



## THE NATIONAL CATHOLIC BIOETHICS CENTER

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### Bioethics Public Policy Report October 1, 2018

#### **National**

- *HHS ends contract with fetal tissue provider:* Last summer, it was revealed that the US Food and Drug Administration was contracting with Advance Bioscience Resources Inc. to provide fetal tissue for research purposes. Now the contract has been terminated. In its press release announcing the termination, the Department of [Health and Human Services](#) (HHS) stated:  
“HHS is now conducting an audit of all acquisitions involving human fetal tissue to ensure conformity with procurement and human fetal tissue research laws and regulations. In addition, HHS has initiated a comprehensive review of all research involving fetal tissue to ensure consistency with statutes and regulations governing such research, and to ensure the adequacy of procedures and oversight of this research in light of the serious regulatory, moral, and ethical considerations involved. Finally, HHS is continuing to review whether adequate alternatives exist to the use of human fetal tissue in HHS funded research and will ensure that efforts to develop such alternatives are funded and accelerated.”
- *AAP issues transgender policy statement:* The American Academy of Pediatrics (AAP) has issued a new [policy statement](#) titled “Ensuring Comprehensive Care and Support for Transgender and Gender-Diverse Children and Adolescents.” In the policy statement, the AAP specifically recommends the following (not complete list):
  - that youth who identify as TGD (transgender and gender diverse) have access to comprehensive, gender-affirming, and developmentally appropriate health care that is provided in a safe and inclusive clinical space;
  - that insurance plans offer coverage for health care that is specific to the needs of youth who identify as TGD, including coverage for medical, psychological, and, when indicated, surgical gender-affirming interventions;
  - that pediatricians have a role in advocating for, educating, and developing liaison relationships with school districts and other community organizations to promote acceptance and inclusion of all children without fear of harassment, exclusion, or bullying because of gender expression.
- *Marijuana use increasing:* The government’s *National Survey on Drug Use and Health* reports that [marijuana use](#) in the US is on the rise. The increase is being fueled by states that have legalized the recreational use of marijuana, as well as perceptions that the drug is harmless. Not surprisingly, marijuana use is increasing most among teenagers, however it is also increasing among pregnant women. The survey found that from 2015 to 2017, 7.1 percent of pregnant women reported to have used marijuana to address nausea and pain claiming it was safer than medications prescribed by their physicians. This despite mounting evidence suggesting that marijuana use can cause preterm birth as well as long-term neurological problems in children. Dr. Elinore McCance-Katz, Director of the Substance Abuse and Mental Health Services Administration, responded by stating “When you have an industry that does nothing but blanket our society with

messages about the medicinal value of marijuana, people get the idea this is a safe substance to use. And that's not true."

- *Suicide increasing with young veterans:* The Department of Veterans Affairs (VA) reports that the [suicide rate](#) of young veterans (age 18–34) has increased once again. The VA's latest National Suicide Data Report demonstrates that in 2016 there were 45 suicide deaths per 100,000 people in this age group, up from 40.4 in 2015. The Report also maintained that while the suicide rate for young veterans was up, the overall number of veterans who committed suicide decreased slightly from 6,281 in 2015 to 6,079 in 2016. However, even with this decrease, the overall suicide rate for veterans was 1.5 times higher than for adults who never served.
- *Updated Obamacare stats:* According to the Heritage Institute, [Obamacare](#) is failing the American people in a number of ways:
  1. From 2013 to 2017, premiums have more than doubled and for 2018 average premiums for standard plans increased by one-third.
  2. Deductibles now average \$8,292 for "standard" family plans, and \$11,555 for the lowest cost "bronze" plans.
  3. In more than half of all counties on the US, Obamacare enrollees have only one health plan option. In addition, 73 percent of all Obamacare plans have "narrow" provider networks which means enrollees have reduced access to primary care physicians and medical specialists.
  4. As a result of these (and other) realities, only 10.6 million people enrolled in the individual exchanges this year, less than half of the 24 million projected when Obamacare was first enacted.

### **Federal Courts**

- *Judge says KY abortion law unconstitutional:* US District Judge Greg Stivers has ruled [unconstitutional](#) a 20-year-old Kentucky law requiring abortion providers to have written transfer agreements with hospitals and ambulance services. The ruling means that the last abortion clinic in the state will remain open. Stivers ruled that transfer agreements "do not advance a legitimate interest" in promoting women's health and that the law was a violation of a woman's legal right to abortion. Kentucky Governor Matt Bevin's office has indicated the state will appeal the ruling.

