RESOLUTION 2018-_____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH FLORIDA, OPPOSING A RULE PROPOSED BY THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, ENTITLED "PROTECTING STATUTORY CONSCIENCE RIGHTS IN HEALTH CARE; DELEGATIONS OF AUTHORITY" WHICH, AMONG OTHER THINGS, WOULD BROADLY EXPAND OPPORTUNITIES FOR HEALTH CARE WORKERS TO REFUSE TO PARTICIPATE IN CERTAIN MEDICAL PROCEDURES ON THE BASIS OF A MORAL OR RELIGIOUS OBJECTION; AND DIRECTING THE CITY ATTORNEY TO TRANSMIT THIS RESOLUTION AND THE COMMENTS SET FORTH HEREIN TO THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES.

WHEREAS, the City of Miami Beach ("City") Human Rights Ordinance, codified in Chapter 62 of the City Code, declares that "there is no greater danger to the health, morals safety and welfare of the city and its inhabitants than the existence of prejudice against one another and antagonistic to each other because of actual or perceived differences of race, color, national origin, religion, sex, intersexuality, gender identity, sexual orientation, marital and familial status, age, disability, ancestry, height, weight, domestic partner status, labor organization membership, familial situation, or political affiliation"; and

WHEREAS, the Human Rights Ordinance also declares that "prejudice, intolerance, bigotry and discrimination and disorder occasioned thereby threaten the rights and proper privileges of its inhabitants and menace the very institutions, foundations and bedrock of a free, democratic society"; and

WHEREAS, in view of this policy, the City's Human Rights Ordinance prohibits discrimination in employment, public accommodations, housing, and public services, on the basis of the classification categories identified above, and

WHEREAS, the City is a longstanding municipal leader in ensuring the civil rights of its diverse and cosmopolitan population, and

WHEREAS, on January 28, 2018, the Office of Civil Rights ("OCR"), Office of Secretary of Health and Human Services ("HHS") published a notice of proposed rule, entitled "Protecting Statutory Conscience Rights in Health Care; Delegation of Authority" ("Proposed Rule"); and

WHEREAS, the Proposed Rule creates a new "Conscience and Religious Freedom Division" in the HHS OCR, and

WHEREAS, the stated purpose of the Proposed Rule is to "protect the rights of persons, entities, and health care entities to refuse to perform . health care services or research activities to which they may object for religious, moral, ethical, or other reasons"; and

WHEREAS, the Proposed Rule authorizes HHS and, specifically, the OCR to protect workers and penalize organizations that do not allow workers to express their religious and moral objections; and

WHEREAS, the Proposed Rule will also allow providers and facilities to opt out of providing counselling services, referring services in Medicaid and Medicare Advantage programs, advance directives, Global Health Programs, and compulsory health programs, such as immunization, hearing screening, occupational illness testing, and mental illness testing, and

WHEREAS, the Proposed Rule is estimated to impact somewhere between 364,640 to 571,412 entities, including public and private hospitals, specialty hospitals (substance abuse, maternity, cancer), youth services, shelters, nursing and hospice facilities, offices of mental health practitioners, and family planning centers; and

WHEREAS, the Proposed Rule may have far-reaching consequences and be used to justify discrimination against the City's constituents, including women, members of the LGBTQ+ community, and persons living with HIV; as well as individuals seeking birth control prescriptions, emergency contraception, lifesaving abortion, in-vitro fertilization (including for unmarried patients, same-sex couples, and interracial couples), hormone therapy for transgender or intersex patients, gender confirmation surgery, human papillomavirus ("HPV") vaccines, counseling, mental health care or a reference for mental health services; and

WHEREAS, the City Commission of the City of Miami Beach respects the right of individuals to freely practice their religion but opposes any measure that permits the use of religion to perpetuate prejudice and authorize discrimination against others.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and the City Commission hereby oppose the rule proposed by the U.S. Department of Health and Human Services, entitled "Protecting Statutory Conscience Rights in Health Care, Delegations of Authority" which, among other things, would broadly expand opportunities for health care workers to refuse to participate in certain medical procedures on the basis of a moral or religious objection; and direct the City Attorney to transmit this Resolution and the comments set forth herein to the U.S. Department of Health and Human Services.

PASSED and **ADOPTED** this _____ day of _____, 2018

ATTEST

_____
Rafael Granado
City Clerk

_____
Dan Gelber
Mayor

(Sponsored by Commissioner Michael Góngora)

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

3-5-18
City Attorney Date

NK

F \ATTO\KALN\RESOLUTIONS\Oppose HHS Proposed Rule docx