



THE NATIONAL CATHOLIC BIOETHICS CENTER

6399 Drexel Road, Philadelphia, PA 19151 ▪ Tel 215-877-2660 ▪ Fax 215-877-2688 ▪ www.ncbcenter.org

Bioethics Public Policy Report January 1, 2019

National

- *Obamacare unconstitutional*: Federal district court judge Reed O'Connor has [struck down](#) Obamacare as unconstitutional. The Supreme Court had upheld Obamacare in 2012 (NFIB v. Sebelius) on the basis that the penalty it imposed for not having health insurance (individual mandate) amounted to a tax, and levying such a tax was within the Congress' power under the Constitution. However, the 2017 "Tax Cuts and Jobs Act" (federal tax reform bill) cut the penalty for not complying with the individual mandate to \$0. O'Connor, siding with the 20 states that brought the case, ruled that because the penalty was reduced to \$0 it can no longer be considered a tax, and thus the Obamacare individual mandate fails the constitutional test. O'Connor subsequently [stayed](#) his decision, meaning that Obamacare will remain in effect while the appeals process moves forward.
- *US contraception stats*: The Centers for Disease Control (CDC) has released new [statistics](#) on contraceptive use in the United States. According to the "2015–2017 National Survey of Family Growth," 64.9 percent of all US women age 15–49 were using contraception. The most common methods were female sterilization (18.6 percent), oral contraceptive pills (12.6 percent), long-acting reversible contraceptives or LARCS (10.3 percent) and condoms (8.7 percent).
- *Obamacare enrollments down, again*: Despite a last-minute surge before the December 15th deadline, Obamacare enrollments have [declined](#) once again. Enrollment for 2019 totaled 8.45 million, a decrease of approximately 4 percent from the 8.82 million at the same point last year. The 2019 numbers signal a continued overall decline in Obamacare numbers. The states with the largest number of enrollees for 2019 were Florida (1.8 million), Texas (1.1 million), North Carolina (502,500) and Georgia (460,100). More than 6.4 million people who enrolled for 2019 were renewing coverage.

Federal Courts

- *Appeals court rejects religious liberty*: By a 2–1 vote, the 9th Circuit Court of Appeals (San Francisco) has [refused](#) to reinstate interim Trump Administration regulations that protect religious and pro-life organizations from having to comply with the Obama-era contraception and sterilization coverage mandate. In October 2017, The Department of Health and Human Services (HHS) issued broad temporary rules allowing organizations to exempt themselves from the mandate. California immediately filed suit in federal district court to block the interim rules' implementation (as did Pennsylvania), and it received an injunction. Opponents of the mandate, with the help of Alliance Defending Freedom, filed an appeal of the district court's decision, but the 9th circuit turned it down.

State by State

- *Michigan seeks to continue abortion method ban:* [Michigan](#) lawmakers have passed legislation that continues a ban on tele-abortion, also known as “webcam abortions.” Since 2012, the state has banned doctors from prescribing the abortion-inducing drugs mifepristone and misoprostol through a teleconference call. Food and Drug Administration (FDA) guidelines on mifepristone state that the drug “may only be dispensed in clinics, medical offices, and hospitals by or under the supervision of a certified healthcare provider.” The FDA also warns consumers that due to safety concerns, they should not buy mifepristone over the internet. The bill awaits the signature from outgoing Governor Rick Snyder.
- *Ohio fails to enact “heartbeat bill”:* [Ohio](#) came very close to passing a “heartbeat bill” which bans abortion after a child’s heartbeat can be detected, but fell just one vote shy. Earlier in December, the state legislature passed the bill, but on December 21st, outgoing Governor John Kasich (R) vetoed it claiming that (1) it is contrary to the Supreme Court’s current rulings on abortion, and (2) if overturned by the courts (which is likely), the state would likely end up paying hundreds of thousands of dollars to pro-abortion lawyers. On December 27th, the Ohio House voted to override the veto (60–28), but the state Senate failed to override by one vote. During his tenure, Kasich has signed at least twenty anti-abortion bills into law including a 20-week ban (after which a child can feel pain). In addition, on the same day as the “heartbeat” veto, he signed into a law a bill banning dilation and evacuation procedures—D&E or “dismemberment” abortions. Incoming Governor Mike DeWine (R) has expressed support for the “heartbeat bill.”

International

- *Ireland legalizes abortion, jettisons ethics guidance:* [Irish](#) President Michael Higgins has signed into law the “Regulation of Termination of Pregnancy Bill” making abortion legal in the country. As the bill was being signed into law, the nation’s Medical Council removed ethical guidance on abortion from its guide on professional conduct and ethics. The council deleted four of the five previously existing paragraphs because they conflicted with the new abortion bill. Deleted material included language stating a doctor has an ethical duty to make every reasonable effort to protect the life and health of pregnant women and their unborn children, and that in exceptional circumstances it may be necessary to terminate the pregnancy to protect the life of the mother while making every effort to preserve the life of the baby. The only paragraph remaining changed the word “abortion” to “termination of pregnancy.” In addition, sections of the guide dealing with “dignity of the patient,” “equality and diversity,” and “conscientious objection” are reportedly being reviewed.
- *Taiwan votes down gender ideology, redefinition marriage:* [Taiwan](#) was set to redefine marriage to include same-sex couples and to affirm gender ideology in elementary and junior-high school curricula, until the people voted. In five referendum questions voted on late in November, the Taiwanese people reaffirmed traditional marriage and voted to remove gender ideology from the classroom. Two questions were indicative. The first asked, “Do you agree that marriage defined in the Civil Code should be restricted to the union between one man and one woman?” Results were 72.5% “Yes,” and 27.5% “No.” The second asked “Do you agree that the Ministry of Education should not implement the

Enforcement Rules for Gender Equity Education Act in elementary and middle schools?” Results were 67.4% “Yes,” and 32.6% “No.”

Of Note

- *World’s first transgender district:* San Francisco has announced the [creation](#) of Compton’s Transgender Cultural District, the world’s first specially created district for people who report they are transgender. The district was created as a “safe space” and to help those who are being “pushed out” of their own neighborhoods.
- *Church of England blesses gender “transitioning:”* The Church of England has [published](#) “Pastoral Guidance for Use in Conjunction With the Affirmation of Baptismal Faith in the Context of Gender Transition,” or pastoral guidelines for liturgical services celebrating the completion of “gender transitioning.” The guidelines only apply to the Church of England, not to worldwide Anglican Communion.

Sharing the News: If you have public policy news that you would like to share with the NCBC, or if you have colleagues who would like to receive the Bioethics Public Policy Report, please contact Joe Zalot at 215-871-2014 or jzalot@ncbcenter.org.

Sharing the Resources: The web page of The National Catholic Bioethics Center, available at <http://www.ncbcenter.org/>, is a significant resource for bioethics information. NCBC bioethicists are also on-call for consultation twenty-four hours a day, seven days per week, at 215-877-2660.

Previous editions of the Bioethics Public Policy Report are available on the NCBC website at <https://www.ncbcenter.org/advocacy/public-policy-reports/>.