



DEPARTMENT OF HEALTH & HUMAN SERVICES

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OFFICE OF THE SECRETARY

Office for Civil Rights
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VIA U.S. MAIL AND ELECTRONIC MAIL [clare.e.connors@hawaii.gov]

March 21, 2019

Clare E. Connors, Esq.
State of Hawaii Attorney General
Department of the Attorney General
425 Queen Street
Honolulu, HI 96813

Re: Notice of Resolution of OCR Transaction Numbers 17-282090 & 18-292853

Dear Attorney General Connors:

This letter notifies you that the U.S. Department of Health & Human Services (“HHS”), Office for Civil Rights (“OCR”) considers the following complaints against the State of Hawaii (“Hawaii”) satisfactorily resolved: the complaints filed by Calvary Chapel Pearl Harbor, d/b/a A Place for Women in Waipio (“A Place for Women”) (OCR Transaction Number 17-282090)¹ and Aloha Pregnancy Care and Counseling Center, Inc. (“Aloha”) (OCR Transaction Number 18-292853)² (collectively, “the Complainants”).

Under part 88 of 45 C.F.R., OCR is authorized to receive complaints based on potential violations of the Weldon Amendment,³ the Church Amendments,⁴ and the Coats-Snowe Amendment.⁵ In their complaints, the Complainants alleged that Hawaii engaged in impermissible discrimination under one or more of these laws when Hawaii enacted Hawaii Revised Statute § 321-561(b)-(c) (“notice requirements of Act 200”) in 2017, which the Complainants alleged required them to disseminate a government-scripted notice that promotes abortion – a service for which they do not offer, counsel, recommend, or refer.⁶ OCR investigated the Complainants’ allegations under the Weldon and Coats-Snowe Amendments and coordinated with the State of Hawaii’s Department of the Attorney General to resolve the complaints.

¹ Letter from Elissa Graves, Attorney, Alliance Defending Freedom, to Office for Civil Rights, U.S. Dep’t of Health & Human Servs. (Sept. 11, 2017) (on file with HHS OCR).

² Letter from Francis Manion, Attorney, Am. Ctr. for Law & Justice, to Office for Civil Rights, U.S. Dep’t of Health & Human Servs. (Jan. 10, 2018) (on file with HHS OCR).

³ E.g., Department of Defense and Labor, Health and Human Services, and Education Appropriations Act, 2019 and Continuing Appropriations Act, 2019, Pub. L. No. 115-245, Div. B, § 507(d), 132 Stat. 2981, 3118 (Sept. 28, 2018).

⁴ 42 U.S.C. § 300a-7. OCR does not make any findings under these complaints as to whether Act 200 violates the Church Amendments.

⁵ *Id.* § 238n.

⁶ Letter from Elissa Graves at 1-2; Letter from Francis Manion at 1-2.

On March 15, 2019, Hawaii Attorney General Clare E. Connors issued a Memorandum to the Department of the Attorney General for the State of Hawaii stating, “the Department will not enforce section 321-561(b)-(c), HRS, against any limited service pregnancy centers, as defined in section 321-561(a), HRS;” the memorandum also stated that it “shall remain in effect indefinitely or until such time as there is a change in the laws discussed above warranting reconsideration.”⁷ In her letter to OCR, Attorney General Connors also said that “the Department will advise the Hawai’i Legislature of its decision not to enforce section 321-561(b)-(c), HRS, against any limited service pregnancy center. We have taken these actions expressly to address the issues identified in the two referenced transaction numbers, and we look forward to confirmation that the matters have been resolved.”⁸

By issuing an Attorney General Memorandum on March 15, 2019, that declares that the State will not enforce the notice requirements of Act 200, and committing to notify the Hawaii legislature of the same, Hawaii has taken appropriate corrective action to assure current and future compliance with the Weldon and Coats-Snowe Amendments. As a result, OCR considers the complaints satisfactorily resolved and will be closing the matter.

