



## United States Conference of Catholic Bishops

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December 6, 2021

Dear Senator:

We are writing as chairmen of the U.S. Conference of Catholic Bishops' Committee on Pro-Life Activities and Committee for Religious Liberty to urge your co-sponsorship and support for essential legislation protecting the fundamental rights of health care providers.

Senator James Lankford (R-OK) has introduced the Conscience Protection Act of 2021 (CPA), S. 401, to ensure that those providing much-needed health care and health coverage can continue to do so without being forced to help destroy innocent unborn children.

The need for the CPA cannot be doubted. While existing federal laws already protect conscientious objection to abortion in theory, this protection has not proved effective in practice. In its May 2019 rule Protecting Statutory Conscience Rights in Health Care, HHS refers to thousands of comments it had previously received from health care workers facing an environment of discrimination and attempted coercion due to their moral or religious convictions.<sup>1</sup> This includes those currently practicing medicine as well as students who have left the field or changed their specialty due to fears of being coerced or discriminated against. In fact, in a 2019 poll, 36% of respondents from faith-based medical associations reported having experienced pressure or discrimination because of their moral, ethical, or religious beliefs.<sup>2</sup>

Courts have found that the laws protecting conscience rights in health care can generally only be enforced by the Office for Civil Rights (OCR) at the U.S. Department of Health and Human Services (HHS). Yet, it is now clear that health care workers cannot rely on the government to protect their rights of conscience. In August of 2021, the Department of Justice voluntarily dismissed a case against the University of Vermont Medical Center, which OCR had found in 2020 to have forced a nurse to participate in an abortion against her known religious beliefs. And recent reports indicate that HHS plans to revoke OCR's authority to ensure that HHS complies with RFRA and the First Amendment, clearly signaling HHS's desire to deprioritize its duty to protect this basic civil right.

The Conscience Protection Act addresses the difficulty of enforcing existing laws, most notably by establishing a private right of action allowing victims of discrimination to defend their own rights in federal court. Lawsuits do not guarantee that every plaintiff wins his or her discrimination plea, but at least the ability to go to court would allow victims to make their case and puts discriminators on notice that rampant disregard for conscience rights and the dignity of the human person must stop, or there will be financial costs. The CPA also clarifies current law by stating clearly that plans and sponsors cannot be forced to include or cover abortion, it defines terms, and it allows for a judge to decide on an appropriate penalty for violations instead of linking penalties to removal of all governmental funding.

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<sup>1</sup> 84 Fed. Reg. 23170, 23175 (May 21, 2019).

<sup>2</sup> <https://www.freedom2care.org/polling>

Finally, in addition to Catholic and other religious health care providers who are especially at risk from coercive abortion policies due to their religious objections, it is worth noting that rejection of abortion is an integral part of the Hippocratic oath itself, a completely secular and universally acclaimed medical code of conduct. Over the centuries, this oath has helped to define medicine as a profession, a healing vocation dedicated to preserving and protecting the life and well-being of one's patients. Today it is still true that the great majority of ob/gyns—regardless of religious affiliation—remain unwilling to perform abortions. Even the U.S. Supreme Court, which legalized abortion nationwide, has admitted that abortion's role in destroying unborn life makes it “inherently different from other medical procedures” and said that the government may help “encourag[e] childbirth” over abortion.<sup>3</sup> When government instead mandates involvement in abortion as a condition for being allowed to provide medical services, it not only eliminates the civil rights of health care providers but also undermines the entire medical profession by changing its identity from one of healing and help for every patient to one of destruction and death.

In short, whether you approach this issue out of respect for defenseless human life, religious liberty, “freedom of choice” on abortion, or the well-being of the medical profession, we urge you to support and co-sponsor S. 401, the Conscience Protection Act.

Sincerely,

Handwritten signature of Timothy Cardinal Dolan in black ink, preceded by a cross symbol.

His Eminence Timothy Cardinal Dolan  
Archbishop of New York  
Chair, Committee for Religious Liberty

Handwritten signature of William E. Lori in blue ink, preceded by a cross symbol.

Most Reverend William E. Lori  
Archbishop of Baltimore  
Chair, Committee for Pro-Life Activities

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<sup>3</sup> *Harris v. McRae*, 448 U.S. 297, 325 (1980).