

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

STATE OF FLORIDA; FLORIDA AGENCY
FOR HEALTH CARE ADMINISTRATION;
FLORIDA DEPARTMENT OF
MANAGEMENT SERVICES; CATHOLIC
MEDICAL ASSOCIATION, on behalf of its
current and future members,

Plaintiffs,

v.

No. 8:24-cv-1080-WFJ-TGW

DEPARTMENT OF HEALTH AND
HUMAN SERVICES; XAVIER BECERRA,
in his official capacity as Secretary of the
Department of Health and Human Services;
MELANIE FONTES RAINER, in her official
capacity as the Director of the Office for Civil
Rights; CENTERS FOR MEDICARE AND
MEDICAID SERVICES; CHIQUITA
BROOKS-LASURE, in her official capacity as
Administrator of the Centers for Medicare and
Medicaid Services,

Defendants.

PLAINTIFFS' RESPONSE TO THE COURT'S ORDER

Pursuant to the Court's November 12, 2024, Order, Plaintiffs respectfully
submit the following update:

On January 20, 2024, President-elect Trump is scheduled to begin his term in office. U.S. Const. amend. XX, § 1. The incoming administration is unlikely to share the current administration’s peculiar enthusiasm for promoting “gender transition” drugs and procedures or requiring that males be allowed into female private spaces. It may move to repeal the regulations challenged here. But that will take time. A final rule repealing the challenged regulations could take years. And even when the regulations are repealed, a district court may still vacate the repeal rule and reinstate the current regulations. To continue assuring compliance without risk of liability under the False Claims Act, Plaintiffs will need the stay and preliminary injunction to remain in place for the foreseeable future.

HHS’s brief on appeal is currently due on January 2, 2025. Plaintiff Catholic Medical Association (CMA) has cross-appealed. It’s too early to say what HHS will decide to do with these appeals after January 20, 2025. In light of this uncertainty, Florida Plaintiffs don’t oppose temporarily staying the district court proceedings until February 15, 2024, to allow the incoming administration time to evaluate this litigation in light of changed priorities, as long as the stay and preliminary injunction remain in place. Given that this Court denied injunctive relief to CMA, CMA’s position is that this case should proceed to final judgment.

Plaintiffs also plan to move for leave to amend the complaint to challenge the rule’s intrusive disparate-impact requirements for “limited English proficient” populations. Plaintiffs, however, are willing to defer amending the complaint until the new administration can evaluate its position on those requirements.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on November 15, 2024, a true and correct copy of the foregoing was filed with the Court's CM/ECF system, which will provide service to all parties who have registered with CM/ECF and filed an appearance in this action.

/s/ James R. Conde
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