COMPLAINANT INFORMATION

On September 11, 2017, counsel for A Place for Women filed a complaint with OCR, asserting that Hawaii’s enactment of Act 200 discriminated against A Place for Women in violation of the Church, Coats-Snowe, and/or the Weldon Amendments.⁹ On January 10, 2018, counsel for Aloha filed a complaint with OCR, asserting Hawaii discriminated against Aloha in violation of both the Weldon and Coats-Snowe Amendments.¹⁰ The Complainants alleged that Act 200 required them to disseminate a government-scripted notice that promotes abortion – a service for which they do not counsel, recommend, refer, or offer.¹¹

A. Complainant, Calvary Chapel Pearl Harbor d/b/a A Place for Women in Waipio

A Place for Women is a pro-life pregnancy center operated as a ministry of a church, Calvary Chapel Pearl Harbor.¹² A Place for Women has medical volunteers, such as registered nurses,¹³ who are supervised by a volunteer medical director who is a licensed radiologist,¹⁴ and

⁷ Memorandum from Haw. Att’y. Gen. Clare E. Connors to the Dep’t. of the Att’y. Gen., State of Haw. 2 (Mar. 15, 2019) (on file with HHS OCR).

⁸ Letter from Haw. Att’y. Gen. Clare E. Connors, to Luis E. Perez, Deputy Dir. of the Conscience & Religious Freedom Div., Office for Civil Rights, U.S. Dep’t of Health & Human Servs. (Mar. 15, 2019) (on file with HHS OCR).

⁹ Letter from Elissa Graves, Attorney, Alliance Defending Freedom, to Office for Civil Rights, U.S. Dep’t. of Health and Human Servs. (Sept. 11, 2017) (on file with HHS OCR).

¹⁰ Letter from Francis Manion, Attorney, Am. Ctr. for Law & Justice, to Office for Civil Rights, U.S. Dep’t. of Health and Human Servs. (Jan. 10, 2018) (on file with HHS OCR).

¹¹ Letter from Elissa Graves; Letter from Francis Manion.

¹² Telephone Interview with Exec. Dir. Stacey Jiminez, A Place for Women (May 16, 2018).

¹³ E.g., A Place for Women in Waipio, *Who We Are: Board & Volunteers*, http://www.aplaceforwomeninwaipio.com/Who_We_Are/Board_Volunteers/index.html (last visited Mar. 8, 2019).

¹⁴ E.g., Telephone Interview with Exec. Dir. Stacey Jiminez, A Place for Women (May 16, 2018).

provides pregnancy-related and other services consistent with the religious conviction that human life should be respected in all stages of life.¹⁵

B. Complainant, Aloha Pregnancy Care and Counseling Center, Inc.

Aloha is a non-profit, faith-based pregnancy resource center that offers free, pregnancy-related care and counseling consistent with its religious beliefs.¹⁶ Aloha provides its services through volunteers, such as a trained ultrasound technician, registered nurses, counselors, and as of the date of OCR's interview with the Complainant, an OB/GYN who performs and interprets ultrasounds.¹⁷

FACTUAL FINDINGS

During the course of OCR's investigation, OCR made the following findings regarding Act 200, which raised concerns that Hawaii's enactment of Act 200 may have violated the Weldon and Coats-Snowe Amendments.

A. The 2017 Hawaii Legislature Enacted Act 200, Binding Only "Limited Service Pregnancy Centers," with a Government-Mandated Notice Requirement

On July 11, 2017, Hawaii enacted Act 200, which in part requires every "limited service pregnancy center" in Hawaii to disseminate the following written notice:

Hawaii has public programs that provide immediate free or low-cost access to comprehensive family planning services, including, but not limited to, all FDA-approved methods of contraception and pregnancy-related services for eligible women.

To apply online for medical insurance coverage, that will cover the full range of family planning and prenatal care services, go to mybenefits.hawaii.gov.

Only ultrasounds performed by qualified healthcare professionals and read by licensed clinicians should be considered medically accurate.¹⁸

The notice must also "contain the internet address for online medical assistance applications and the statewide phone number for medical assistance applications."¹⁹ Act 200 specifies the dimensions of the notice and its font size, as well as how, when, and where "limited service

¹⁵ *E.g., id.*; A Place for Women in Waipio, *Who We Are: Our Commitment to Our Clients*, http://www.aplaceforwomeninwaipio.com/Who_We_Are/Our_Commitment_to_Our_Clients/index.html (last visited Mar. 8, 2019).

¹⁶ *E.g.*, Telephone interview with Garrett Hashimoto, President, Aloha Pregnancy Care & Counseling Ctr., Inc. (June 13, 2018).

¹⁷ *Id.*

¹⁸ Haw. Rev. Stat. § 321-561(b).

