



THE NATIONAL CATHOLIC BIOETHICS CENTER

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National

- *City of Brotherly Love?* Catholic Social Services (CSS) of Philadelphia is suing the city of [Philadelphia](#) over the city's decision to stop referring children to CSS for foster care placement. The reason is that CSS does not place children with same-sex couples. In its lawsuit (brought by The Becket Fund), CSS charges the city with "unabashed religious targeting" and claims that it "has chosen to let children languish" rather than place them with parents who work with Catholic agencies. Interestingly, one of the foster parents who has joined the CSS lawsuit is Cecelia Paul, a woman who for the past 46 years has opened her home to more than 130 children. In fact, in 2015 the city of Philadelphia honored her as a "foster parent of the year." However, as Ms. Paul is certified through CSS, she has not received any foster care placements for months.
- *DOE investigating alleged transgender bathroom assault:* The Department of Education (DOE) is investigating an alleged 2017 sexual assault of a 5-year-old girl in a female bathroom at Oakhurst Elementary School in Decatur, GA. The alleged assault was perpetrated by a "gender-fluid" boy who was using the bathroom as per the school's [transgender restroom policy](#). The girl's mother, Pascha Thomas, reported the incident to school authorities but the authorities did not change the policy or take any steps to assure that such assaults would not happen in the future. In addition, the school allegedly refused to remove the boy from the girl's classroom. Ms. Thomas has removed her daughter from the school.
- *CRISPR success(?):* In previous issues of the Bioethics Public Policy Report we reported on problems with [CRISPR](#) technology, but in this issue we can report a possible success. Researchers at the University of Pennsylvania and the Children's Hospital of Philadelphia report that they have used the genetic editing technique to alter the DNA of laboratory mice in the womb, thus curing a genetic disease of the liver before birth. In the study, the research team opened the uterus of a pregnant mouse, removed the fetus, and injected CRISPR into the vitelline vein. The fetus was then returned to the uterus and it was born normally.
- *Obamacare costs decreasing for 2019:* The Trump administration is reporting that after two-years of double-digit increases, the average premium for individual coverage on Obamacare exchanges will [decrease](#) by 1.5 percent in 2019. The federal exchanges in question cover approximately 9 million people in 39 states. Open enrollment for 2019 begins November 1st and runs through December 15th.

Federal Courts

- *High Court affirms state pro-life amendment:* The [US Supreme Court](#) has implicitly affirmed Tennessee's pro-life Amendment 1 by refusing to hear a challenge to it. In 2014, voters adopted the amendment which was drafted to ensure that other state laws restricting access to abortion—including a two-day waiting period—were constitutional. The amendment reads: "Nothing in this Constitution secures or protects a right to abortion or requires the funding of an abortion. The people retain the right through their elected state representatives or state senators to enact, amend, or repeal statutes regarding abortion, including,

but not limited to, circumstances of pregnancy resulting from rape or incest or when necessary to save the life of the mother.”

- *Circuit court upholds LA abortion restriction law:* The 5th US Circuit Court of Appeals (New Orleans) has [upheld](#) a Louisiana law requiring doctors who perform abortions to have privileges with a hospital within 30 miles of the abortion facility. The 5th Circuit’s ruling follows a similar one from the 8th Circuit Court (St. Louis) in September. Abortion proponents in Louisiana argued the privileges requirement put an undue burden on women and was an attempt to curtail access to abortion. In its ruling, the 5th Circuit maintained, “There is no evidence that any of the clinics will close as a result of the Act.”
- *Court says “No” to abortion sanctuary:* A federal judge has ruled that the city of St. Louis [violated](#) state and federal law when it sought to become a “sanctuary city” for abortion. Judge Audry Fleissig of the US District Court for the Eastern District of Missouri, ruled that the city could not compel religious organizations, pro-life nonprofits, and employers to hire abortion proponents, rent property to abortion clinics, or cover abortions in health plans—requirements included in a 2017 attempt by Democratic mayor Lyda Krewson to add “reproductive health decisions” to the city’s nondiscrimination policy. Fleissig found that the ordinance violated Missouri’s Religious Freedom Restoration Act and stated that, “The City has failed to meet its burden to prove that the Ordinance is essential to further a compelling governmental interest and is not unduly restrictive.” The suit was brought by the Thomas More society on behalf of Our Lady’s Inn, a pro-life pregnancy center, the city’s Catholic schools, and a Catholic businessman, Frank O’Brien, who maintained the ordinance would have compelled him to provide abortion and contraception to his employees.

