



**U.S. Department of Justice**  
Civil Division, Appellate Staff  
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November 7, 2022

VIA CM/ECF

Catherine O'Hagan Wolfe, Clerk  
United States Court of Appeals  
for the Second Circuit  
Thurgood Marshall United States Courthouse  
40 Foley Square  
New York, NY 10007

RE: *State of New York et al. v. U.S. Dep't of Health & Human Servs. et al.*, Nos.  
19-4254, 20-31, 20-32, 20-41

Dear Ms. Wolfe:

We submit this letter pursuant to the Court's order of February 5, 2021, which placed these consolidated appeals in abeyance and directed appellants to file stay status letters every 30 days, beginning 30 days from the date of the order. These consolidated appeals concern the validity of a final rule that the U.S. Department of Health & Human Services (HHS) promulgated in 2019. *See* Protecting Statutory Conscience Rights in Health Care, 84 Fed. Reg. 23,170 (May 21, 2019). HHS considered the issues and determined that it wishes to engage in notice-and-comment rulemaking to revisit the rule at issue in these appeals. Accordingly, HHS drafted a notice of proposed rulemaking and submitted it to the Office of Information and Regulatory Affairs (OIRA) within the Office of Management and Budget for review and approval.<sup>1</sup> As of the filing of this letter, the draft notice remains under review.

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<sup>1</sup> *See* Office of Information and Regulatory Affairs, Office of Management and Budget, Reginfo.gov, <https://www.reginfo.gov/public/do/eoDetails?rrid=234914>. OIRA is the entity responsible for coordinating interagency Executive Branch review of regulations and ensuring compliance with Executive Order 12866. *See* Executive Order 12866.

We will file additional status reports at 30-day intervals, consistent with the Court's order.

Sincerely,

s/ Sarah Carroll  
Sarah Carroll  
U.S. Department of Justice  
Appellate Staff, Civil Division

cc (via CM/ECF): Counsel of Record