¹⁹ *Id.* § 321-561.

pregnancy centers” must disseminate the notice.²⁰ In addition, Act 200 identifies an enforcement procedure and available remedies for noncompliance with the required disclosures.²¹

B. A Federal Court Declared the Notice Requirements of Act 200 Unconstitutional and Permanently Enjoined Hawaii’s Enforcement of Act 200 Against the Complainants in Accordance with Hawaii’s Stipulations

Following the Supreme Court’s holding that the FACT Act, a California law similar to Act 200, was likely unconstitutional based on the First Amendment to the U.S. Constitution,²² on September 14, 2018, the U.S. District Court for the District of Hawaii entered a permanent injunction in favor of Aloha and against the Hawaii Attorney General concerning the notice requirements of Act 200 as applied to Aloha.²³ On September 20, 2018, the court entered a permanent injunction in favor of A Place for Women and NIFLA and against the Hawaii Attorney General and Governor concerning the notice requirements of Act 200 as applied to A Place for Women and NIFLA.²⁴ Both final judgments and permanent injunctions (collectively referred to as “Stipulated Injunctions”) were based on the respective parties’ stipulations that the notice requirements of Act 200 are unconstitutional as-applied to Plaintiffs, based on the First Amendment’s right to free speech.²⁵

The Stipulated Injunctions apply to Hawaii’s “employees, agents, and successors in office, along with any person acting in concert with them[,],” and declare that the notice requirements of Act 200 are “unconstitutional under the U.S. Constitution as-applied to Plaintiffs,” which include the Complainants, “with respect to Plaintiffs’ First Amendment Free Speech Claim.”²⁶ A Place for Women articulated its First Amendment Claim as compelling it “to recite government-scripted messages that are effectively advertisements for abortion and abortifacient drugs” – speech that A Place for Women cannot say without violating its religious convictions.²⁷ Aloha similarly articulated its First Amendment Claim as compelling it “to speak messages it has not chosen for itself, with which it does not agree, and that detract from, undermine, and interfere with messages it has chosen to speak.”²⁸ Hawaii stipulated that the notice requirement of Act 200 is unconstitutional under the First Amendment’s Free Speech Clause, as applied to the Complainants.

C. The Complainants Are “Limited Service Pregnancy Centers” Subject to Act 200

²⁰ See *id.* § 321-561(c).

²¹ *Id.* § 321-562.

²² *Nat’l Inst. of Family & Life Advocates v. Becerra*, 138 S. Ct. 2361 (2018).

²³ Perm. Inj. & Final J. at 3, *Aloha Pregnancy Care & Counseling v. Chin*, No. 1:17-cv-00343 (D. Haw., filed July 19, 2017), ECF No. 49.

²⁴ Perm. Inj. & Final J. at 2, *Calvary Chapel Pearl Harbor v. Chin*, No. 1:17-cv-00326 (D. Haw., filed July 12, 2017), ECF No. 53.

²⁵ See, e.g., *id.*

²⁶ Perm. Inj. & Final J. at 2, *Calvary Chapel Pearl Harbor v. Chin*, No. 1:17-cv-00326 (D. Haw., filed July 12, 2017), ECF No. 53; Perm. Inj. & Final J. at 3, *Aloha Pregnancy Care & Counseling v. Chin*, No. 1:17-cv-00343 (D. Haw., filed July 19, 2017), ECF No. 49.

²⁷ Reply Brief in Support of Plaintiffs’ Motion for Preliminary Inj. at 2, *Calvary Chapel Pearl Harbor v. Chin*, No. 1:17-cv-00326 (D. Haw., filed July 12, 2017), ECF No. 29.

²⁸ Complaint at 12, *Aloha Pregnancy Care & Counseling v. Chin*, No. 1:17-cv-00343 (D. Haw., filed July 19, 2017), ECF No. 1.

In the judicial proceedings in the U.S. District Court for the District of Hawaii, the State did not dispute that A Place for Women and Aloha meet the definition of “limited service pregnancy centers.” Based on oral testimony and documentary evidence, OCR found that each Complainant satisfied all three prongs of the statutory definition. A “limited service pregnancy center” is a facility that:

- (A) Advertises or solicits clients or patients with offers to provide prenatal sonography, pregnancy tests, or pregnancy options counseling;
- (B) Collects health information from clients or patients; and
- (C) Provides family planning or pregnancy-related services, including but not limited to obstetric ultrasound, obstetric sonogram, pregnancy testing, pregnancy diagnosis, reproductive health counseling, or prenatal care[]²⁹