State by State

- *Cal governor vetoes abortion drug mandate:* Governor Jerry Brown of [California](#) has vetoed a bill that would have mandated that state public universities offer abortion inducing medications through their student health centers. Brown, who supports abortion, stated the bill was “not necessary” as abortion is already “widely available” off campus. Student health centers at state’s public universities do not provide abortion, but they do provide referrals for the procedure and many distribute the “morning-after pill.”
- *Hawaii court rules same-sex “spouse” must pay child support:* The [Hawaii](#) Supreme Court has ruled that a woman whose same-sex “spouse” gave birth during their “marriage” is the child’s legal parent and thus she must pay child support even after the couple divorced. Hawaii’s Uniform Parentage Act, which became law in 2013 at the same time same-sex “marriage” was legalized, states that all gender-specific terminology must be gender-neutral when it comes to the rights, benefits, and protections of spouses. As such, the same-sex spouse is obligated to pay support.
- *Garden state says no need to inform parents of gender identity:* New regulations from the [New Jersey](#) Department of Education clarify that public school students can “identify” as any gender they choose, and schools don’t have to inform their parents. The Department’s rationale for the regulation is that gender decisions “rest with the student and not the parents,” and that not all parents support their children’s choices. In addition to parental non-notification, New Jersey public schools must also adhere to the following:
 - Mandatory “use [of] a student’s preferred name and pronouns in verbal, written and electronic communications.”
 - “Students must be allowed to participate in athletics in a manner consistent with their self-described gender identity.”
 - “Students can access restrooms, locker rooms and changing facilities according to their gender identity.”

International

- *Mexican state moves to protect life:* By a vote of 32–1 (one abstention), the Congress of the [Mexican](#) state of Sinaloa has passed a constitutional amendment protecting human life from conception. The amendment (Article 4) reads: “Everyone has a right to have their life respected. The state protects the right to life from the moment an individual is conceived, enters under the protection of the law and is considered as born for all legal intents and purposes, until their natural death.” The amendment needs to be ratified by a majority of the state’s municipalities in order to be enacted. If it is enacted, Sinaloa will become the 19th Mexican state to approve a constitutional protection of life. Abortion was legalized in Mexico City in 2007.
- *Irish docs seek conscience protection:* Following the repeal of legal protections for unborn children, [Ireland](#) is now debating exactly how abortion will be provided. The most recent draft of legislation states that doctors, nurses, and midwives who have a conscientious objection to abortion must make arrangements to “transfer [the mother’s] care” to another clinician who will terminate the pregnancy, and they must do so “as soon as may be.” In light of this, doctors are appealing to the nation’s health ministry to provide protections against being forced to make such referrals. In June, Ireland’s National Association of General Practitioners unanimously voted to recommend that health care professionals should “opt-in” to providing abortion rather than having to “opt-out,” and that those who oppose abortion should not be required to refer for it.
- *Abortion expanding in Australia?* A proposed law in the [Australian](#) state of Queensland will increase to 22 weeks the time a woman can elect abortion, and up to the time of birth if she has the consent of two doctors. Currently, abortion is illegal in Queensland except if a doctor determines that a woman's physical or mental health is in serious danger. The proposed law also establishes a 150 meter “buffer zone” around abortion facilities, and it maintains that while doctors can refuse to perform the procedure if they have a conscience objection, they will be required to refer the mother to another physician. Opponents argue that while the proposed law is presented as a matter of health, it will effectively legalize abortion for any reason (financial, social, eugenic, etc.). Archbishop Mark Coleridge of Brisbane added: “According to the draft bill, abortion will be permitted until the moment of delivery if two doctors consider that ‘in all circumstances, the termination should be performed.’ So, it’s not a health issue. It’s an essentially moral issue that concerns the good of society as a whole because it touches on questions of life and death.”
- *World Medical Association maintains opposition to assisted suicide:* A joint-motion by the Canadian (CMA) and Dutch (KNMG) Medical Associations seeking to change the [World Medical Association’s](#) (WMA) opposition to assisted suicide has failed. Delegates at the meeting of the WMA in Iceland report the motion was withdrawn “due to lack of international support.”
- *Canadian hospital preparing for pediatric assisted suicide:* A report from the Toronto Hospital for Sick Children is laying the foundations for what one day could be a policy that allows children to legally kill themselves. So-called Medical Aid in Dying (MAD) is presently not legal in [Canada](#) for people under 18, but the Canadian Council of Academies is looking to change this. Written by physicians, administrators, and ethicists at the hospital, the [report](#) offers a flowchart for how pediatric assisted suicide would occur and it leaves open the possibility that parents would not be informed of their child’s death until after the assisted suicide occurred:
 - “Usually, the family is intimately involved in this (end-of-life) decision-making process. If, however, a capable patient explicitly indicates that they

