

Court Cancels Obamacare's 'Transgender Mandate,' Grants Religious Freedom to Medical Professionals

This week, a federal court struck down an Obama-era mandate dictating that doctors perform gender-transition surgeries after referral by a mental health professional despite objections the doctor might have to the procedure. The mandate, which originated in Section 1557 of the Affordable Care Act, prohibited "discrimination in health care on the basis of race, color, national origin, sex, or disability."

In 2016, the Department of Health and Human Services redefined "sex" to include "among other things, discrimination on the basis of sex stereotyping, gender identity, and termination of pregnancy." HHS defined gender identity as "one's internal sense of gender, which may be male, female, neither, or a combination of male and female, and which may be different from an individual's sex assigned at birth." The Trump administration later changed the agency's interpretation, returning to "the plain meaning of the word 'sex' as male or female and as determined by biology.'

On the eve of President Joseph R. Biden's inauguration, Judge Peter Welte of the Eastern District of North Dakota granted a group of Catholic organizations representing hospitals, doctors and clinics, joined in part by the state of North Dakota, permanent injunctive relief from being forced to provide or cover gender-transition procedures, per the National Catholic Register.

"The Court DECLARES that HHS's interpretation of Section 1557 that requires the Catholic Plaintiffs to perform and provide

insurance coverage for gender-transition procedures violates their sincerely held religious beliefs without satisfying strict scrutiny under the RFRA,” Welte wrote.

“Now more than ever, Americans are grateful for the sacrifices of our medical professionals who serve on the front lines and use their training and expertise to serve the vulnerable,” Luke Goodrich, vice president and senior counsel at Becket, representative for the plaintiffs, said. “The court’s decision recognizes our medical heroes’ right to practice medicine in line with their conscience and without politically motivated interference from government bureaucrats.”

In a 2016 lawsuit, *Franciscan v. Burwell*, in which Becket also represented the plaintiffs, a Texas District Court ruled to prohibit the enforcement of the transgender mandate, but that case was appealed under the name *Franciscan v. Azar* and remains in the appeals process, according to Focus on the Family’s *The Daily Citizen*.

Becket called this week’s decision in *Sisters of Mercy v. Azor* “a major victory for common-sense, conscience, and sound medical judgment,” adding that the ruling “protects patients, aligns with current medical research, and ensures doctors aren’t forced to violate their religious beliefs and medical judgment”:

This is a victory for common-sense, conscience, and sound medical judgment. And our clients will continue providing outstanding care to transgender patients for everything from cancer to the common cold. fin/

– Luke Goodrich (@LukeWGoodrich) January 19, 2021

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