



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 August 1, 2018

National

- *Bayer pulls plug on Essure:* In the April 15th edition of the Bioethics Public Policy Report, we noted that the Food and Drug Administration (FDA) had “restricted” the sale of the [Essure](#) contraceptive device. Now its manufacturer, Bayer, is removing it from the US market altogether (the US is the last country where it is available). Essure is advertised as “non-surgical permanent birth control” and the device consists of a pair of metal and polyester coils that are inserted into the fallopian tubes to cause scarring and thus block eggs. Bayer. More than 10,000 women have filed suit against the device for complications including allergic reaction, mood disorder, ectopic pregnancy, and emergency hysterectomy after the device broke in their body. One woman reportedly developed necrosis in her reproductive organs due to Essure and subsequently died. The device is also blamed for at least 300 fetal deaths and stillbirths. Bayer, which has sold approximately 750,000 devices around the world, claims its decision to remove Essure was based on declining sales and it continues to “stand behind the product’s safety and efficacy.”
- *CRISPR not all it’s cracked up to be?* Research using the CRISPR-Cas9 technology is apparently demonstrating some unanticipated [complications](#). The gene editing process reportedly is making DNA edits “far from” where the edits were supposed to have been made, and they are causing more damage to DNA than researchers previously realized. For example, certain edits are silencing genes that should be active and activating genes that should be silent, including some cancer-causing genes. In addition, some “CRISPR’d” cells are missing a key anti-cancer mechanism and thus are initiating tumors. Geneticist Allan Bradley of England’s Wellcome Sanger Institute stated the challenges with CRISPR DNA edits have been “seriously underestimated” and that the new findings should be a “wake-up call.”
- *Notre Dame sued over contraception policy:* Four organizations (Americans United for the Separation of Church and State, the National Women’s Law Center, the Center for Reproductive Rights, and the Macey Swanson law firm) have filed suit in US District Court arguing that (a) [Notre Dame’s](#) settlement with the federal government over the Department of Health and Human Services contraception coverage mandate was illegal, and (b) the university’s new contraception policy no longer provides students “meaningful” coverage. The suit argues that as the Trump administration violated statutory requirements by issuing interim rules that offered an exemption to employers with religiously or morally based objections to the mandate without public notice or a 60-day comment period, and because these interim rules were the basis for the Notre Dame settlement the settlement itself must be thrown out. The plaintiffs also argue that since Notre Dame students and employees were not part of the settlement’s negotiations or execution, despite requesting to be included, the settlement violates the Supreme Court’s 2016 instruction in *Zubik v. Burwell*. In addition, plaintiffs argue that Notre Dame is violating the mandate provision that contraceptives be provided free of charge. For certain contraceptives, health plan members have co-pays of between 20 and 40 percent and in some cases have to meet a \$500 deductible.

- *New cautions about “transitioning” hormones:* A new study published in [Annals of Internal Medicine](#) further demonstrates the negative health effects of hormones in the gender “transitioning” process. A study of over 5000 patients done by the Rollins School of Public Health at Emory University and led by the Kaiser Permanente Southern California Department of Research & Evaluation, demonstrated that biological men using hormones to “transition” to women were 80 to 90 percent more likely to suffer a heart attack or stroke than biological women. In addition, women using hormones to “transition” to men were twice as likely than either biological men or women to develop venous thromboembolism, a blood clot condition. The study, which claims to be the largest ever taken of individuals on hormone therapy for gender “transition,” compared data from over 5000 “transitioning” patients with over 97,000 biological men and women.

Federal Courts

- *Appeals court sides with opening bathrooms (and locker rooms) to all:* The [3rd Circuit Court of Appeals](#) (Philadelphia) has denied a request to have the full court hear a challenge to a Boyertown, PA school district policy that allows “transgender” students to use the locker room and bathrooms that correspond with their gender identity. In May, a three-judge panel of the circuit court ruled in favor of the district’s policy, even against claims that it violated other students’ right to privacy. The plaintiffs then requested that their challenge be heard by the entire appeals court, but the request was denied.