A Place for Women advertises that it offers pregnancy-related services, such as limited obstetric ultrasounds,³⁰ satisfying part (A), collects patient health information,³¹ satisfying part (B), and provides pregnancy-related services such as pregnancy testing,³² which is an example of a pregnancy-related service in part (C). Similarly, Aloha advertises or solicits clients with offers to provide pregnancy tests and pregnancy options counseling,³³ satisfying part (A), collects limited health information, such as substance abuse history,³⁴ satisfying part (B), and performs pregnancy testing and obstetric ultrasounds, which are examples of pregnancy-related services in part (C).³⁵

D. The Content of the Government-Scripted Notice Facilitates Abortion

The notice requirements of Act 200, which Hawaii stipulates are unconstitutional as applied to the Complainants, may have violated the Weldon and Coats-Snowe Amendments, which prevent states, like Hawaii, from discriminating against entities, like the Complainants, on the basis that they do not “refer for abortions”³⁶ or “make arrangements for” abortions or referrals for abortions,³⁷ respectively. Act 200 requires the Complainants to disseminate the government-scripted notice that conveys two primary messages. The first is that “Hawaii has public programs

²⁹ Haw. Rev. Stat. § 321-561(a)(1).

³⁰ *E.g.*, Telephone Interview with Exec. Dir. Stacey Jiminez, A Place for Women (May 16, 2018); A Place for Women in Waipio, *Services*, <http://www.aplaceforwomeninwaipio.com/Services/index.html> (last visited Mar. 8, 2019).

³¹ Hearing on S.B. 501, S.D. 1, H.D. 1 before the H. Comm. on Judiciary, 2017 Leg., 29th Sess. (Haw. Apr. 5, 2017) (statement of Faith Nickelsen, Volunteer Nurse Manager and Sonographer, A Place for Women) (identifying the collection of health history and physical assessments as one of her duties).

³² *E.g.*, Telephone Interview with Exec. Dir. Stacey Jiminez, A Place for Women (May 16, 2018); A Place for Women in Waipio, *Services*, <http://www.aplaceforwomeninwaipio.com/Services/index.html> (last visited Mar. 8, 2019).

³³ *E.g.*, Aloha Pregnancy Care & Counseling, <http://alohapregnancy.com/> (last visited Mar. 11, 2019).

³⁴ Telephone interview with Garrett Hashimoto, President, Aloha Pregnancy Care & Counseling Ctr., Inc. (June 13, 2018).

³⁵ *E.g., id.*

³⁶ Department of Defense and Labor, Health and Human Services, and Education Appropriations Act, 2019 and Continuing Appropriations Act, 2019, Pub. L. No. 115-245, Div. B, § 507(d), 132 Stat. 2981, 3118 (Sept. 28, 2018).

³⁷ 42 U.S.C. § 238n.

that provide immediate free or low-cost access to comprehensive family planning services, including, but not limited to, all FDA-approved methods of contraception and pregnancy-related services for eligible women.”³⁸ The second is, “[t]o apply online for medical insurance coverage, that will cover the full range of family planning and prenatal care services, go to mybenefits.hawaii.gov.”³⁹

With respect to the first, according to the Committee on Conference for Act 200, an aim of directing Complainants’ clients to public programs for “comprehensive family planning services” was to facilitate access to abortion because “thousands of women in the State are in need of publicly-funded . . . abortion services”⁴⁰ With respect to the second, the website mybenefits.hawaii.gov is a home page with information about medical assistance programs and applying for them.⁴¹ The webpage also includes a billboard of rotating content on health coverage and a static tab titled *Med-QUEST Determinations*, which identifies the number of health coverage applications processed for health and medical coverage for low-income eligible children and adults through managed care plans.⁴²

Consumers visiting mybenefits.hawaii.gov can apply online for all health insurance affordability programs (e.g., cost-sharing or premium assistance for private plans through the Health Insurance Exchanges, Hawaii Medicaid) or complete a fillable PDF application.⁴³ The Hawaii Department of Human Services’ Med-QUEST Division administers QUEST Integration, which is the State’s Medicaid managed care program.⁴⁴ QUEST Integration covers the “full range of family planning and prenatal care services,” including “[t]reatment for . . . elective abortions.”⁴⁵

Through counsel, A Place for Women stated in an interview with OCR that “comprehensive reproductive health services” is commonly used as a term of art for abortion services.⁴⁶ In the same interview, the Executive Director of A Place for Women stated that she finds objectionable that she would be required to advertise abortion when the idea that abortion is killing human life is something that is so core to her.⁴⁷ In testimony on the bill that became Act

³⁸ Haw. Rev. Stat. § 321-561(b).

