

Attorney General Raoul Fights Discrimination In Health Care

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Chicago – Attorney General Kwame Raoul today joined a coalition of 22 attorneys general fighting attempts to make it easier for health care providers to refuse to provide necessary and desired health coverage to individuals on the basis of providers’

“religious beliefs or moral convictions.” [In an amicus brief](#) filed in support of California and Washington states in their lawsuits brought against the U.S. Department of Health and Human Services (HHS), Raoul and the coalition are opposing HHS’ “Refusal-of-Care” rule.

“Access to health care is a basic right that should not be reliant on a provider’s religious or moral beliefs,” Raoul said. “This rule will prevent people, particularly women and LGBTQ individuals, from receiving the medical services and care they need. I will continue working to preserve access to health care.”

In May 2019, HHS introduced a final rule that would vastly and unreasonably expand the ability of health care providers to deny patients access to certain lawful and medically-needed procedures, services and information, for example related to abortion, sterilization, and aid-in-dying — all while purporting to implement various federal conscience statutes. In reality, however, the rule violates the careful balance Congress struck in the underlying statutes by simultaneously expanding the job functions that objectors may refuse to perform based on their personal views, and severely restricting the actions that employers may take to plan for and accommodate such objections while ensuring that patients receive uninterrupted care. The rule would disproportionately impact women and members of the LGBTQ community.

Every federal court that has considered the rule has agreed that it is not authorized by law, and has accordingly vacated the rule in full, including the U.S. District Court for the Northern District of California, the U.S. District Court for the Southern District of New York and the U.S. District Court for the Eastern District of Washington. After those losses in California and Washington, the federal government appealed to the U.S. Court of Appeals for the 9th Circuit. Raoul and the coalition filed this amicus brief in support of California and Washington in that appeal.

In the brief, Raoul and the coalition argue, that the rule’s definition of “discrimination” is inconsistent with statute and contrary to the Administrative Procedures Act, and that HHS acted arbitrarily and capriciously in promulgating the rule. Specifically, HHS failed to acknowledge that redefining “discrimination” represented a change in position, failed to consider the reliance interests created by HHS’ own past guidance as to the scope of the federal conscience statutes’ anti-discrimination provisions, and relied on empirical justification for the rule that is contradicted by the administrative record.

Further, Raoul and the coalition explain that the rule not only threatens to harm countless patients in disrupting their access to medically-necessary care, but also jeopardizes billions in critical federal health care funding that Congress has appropriated to the states.

Joining Raoul in filing this amicus brief are the attorneys general of Colorado, Connecticut, Delaware, the District of Columbia, Hawaii, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New Mexico, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia and Wisconsin.