### **State by State**

- *Another pro-abortion law struck down:* A federal district court has struck down a [Hawaii](#) law that required pro-life pregnancy centers to advise clients about state-funded programs offering free or low-cost "comprehensive family planning services" – including abortion. The case, *Calvary Chapel Pearl Harbor v. Suzuki*, was very similar to the California case *National Institute of Family and Life Advocates (NIFLA) v. Becerra*. In *NIFLA v. Becerra*, the US Supreme Court ruled 5–4 that the California law mandating that pro-life pregnancy centers offer women information about abortion options violated their free speech and was thus unconstitutional. NIFLA President Thomas Glessner said the Hawaii law was "particularly egregious" because in addition to forcing pro-life pregnancy centers to promote abortion, it also compelled a church to actually promote abortion within its own building. Kevin Theriot of Alliance Defending Freedom which defended the Hawaii pregnancy center, praised the district court's decision stating: "No one should be forced by the government to express a message that violates his or her beliefs, especially on deeply divisive subjects like abortion ... In *NIFLA v. Becerra*, the Supreme Court affirmed that we don't force people to say things they don't believe."

## **International**

- *Ireland officially embraces culture of death:* While the votes were cast last May, the official repeal of [Ireland](#) Eighth Amendment has finally happened. On September 18th, President Michael Higgins signed into law the 36th Amendment to the Irish constitution which effectively removes any legal protections for unborn children. The new amendment also clears the way for legal abortion in Ireland. Details are not clear, but odds are that the government will look to legalize abortion for any reason up to 12 weeks of pregnancy and the first abortion facility will likely open in 2019. Interestingly, while Catholic (and other) health care institutions may not be able to claim a religious or conscience objection under any proposed law, individual practitioners will be able to claim such objections. Approximately 70 percent of Irish physicians have already stated they will not perform abortions.
- *Charlie Gard bill introduced in Britain:* Lord James MacKay has introduced an amendment to the [United Kingdom's](#) Mental Capacity Act (2005) that seeks to prevent Charlie Gard-type cases in the future. If enacted, the amendment would mandate that hospitals offer “medical mediation” to families in order to resolve treatment disputes before resorting to the courts. It would also compel the government to provide families with access to clinical ethics committees to advise both them and doctors on life-and-death decisions. The amendment would not allow family members to transfer their loved ones to a different medical facility and it only applies to adult patients. Nonetheless, supporters maintain that it is a “significant step” towards needed reform.
- *British couple uses sperm from dead son to create heir:* Following the death of their 26-year-old son in a motorcycle accident, a wealthy couple in [Britain](#) used his sperm to “create” the heir that they desperately wanted. The couple first worked with a urologist to retrieve their dead son’s sperm, and then contracted with the California IVF clinic of Dr. Jeffrey Smotrich to “create” the child. The grandparents selected an egg donor “whose profile matched an imagined spouse for their son” and four embryos were manufactured. Gender selection identified a male embryo which was then implanted in an American surrogate. The child was born in 2015 and today it is legally in the custody of the grandparents. Dr Smotrich said he had “no ethical qualms” about his participation in the process, in fact he said he was “happy to help a tragic story end with a happy outcome.” Barrie Drewitt-Barlow, one of Britain’s first same-sex “fathers,” commented on Good Morning Britain: “This woman ... wanted to make her son live on and this was her way of doing it. Who are we to judge? The technology’s there why not use it?”
- *Chilean Court expands abortion:* This past August the Constitutional Court of [Chile](#) ruled in favor of new legislation that expands access to abortion in three instances: (1) when there is a fatal fetal condition, (2) when pregnancy results from rape or incest, and (3) when the mother’s life is at risk. Interestingly, the decision did not address the legal status of the unborn child nor the state’s interest in protecting unborn life. The court solely ruled that the “gravity and drama” of the three instances identified did not unreasonably violate the legal interests of the unborn. The court did uphold a conscientious objector clause that applies to both individuals and institutions. Thus, neither health care professionals nor medical facilities (including hospitals) can be forced to perform abortions.
- *French ethics committee offers mixed-bag recommendations:* [France's](#) National Consultative Ethics Committee (CCNE) has issued recommendations concerning bioethics public policy challenges facing the French government. The CCNE recommended against assisted suicide and euthanasia, but stated that people need to be “educated” on the benefits of palliative sedation. The committee also recommended that all women, including single women and those in same-sex

relationships, should have access to reproductive technologies including sperm donation and IVF.

**Of Note**

- *Cannabis in Coke?* Coca-Cola is exploring the possibility of marketing a cannabis-infused “functional wellness beverage” as a means of treating inflammation, pain, and cramping.

**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](mailto: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/>.