

Proposed Intervenor (and currently *amici curiae*) include the largest association of Christian healthcare professionals in the country, CMDA, and one of its members, Dr. Frost. CMDA was founded in 1931, and currently has nearly 20,000 members. CMDA publishes position papers on a range of healthcare-related topics, including on the right of conscience. CMDA's official position on Healthcare Right of Conscience states: "Respect for conscientiously held beliefs of individuals and for individual differences is an essential part of our free society. The right of choice is foundational in our healthcare process, and it applies to both healthcare professionals and patients alike." See Declaration of Dr. David Stevens in Support of Opposition to Motion for Preliminary Injunction ("Stevens Decl.") ¶ 9. CMDA's official statement on the Healthcare Professionals Right of Conscience states that "[a]ll healthcare professionals have the right to refuse to participate in situations and procedures that they believe to be morally wrong and/or harmful to the patient or others. In such circumstances, healthcare professionals have an obligation to ensure that the patient's records are transferred to the healthcare professional of the patient's choice." *Id.* ¶ 10. Dr. Frost is an OBGYN doctor who agrees with CMDA's statements on conscience rights. Declaration of Dr. Frost in Support of Opposition to Motion for Preliminary Injunction ¶ 12-13.

Proposed Intervenor (currently *amici curiae*) are direct beneficiaries of the regulation challenged in this proceeding, *Protecting Statutory Conscience Rights In Health Care*, 84 Fed. Reg. 23,170 (May 21, 2019) ("Conscience Rule"). CMDA also has unique insight into the Conscience Rule, as it has filed comments in the past three rulemaking proceedings involving conscience rights and conducted scientific surveys in 2009 and 2011 that the Department relied upon when issuing the Conscience Rule. "An *amicus* brief should normally be allowed when . . . the *amicus* has unique information or perspective that can help the court beyond the help that the

lawyers for the parties are able to provide.” *Auto. Club of N.Y. v. Port. Auth. of N.Y. and N.J.*, No. 11-6747, 2011 WL 5865296, at *1 (S.D.N.Y. Nov. 22, 2011). Here, CMDA and Dr. Frost represent the perspective of those health care entities protected by the Conscience Rule. As set forth more fully, in Proposed Intervenor’s motion to intervene, No. 19-cv-4676, ECF No. 65, they have unique insight into the role that religion plays in the lives of healthcare professionals and the importance of having robust (and enforceable) conscience protections in place.

Because Dr. Frost and CMDA have sought to intervene as Defendants, they have prepared a thorough brief responding to all the arguments presented in Plaintiffs’ 55-page motion for preliminary injunction, which was issued pursuant to this Court’s Order granting Plaintiffs’ motion for leave to file excess pages. No. 19-cv-4676, ECF No. 27. Because Proposed Intervenor brings a valuable perspective to this case, they respectfully ask the Court to grant permission to file an over-length brief consistent with the page limits afforded the parties. Proposed Intervenor also respectfully asks to be given leave to present oral argument upon the Plaintiffs’ motion for preliminary injunction.

Dated: June 28, 2019

New York, New York

Daniel Blomberg (*pro hac vice forthcoming*)
Nicholas Reaves (*pro hac vice forthcoming*)
THE BECKET FUND FOR RELIGIOUS
LIBERTY
1200 New Hampshire Ave. NW, Suite 700
Washington, D.C. 20036
Telephone: 202.955.0095
Facsimile: 202.955.0090

Respectfully submitted,

GIBSON, DUNN & CRUTCHER LLP

/s/ Allyson N. Ho

Allyson N. Ho (*pro hac vice*)
GIBSON, DUNN & CRUTCHER LLP
2100 McKinney Avenue, Suite 1100
Dallas, Texas 75201
Telephone: 214.698.3100
Facsimile: 214.571.2900

Robert E. Dunn (*pro hac vice forthcoming*)
GIBSON, DUNN & CRUTCHER LLP
1811 Page Mill Road
Palo Alto, California 94304
Telephone: 650.849.5300
Facsimile: 650.849.5333

Jason H. Hilborn (*pro hac vice forthcoming*)
GIBSON, DUNN & CRUTCHER LLP
1050 Connecticut Avenue, N.W.
Washington, DC 20036
Telephone: 202.955.8500
Facsimile: 202.467.0539

Attorneys for Amici (and Proposed Intervenor)s DR. REGINA FROST AND CHRISTIAN MEDICAL AND DENTAL ASSOCIATIONS