



Bioethics Public Policy Report January 20, 2023

National

- On January 11th, the now Republican controlled US House of Representatives [voted](#) 220–210–1 to pass the Born Alive Abortion Survivors Protection Act. The act “prohibit[s] a health care practitioner from failing to exercise the proper degree of care in the case of a child who survives an abortion or attempted abortion.” Rep. Henry Cuellar (TX) was the only Democrat who voted in favor of the bill while one other Democrat, Rep. Vicente Gonzalez (TX), voted “present.” Of the sixty-six Catholic Democrats in the House, sixty-four voted [against](#) protecting the lives of children born alive. The Act has virtually no chance of passing the Democrat controlled US Senate. For more information, click [here](#) and [here](#). The Act is available [here](#) and the roll call for how representatives voted is [here](#).
- Also on January 11th, the US House of Representatives voted 222–209 to pass a resolution [condemning](#) the attacks on pro-life resource centers, organizations, and churches in the wake of the US Supreme Court’s *Dobbs* decision. More than two hundred Democrats voted against the resolution and only three voted in favor of it: Vicente Gonzalez, Chrissy Houlahan, and Marie Gluesenkamp Pérez. Of the sixty-six Catholic Democrats in the House, sixty-five voted [against](#) the resolution while all fifty-six Catholic Republicans voted in favor of it. Brian Burch of CatholicVote [described](#) the resolution as a “test” of the “authenticity of the Democrat’s purported desire to fight domestic terrorism. Burch added this desire is “likely disingenuous ... considering that Democrats have spent months downplaying and even encouraging violence against pro-life organizations that exist to provide millions of dollars’ worth of resources and support to women and children in need.” The text of the resolution is available [here](#).
- The US military’s COVID vaccine mandate ended on December 23, 2022, but apparently there is no plan in place to [reinstate](#) the 8,424 service members who refused to comply. A Pentagon spokesperson stated, “[F]ormer service members may petition their Military Department’s Discharge Review Boards and Boards for Correction of Military or Naval Records to individually review and correct personnel records, including records regarding the characterization of their discharge.” The Defense Department also issued a memo stating that dismissed that military members may be eligible to receive an honorable discharge, but again did not address the question of reinstatement. For more information, click [here](#).
- The Biden administration is apparently [circumventing](#) federal law to promote abortion. The Department of Justice is now advising the US Postal Service that it can deliver the chemical abortion drugs mifepristone and misoprostol even though federal law prohibits it. Click [here](#) for more information.
- The Independent Council on Women’s Sports (ICONS) has sent a [letter](#) to the National Collegiate Athletic Association (NCAA) threatening legal action if the NCAA fails to reverse its policy that allows male athletes who self-identify as women to compete on women’s teams, or face legal action. Marshi Smith, ICONS co-founder and six-time All-

American swimmer, stated: “We are advocating for the original intent of Title IX as written 50 years ago that ensures women are not discriminated against on the basis of sex. The Biden administration’s efforts to equate sex with gender identity undermine all sex-based protections for women.”

- After analyzing laws in both the United States and Europe, the organization Do No Harm [reports](#) that “the United States is the most permissive country when it comes to the legal and medical gender transition of children.”

Federal Courts

- US District Judge Deborah Chasanow of the District of Maryland had [ruled](#) that St. Joseph Medical Center of Towson, MD violated federal law when it refused to perform a hysterectomy on a woman seeking to “transition.” St. Joseph Hospital is part of the University of Maryland Medical System (UMMS – note: this system is not affiliated with the University of Maryland). Chasanow found that the hospital violated section 1557 of the Affordable Care Act (Obamacare). Employing the Obama and Biden administrations’ redefinition of sex to include subjective perceptions of gender identity, the judge maintained that the hospital’s decision to cancel the hysterectomy “pursuant to a policy that prohibits gender-affirming care was discrimination on the basis of his sex.” The NCBC is mentioned multiple times in the judge’s decision. A UMMS spokesperson stated the hospital system is “carefully reviewing” the judge’s ruling and it disagrees with “many of the conclusions that were reached in this decision.” Click [here](#) for further information.
- US District Judge Ann Aiken of the District Court of Oregon (Eugene Division) has [dismissed](#) a lawsuit brought by a group of lesbian, gay, bisexual, transgender, etc.-identifying students who were seeking to overturn the Title IX provision that allows religious-based schools exemptions from so-called sex-based discrimination. The group had sued the US Department of Education and the Council of Christian Colleges and Universities. Judge Aiken, a Clinton appointee, found that “Exempting religiously controlled educational institutions from Title IX is substantially related to the government’s objective of accommodating religious exercise.” Click [here](#) for further information. The decision is available [here](#).