State by State

- *Judge opens Oregon bathrooms (and locker rooms) to all:* U.S. District Judge Marco Hernandez has ruled that an [Oregon](#) school district must allow a girl who claims to be a boy to use the boy’s locker room and bathrooms. Parents and students had filed suit claiming that allowing the girl to use these facilities caused the boys “embarrassment, humiliation, anxiety, intimidation, fear, apprehension, and stress.” However, Judge Hernandez dismissed the complaint ruling, “high school students do not have a fundamental privacy right to not share school restrooms, lockers, and showers with transgender students whose biological sex is different than theirs.” He added that the boys’ stress was not “comparable to the plight of transgender students who are not allowed to use facilities consistent with their gender identity.” He concluded by stating, “The potential threat that a high school student might see or be seen by someone of the opposite biological sex while either are undressing or performing bodily functions ‘does not give rise to a constitutional violation.’”
- *Delaware bans “conversion therapy:”* [Delaware](#) has become the 15th state to ban so-called conversion therapy, defined as therapy aimed at changing a person’s sexual orientation *or gender identity*. It joins Connecticut, California, Nevada, New Jersey, Oregon, Illinois, Vermont, New York, New Mexico, Rhode Island, Washington, Maryland, Hawaii, New Hampshire, and the District of Columbia at banning the therapy. During deliberations Delaware Representative Richard Collins (R) had introduced an amendment to allow for such therapy if the patient requested it, but the amendment failed.
- *Arizona law protects frozen embryos:* Governor Doug Ducey of [Arizona](#) has signed into law Senate Bill 1393 which mandates that in cases of divorce, custody of frozen embryos will be awarded to the spouse that will allow them to “develop to birth.” The law also states that the other parent is not obligated to pay support if a child is born. “Most people believe that frozen embryos should have a chance at life,” said state Sen. Nancy Barto (R) who introduced the bill. Opponents argue that the new law is an “end around” to establishing the personhood of embryos, a reality that would have “potentially disastrous consequences” for so-called reproductive freedom and choice. The law took effect July 1st.

- *Idaho sued over abortion regulations:* [Idaho's](#) new abortion reporting law (effective July 1st) is under fire from Planned Parenthood. The organization's Great Northwest and Hawaiian Islands affiliate is suing in federal court claiming the reporting requirements are unconstitutional. The law created a list of 37 complications related to abortion that providers are legally bound to report. These complications including perforation of the uterus or cervix, hemorrhage, need for blood transfusion, psychological or emotional conditions, and death. The law also mandates that abortion providers collect information about age, race, and the number of children of women receiving abortion, as well as how many previous abortions they have had.

Conscience/Religious Liberty

- *AG creates religious liberty task force:* US Attorney General [Jeff Sessions](#) announced the creation of the "Religious Liberty Task Force" within the Department of Justice (DOJ). The announcement was made at the Religious Liberty Summit that the DOJ hosted. Sessions said the task force will help the DOJ to "fully implement our religious liberty guidance ... in the cases [we] bring and defend, the arguments [we] make in court, the policies and regulations [we] adopt, and how we conduct our operations." He stated that DOJ has been hosting "listening sessions" (which will continue) and that it will "remain in contact with religious groups across America to ensure that their rights are being protected." Sessions maintained that the task force was a necessity due to a new "cultural climate" in the United States that threatens people's right to practice their faith.
- *Judge rules children must be placed in same-sex households:* US District Court Judge Petrese B. Tucker has [ignored](#) the religious liberty claims of Catholic Social Services (CSS) of Philadelphia by denying the organization's request to resume receiving referrals for foster care of at-risk children from the city's Department of Human Services (DHS). The DHS ended referrals to CSS in May due to CSS's policy of not providing home-studies for—or placing foster children in—same-sex households. Previously, CSS had referred such home-study requests to one of the 28 other foster agencies in the city, but this is no longer good enough for Philadelphia. CSS is expected to appeal. CSS has provided foster care in the city for over 100 years, and it currently serves approximately 127 children per day. Annually, it spends \$3.8 million of its own funds to provide care and receives \$1.7 million from DHS. Without new referrals, CSS will likely close in August. Philadelphia has approximately 6,000 children in need of foster care.

International

- *Hosting rosary gets priest fired:* Father Mark Morris, Catholic chaplain at [Scotland's](#) Glasgow Caledonian University (GCU), was removed from his position by the university for hosting a rosary at his parish (not at the university) in response to the city's "gay pride" parade. Lesbian, gay, bisexual, and transgender groups filed complaints with the university over the "Rosary of reparation for the gross offence to God which is Pride Glasgow." The GCU Catholic community issued a statement voicing full support for Fr. Morris and asking the university to reconsider its decision. "It is frankly abhorrent that a Catholic Priest would be dismissed from his post as a Catholic chaplain for merely reaffirming the teachings of the Catholic Faith," the statement read. The group also voiced concern that Catholic beliefs "are not valued or respected at the university chaplaincy" and noted that the Rosary was a parish event, not part of Morris' chaplain duties. In announcing the dismissal, a GCU spokesperson cited the university's commitment to "supporting equality and diversity on campus."

Of Note

- *“I’m a man, 100 percent. Legally I’m a woman. I did it for cheaper car insurance.”*
A man in the Canadian province of [Alberta](#) legally changed his gender after he discovered that women get better auto insurance rates. He’ll save \$1100 per year.

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/>.