

Insights

Federal judge temporarily enjoins rule prohibiting discrimination on the basis of gender identity

January 9, 2017

By: Brandon W. Shirley

On December 31, 2016, a Federal District Court judge in Texas issued an order (the “Order”) temporarily preventing the Health and Human Services Office of Civil Rights from enforcing certain sections of the new anti-discrimination regulations issued on May 18, 2016. Several states, including religious organizations, challenged the new regulations’ expansive interpretation of the term “sex discrimination” as used in Section 1557 of the Patient Protection and Affordable Care Act to include discrimination on the basis of gender identity and abortions as well as the regulation’s application to religious organizations.

The judge determined that such interpretation violated the Administrative Procedure Act by contradicting existing law and exceeding statutory authority and that it likely violated provisions of the Federal Religious Freedom Restoration Act as applied to private religious groups. The Order is limited in scope but has nationwide application. Specifically, the Order only halts the regulation’s prohibition against discrimination on the basis of “gender identity” and “termination of pregnancy.” All other requirements remain in full force and effect. We will keep you updated as this lawsuit progresses through the legal process.

Contact Brandon W. Shirley if you have questions about your compliance with the regulations.