



Written by [Warren Mass](#) on January 2, 2017

U.S. Judge Halts ObamaCare Rule Covering Transgender Sex-changes and Abortions

Judge Reed O'Connor of the U.S. District Court for Northern Texas issued a temporary injunction on December 31 preventing enforcement of a regulation issued by the U.S. Department of Health and Human Services that might have forced doctors to perform sex-change operations and abortions in violation of their ethical standards. The injunction will delay the implementation of the HHS rule, which was scheduled to take place on January 1.



Judge O'Connor's ruling in the case (*Franciscan Alliance, et. al v. Sylvia Burwell, Secretary of the United States Department of Health and Human Services; and United States Department of Health and Human Services*) decided a suit against HHS by Franciscan Alliance, Inc. (a Roman Catholic faith-based hospital system founded by the Sisters of St. Francis of Perpetual Adoration), Christian Medical & Dental Association, and the states of Texas, Wisconsin, Nebraska, Kansas, Louisiana, Arizona, Kentucky, and Mississippi, who had collectively challenged a regulation enacted pursuant to the Patient Protection and Affordable Care Act (ObamaCare) that forbids discrimination on the basis of sex.

In particular, the plaintiffs complained that HHS had enacted a regulation that forbids discriminating on the basis of "gender identity" and "termination of pregnancy" and that defines "gender identity" as "an individual'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."

Furthermore, stated Franciscan and the states, the HHS regulation requires them to perform and provide insurance coverage for not only gender transitions but also abortions, "regardless of their contrary religious beliefs or medical judgment."

Franciscan Alliance, et. al v. Sylvia Burwell summarized the key issues at stake:

While this lawsuit involves many issues of great importance — state sovereignty, expanded healthcare coverage, anti-discrimination protections, and medical judgment — ultimately, the question before the Court is whether Defendants exceeded their authority under the ACA in the challenged regulations' interpretation of sex discrimination and whether the regulation violates the Religious Freedom Restoration Act as applied to Private Plaintiffs.

After stating the many issues involved and the various medical and ethical aspects to be taken into consideration, O'Connor, at the end of the 46-page ruling found that the plaintiffs' motions for preliminary were granted and that the defendants at HHS were enjoined from enforcing their rule's "prohibition against discrimination on the basis of gender identity or termination of pregnancy."

O'Connor also ruled that plaintiffs were likely to prevail in court on their claim that the new policy infringes on the rights of private healthcare providers under the Religious Freedom Restoration Act.

White House spokeswoman Katie Hill criticized the ruling, stating: "Today's decision is a setback, but



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hopefully a temporary one, since all Americans — regardless of their sex, gender identity or sexual orientation — should have access to quality, affordable health care free from discrimination.”

Reuters reported that it was not clear whether the Obama administration would seek to appeal the injunction. However, considering that Obama now has just 18 days left in office, it seems pointless to pursue the case at this point. Incoming president Donald Trump has named Rep. Tom Price (R-Ga.), who has been an outspoken critic of ObamaCare, to be the new secretary of Health and Human Services.

A January 1 report from PJ Media noted that while religious groups were participants in the lawsuit, opposition to transgenderism is not just religious. The report stated:

A [study from Johns Hopkins University in August](#) discovered that there is no concrete evidence suggesting people are born gay or transgender. Also, [Johns Hopkins researchers warned](#) against drastic gender changes among children, as early transgender identities may fade with age.

An article posted by NewBostonPost.com on December 31 noted that the plaintiffs’ lawsuit in *Franciscan Alliance, et. al v. Sylvia Burwell* was filed by the Becket Fund for Religious Liberty, a nonprofit law firm in Washington D.C. that defends clients who claim their religious liberty is threatened. The firm is also known as Becket Law.

The original complaint argued that the new regulation could affect children who show signs of identifying as other than their biological sex.

“This is a common-sense ruling: The government has no business forcing private doctors to perform procedures on children that the government itself recognizes can be harmful and exempts its own doctors from performing,” Lori Windham, senior counsel at Becket Law, said in a written statement. “Today’s ruling ensures that doctors’ best medical judgment will not be replaced with political agendas and bureaucratic interference.”

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