³⁹ *Id.*

⁴⁰ Conf. Comm. Rep. No. 156, at 2 (Apr. 28, 2017), H.B. 501, S.D. 1, H.D. 2, 2017 Leg., 29th Sess. (Haw. 2017). The House version of the bill that became Act 200 stated that “[t]housands of Hawaii women are in need of publicly-funded . . . abortion services Yet, many women in Hawaii remain unaware of the public programs available to provide them with . . . abortion” H.B. 663, Sec. 1, 2017 Leg., 29th Sess. (Haw. 2017).

⁴¹ State of Haw., *MyBenefits*, <http://mybenefits.hawaii.gov> (last visited Mar. 6, 2019). State of Haw., *Med-QUEST Determinations*, <http://mybenefits.hawaii.gov/med-quest-determinations/> (last visited Mar. 6, 2019).

⁴² State of Haw., *MyBenefits*, <http://mybenefits.hawaii.gov> (last visited Mar. 6, 2019); *id.*, *Med-QUEST Determinations*, <http://mybenefits.hawaii.gov/med-quest-determinations/> (last visited Mar. 6, 2019).

⁴³ State of Haw., *MyBenefits: Med-Quest Applications*, <http://mybenefits.hawaii.gov/applying-for-benefits/> (last visited Mar. 19, 2019).

⁴⁴ State of Haw., Dep’t of Human Servs., *Med-QUEST*, <http://humanservices.hawaii.gov/mqd/> (last visited Mar. 6, 2019). QUEST stands for “Quality care, Universal access, Efficient utilization, Stabilizing costs, and to Transform the way health care is provided.” *Id.*

⁴⁵ State of Haw., Dep’t of Human Servs., *Quest Details and Quest State Offices*, <http://humanservices.hawaii.gov/mpd/quest-overview/> (last visited Mar. 6, 2019) (describing the describing “[t]reatment of . . . elective abortions” as a “Medically Necessary Service” under “Pregnancy and Maternity Care”).

⁴⁶ Telephone Interview with Stacey Jiminez, Exec. Dir., A Place for Women (May 16, 2018).

⁴⁷ *Id.*

200, the Executive Director stated that if enacted, Act 200 would make A Place for Women “in essence, an abortion referral agency, which is in direct conflict with our religious beliefs.” In an interview with the President of Aloha, he also understood that Act 200 requires the dissemination of a notice regarding abortion.”⁴⁸

E. Failure to Disseminate Act 200’s Notice Subjected Complainants to the Threat of Financial Penalties, Litigation by the Hawaii Attorney General, and Private Civil Actions

In the judicial proceedings in the U.S. District Court for the District of Hawaii, the State did not dispute that Act 200 authorized a range of consequences for a “limited service pregnancy center’s” noncompliance with the notice requirements. Based on analyzing Act 200 and oral testimony, OCR found that the Complainants’ noncompliance with the notice requirements subject them to a range of consequences that would pose a very significant impact for Aloha,⁴⁹ and would be significant enough to shut A Place for Women down.⁵⁰

If the Complainants failed to comply with Act 200’s notice requirement, they would have been “liable for a civil penalty of \$500 for a first offense and \$1,000 for each subsequent offense.”⁵¹ If the Complainants had been noticed as noncompliant, they would have been subject to enforcement by Hawaii’s Attorney General in court for uncorrected violations beyond 30 days.⁵² Finally, Act 200 authorizes a private right of action in court for a person “who is aggrieved by a “limited service pregnancy center’s violation.”⁵³ The remedies authorized in a civil suit include injunctive relief, actual damages, costs of the suit, and reasonable attorneys’ fees, and a court’s award of damages triggers the court, in its discretion, to impose a \$1,000 civil fine and treble damages.⁵⁴

F. The Complainants do not Perform, Offer, Counsel for, Recommend, or Refer for Abortion

In the judicial proceedings in the U.S. District Court for the District of Hawaii, the State did not dispute that A Place for Women and Aloha do not perform, offer, counsel for, recommend, or refer for abortion, which are facts that the oral testimony and documentary evidence collected in OCR’s investigation substantiate. A Place for Women will not perform abortion or “offer, recommend, or refer for abortion or abortion-causing drugs.”⁵⁵ Similarly, Aloha will “not perform,

⁴⁸ Telephone interview with Garrett Hashimoto, President, Aloha Pregnancy Care & Counseling Ctr., Inc. (June 13, 2018).

