

Court Issues Stay on Proceedings in Challenge to ACA Section 1557 Nondiscrimination Regulations

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The federal district court for the Northern District of Texas recently granted a stay on proceedings in the case of *Franciscan Alliance, Inc. v. Price*, pending reconsideration by HHS of the final regulations (the “**Nondiscrimination Regulations**”) it issued under Section 1557 of the Affordable Care Act (the “**ACA**”). Section 1557 of the ACA prohibits discrimination in certain healthcare programs and activities on the basis of sex and other protected traits. The Nondiscrimination Regulations specify gender identity discrimination and sexual stereotyping as forms of sex discrimination. In *Franciscan Alliance*, eight states and three religiously affiliated healthcare providers challenged two aspects of the Nondiscrimination Regulations. In December of 2016, the court issued a preliminary nationwide injunction enjoining HHS from “enforcing its expanded definition of sex discrimination” under the Nondiscrimination Regulations. (Please see our prior [blog post](#) discussing the court’s decision to issue the injunction and note that Sylvia Burwell was the Secretary of HHS when *Franciscan Alliance* was originally filed; Thomas Price is now the Secretary of HHS). Subsequent to the court’s issuance of the injunction, the defendant parties (which include HHS) filed a motion requesting that the court (i) remand the case to HHS and (ii) stay the case pending HHS’s reconsideration of the Nondiscrimination Regulations. Although the court denied the remand, it issued the stay order. Pursuant to the court’s stay order, all other pending motions in the case were held in abeyance. Importantly, the court also clarified that the injunction would be unaffected by the stay order and would remain in full force and effect throughout the duration of the stay until further order of the court.