do not want their family members involved in their decision-making, ... ultimately the wishes of capable patients with respect to confidentiality must be respected.”

The report’s authors justify their position by claiming that as Ontario does not require parents to be involved in a capable minor’s decision to refuse treatment, there is no legal reason to require parent involvement in an assisted death. They also argue that there is no meaningful ethical distinction between assisted suicide and refusing a burdensome treatment.

International Conscience/Religious Liberty

- *Norwegian high court upholds physician’s conscience rights:* The Supreme Court of [Norway](#) has upheld the right of conscientious objection within the medical profession and in doing so sent a clear message to the nation’s public health authorities to respect the conscience rights of medical professionals in their employment. The case in question involved Dr. Katarzyna Jachimowicz who was fired in 2015 from a General Practitioner Clinic for refusing to insert an intra-uterine device (IUD) that can cause abortion. Robert Clarke, Director of European Advocacy for ADF International, a human rights organization that supported Dr. Jachimowicz’s case, stated: “Nobody should be forced to choose between following their conscience or pursuing their profession. [The ruling] will set new standards for the protection of fundamental conscience rights in Norway and beyond. The Court’s findings recognize the fundamental right to conscientious objection for medical staff, as protected by international law.”
- *UK high court upholds religious liberty:* In a case very similar to that of Jack Phillips (Colorado), the Supreme Court of the [United Kingdom](#) has ruled 5–0 in favor of Ashers Baking Company. The Northern Ireland bakery had declined to bake a cake stating “Support Gay Marriage” because doing so would have violated their closely held Christian beliefs. The bakery had previously done business with the requestor—Gareth Lee, a member of the organization Queerspace—but it declined to make this particular cake. The Equality Commission for Northern Ireland brought proceedings against the bakery on the grounds that its actions were discriminatory against sexual orientation and political opinion. The bakery had lost in two lower courts, but the Supreme Court upheld its religious liberty claim. In announcing its decision, the court stated:
 - “The bakery could not refuse to provide a cake—or any other of their products—to Lee because he was a gay man or because he supported gay marriage. But that important fact does not amount to a justification for something completely different—obliging them to supply a cake iced with a message with which they profoundly disagreed. ... [The bakery’s] objection was to the message on the cake, not to the personal characteristics of Mr. Lee. Accordingly, this court holds that there was no discrimination on the ground of the sexual orientation of Mr. Lee.”

Of Note

- *NYC adopts genderless birth certificate:* [New York City](#) Mayor Bill de Blasio has signed a bill allowing people to designate a gender of “X” on birth certificates issued by the city. New York City now joins California, Oregon, New Jersey, and Washington state in allowing residents to change their gender on their birth certificates, Maine and Washington, D.C. allow people to make the change on driver’s licenses.

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/>.