule extend only to procedures that infringe on the religious beliefs of the health care provider and not provide a blanket refusal to treat a category of individuals.

ASHA urges OCR to provide clarification on the application of the regulation that requires providing referrals and resources for the patient to locate reasonable alternatives to services. This is especially significant in areas with personnel shortages and where pre-existing health care disparities will negatively impact access to care including rural and remote areas, urban centers, and areas with large racial/ethnic minority populations.

Finally, ASHA recommends that employers receive clarification on the application of conscience rights and their legal obligations to refer and maintain continuity of care.

Thank you for the opportunity to provide comments on the Safeguarding the Rights of Conscience as Protected by Federal Statutes proposed rule. If you or your staff have any questions, please contact Rebecca Bowen, ASHA's director of health care policy, value, and innovation, at [rbowen@asha.org](mailto:rbowen@asha.org).

Sincerely,



Robert M. Augustine, PhD, CCC-SLP  
2023 ASHA President

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<sup>1</sup> American Speech-Language-Hearing Association. (2020). Issues in Ethics: Client Abandonment. <https://www.asha.org/practice/ethics/client-abandonment/#:~:text=A%20professional%20who%20abandons%20their,of%20persons%20they%20serve%20professionally.%22>.

<sup>2</sup> American Speech-Language-Hearing Association (2016). Code of Ethics. <https://inte.asha.org/Code-of-Ethics/>.