State by State

- In a 3–2 vote, the [Idaho](#) Supreme Court has found there is no legal “right” to abortion in the state constitution. Idaho has had abortion-restricting laws in place dating back to 1864 and its present laws went into effect following the US Supreme Court’s *Dobbs* decision in June 2022. Planned Parenthood sued claiming these laws violated the state constitution. The court’s decision is available [here](#).
- [Florida](#) is pushing back against the Biden administration’s plan (through the Food and Drug Administration) to allow pharmacies to dispense the chemical abortion pill mifepristone. The Florida Agency for Healthcare Administration has sent a letter to health care professionals warning that dispensing such medications could result in criminal penalties and that the state would refer “any evidence of criminal activity” to law enforcement. The letter stated, in part, “It is unlawful for any person to perform or assist in performing an abortion on a person, except in an emergency care situation, other than in a validly licensed hospital or abortion clinic or in a physician’s office.” Walgreens and CVS pharmacies have indicated they will stock and provide the

chemical abortion drug. In addition, twenty-two state attorneys general have sent a letter to the FDA asking it to [reverse](#) its decision. For more information on both stories, click [here](#) and [here](#).

- In light of the Food and Drug Administration allowing retail pharmacies to dispense the chemical abortion drug mifepristone, [New York City](#) has announced it will provide the medication free of charge at four “sexual health” clinics. According to Mayor Eric Adams (D), the publicly funded initiative seeks to break down barriers to abortion in low-income communities.
- The [Arkansas](#) legislature has drafted and filed SB 43, a bill that classifies drag performances as “adult entertainment inside an adult-oriented business.” If signed into law, the bill would ban minors from attending any such performances, including so-called drag queen story hours in public libraries. SB 43 is the first bill of its kind in the country.
- On January 13th, a [New York](#) State Supreme Court justice struck down the state mandate that medical professionals get a COVID-19. Justice Gerard Neri ruled that Governor Kathy Hochul and her health department overstepped their authority in imposing the mandate, thus it is “null, void, and of no effect.” The justice’s decision is available [here](#).

Catholic Resources

- The Catholic Diocese of Des Moines, Iowa has implemented its new [Gender Identity Guide and Policies](#). The document, effective January 16th, states: “The Church’s teaching that our identities as male and female are established as part of God’s providential plan for humanity. ... A person’s ‘gender’ is inseparable from biological sex. The *Catechism* states that ‘Sexuality affects all aspects of the human person in the unity of his body and soul.’ Therefore, while biological sex and gender—or the socio-cultural manifestation of sex as well as “psychological identity”—can be distinguished, they can never be separated.” Among other practical implications, the new guidance bans the use of an individual’s preferred pronouns both in diocesan parishes and schools, and it requires that people use bathrooms and locker rooms consistent with their biological sex. Click [here](#) and [here](#) for more information.

Latest “Bioethics on Air” Podcast

- Episode 106: [Changing the Messaging and Mechanisms of Plan B – Part 1](#). Dr. John Brehany, NCBC Director of Institutional Relations, joins Joe Zalot to discuss the US Food and Drug Administration’s (FDA) revised messaging that Plan B is not an abortifacient.

Of Note

- “I respect everybody’s choices. My choice is to stay true to myself and my religion.”—[Ivan Provorov](#), defenseman for the Philadelphia Flyers hockey team explaining why he refused to wear a so-called pride jersey during the team warm-up before a game on January 17th. Provorov is Russian Orthodox. He is being excoriated in the local and national press for his stance.
- “The FDA should protect the life and health of both mothers and children, not loosen safety standards under industry or political pressures. We call on the [Biden] Administration to correct its policy priorities and stand with mothers in need. They deserve better.”—Excerpt from the statement of [Bishop Michael Burbidge](#) (Arlington,

VA), chairman of the USCCB Committee on Pro-Life Activities, on the US Food and Drug Administration's decision to allow retail pharmacies to dispense the chemical abortion pill mifepristone.

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. Previous editions of this report are available through the [Public Policy](#) page of the NCBC website.

Sharing the Resources: If you enjoy receiving the Bioethics Public Policy Report and would like to support its continued publication, please consider making a [donation](#) to the NCBC.

The National Catholic Bioethics Center webpage, 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.