⁴⁹ *Id.*

⁵⁰ Telephone Interview with Stacey Jiminez, Exec. Dir., A Place for Women (May 16, 2018).

⁵¹ Haw. Rev. Stat. § 321-562(a).

⁵² *Id.* § 321-562(b).

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ A Place for Women in Waipio, *Who We Are: Our Commitment to Our Clients*, http://www.aplaceforwomeninwaipio.com/Who_We_Are/Our_Commitment_to_Our_Clients/index.html (last visited Mar. 8, 2019).

counsel for, provide referrals for, or provide education about . . . abortion . . .”⁵⁶ The Complainants also alleged to OCR that the notice requirements of Act 200 required them to disseminate a government-scripted notice that promotes abortion – a service for which they do not offer, counsel, recommend, or refer.⁵⁷

HAWAII’S RESOLUTION

Notwithstanding any potential violation of the Weldon and Coats-Snowe Amendments by Hawaii’s enforcement of the notice requirements of Act 200, the Hawaii Attorney General issued a Memorandum resolving the Complaints. On March 15, 2019, Hawaii Attorney General Connors issued a Memorandum to the Department of the Attorney General for the State of Hawaii, stating “the Department will not enforce section 321-561(b)-(c), HRS, against any limited service pregnancy centers, as defined in section 321-561(a), HRS. This Memorandum shall remain in effect indefinitely or until such time as there is a change in the laws discussed above warranting reconsideration.”⁵⁸ In a March 15, 2019, letter to OCR, Attorney General Connors also said that “the Department will advise the Hawai’i Legislature of its decision not to enforce section 321-561(b)-(c), HRS, against any limited service pregnancy center. We have taken these actions expressly to address the issues identified in the two referenced transaction numbers, and we look forward to confirmation that the matters have been resolved.”⁵⁹

CONCLUSION AND REMEDY

By issuing an Attorney General Memorandum on March 15, 2019, that declares that the State Attorney General will not enforce the notice requirements of Act 200, and by undertaking to advise the legislature of the same, Hawaii has taken appropriate corrective action regarding the notice requirements of Act 200 to assure current and future compliance with the Weldon and Coats-Snowe Amendments. As a result, OCR is closing these complaints as satisfactorily resolved. If Hawaii were to rescind its Attorney General Memorandum, Hawaii would be subject to the reopening of the matter and further enforcement action by HHS.

The findings in this letter are not intended, nor should they be construed, to cover any issues regarding Hawaii’s compliance with the Weldon or Coats-Snowe Amendments that this letter does not specifically address. In addition, the findings in this letter do not cover issues or authorities that this letter does not specifically address, nor does it preclude future determinations about compliance based on subsequent investigations.

⁵⁶ Complaint at 11-14, *Aloha Pregnancy Care & Counseling v. Chin*, No. 1:17-cv-00343 (D. Haw., filed July 19, 2017), ECF No. 1.

⁵⁷ Letter from Elissa Graves, Attorney, Alliance Defending Freedom, to Office for Civil Rights, U.S. Dep’t of Health & Human Servs. 1-2 (Sept. 11, 2017) (on file with HHS OCR); Letter from Francis Manion, Attorney, Am. Ctr. for Law & Justice, to Office for Civil Rights, U.S. Dep’t of Health & Human Servs. 1-2 (Jan. 10, 2018) (on file with HHS OCR).

⁵⁸ Memorandum from Haw. Att’y. Gen. Clare E. Connors to the Dep’t. of the Att’y. Gen., State of Haw. 2 (Mar. 15, 2019) (on file with HHS OCR).

⁵⁹ Letter from Haw. Att’y. Gen. Clare E. Connors, to Luis E. Perez, Deputy Dir., Conscience & Religious Freedom Div., Office for Civil Rights, U.S. Dep’t of Health & Human Servs. (Mar. 15, 2019) (on file with HHS OCR). (Because the notice requirement violates the U.S. Constitution, pursuant to the decision of the Hawaii District Court Order, and may have violated the Weldon and Coats-Snowe Amendments, OCR anticipates courts would not be inclined to hear cases regarding private civil actions seeking to enforce the notice requirements of Act 200.)

OCR trusts that Hawaii will take all necessary steps to ensure that no adverse action is taken against the Complainants or any other health care entities discriminated against, or any other individual, for the filing of these complaints, providing information to OCR, or otherwise participating in this investigation. OCR's closing of these complaints does not preclude future investigations based on new complaints or changed circumstances.

Sincerely,

/s/

Roger T. Severino
Director