



Written by [Luis Miguel](#) on December 11, 2022

## Federal Court Shoots Down HHS Sex-transition Rule

A federal court of appeals has delivered a win for religious liberty and dealt a blow to the transgender movement with a case-specific ruling that holds the federal government cannot force healthcare providers to perform trans surgeries if it violates their convictions.

The case in question is *The Religious Sisters of Mercy v. Becerra*. A three-judge panel of the 8th U.S. Circuit Court of Appeals unanimously agreed with the 5th Circuit, which ruled last year in *Franciscan Alliance v. Becerra* that government policy obligating the performance of sex-change procedures is out of line.



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“We agree with these courts and therefore conclude that the district court correctly held that ‘intrusion upon the Catholic Plaintiffs’ exercise of religion is sufficient to show irreparable harm,’” [wrote](#) the 8th Circuit panel, which included judges Lavenski Smith, Raymond Gruender, and Jonathan Kobes, all of whom were appointed by Republican presidents.

The Biden administration has worked to force doctors to do these surgeries, as well as to prescribe puberty blockers and other sex-transition drugs, under the guise of the Obama-signed Affordable Care Act, which prohibits sex discrimination by healthcare providers who receive federal funds. The Department of Health and Human Services (HHS) used this as a basis for a rule compelling the performance of trans procedures, arguing that discrimination based on gender identity is a form of sex discrimination.

While the Trump administration tried to repeal the rule in 2020, the attempt was shot down by federal courts. Furthermore, the Supreme Court held that year in *Bostock v. Clayton County* that gender-identity discrimination is a form of sex discrimination.

Reuters [summarized](#) the history of The Religious Sisters of Mercy, a group of nuns running health clinics for the poor, in trying to combat the rule:

The plaintiffs in Friday’s case had sued in 2016 to strike down the rule, but the case was stayed for most of the Trump administration. They amended their complaint in 2020 after the Trump-era rule was blocked.

U.S. District Judge Peter Welte in Fargo, North Dakota, ruled in favor of the plaintiffs last year.

Welte said applying the rule to providers with religious objections to performing gender transition surgeries would violate the federal Religious Freedom Restoration Act (RFRA). That law prohibits the government from burdening an individual’s exercise of religion.

The 8th Circuit on Friday agreed. The court said the intrusion on the plaintiffs’ rights under



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the RFRA was enough to establish the irreparable harm necessary to block HHS from enforcing the rule against the plaintiffs.

The plaintiffs were represented by the Becket Fund for Religious Liberty. The organization's vice president and senior counsel, Luke Goodrich, said in a Friday press release: "The federal government has no business forcing doctors to violate their consciences or perform controversial procedures that could permanently harm their patients. This is a common-sense ruling that protects patients, aligns with best medical practice, and ensures doctors can follow their Hippocratic Oath to 'do no harm.'"

It should be noted, however, that the ruling is narrow in the sense that it only applies to the specific parties named in the case in question. Nevertheless, proponents of religious freedom hope this will set a precedent to protect healthcare providers in the future.

"Today's victory sets an important precedent that religious healthcare professionals are free to practice medicine in accordance with their consciences and experienced professional judgment," said Goodrich. "The government's attempt to force doctors to go against their consciences was bad for patients, bad for doctors, and bad for religious liberty."

The decision marked another loss for the Biden administration, as last week the House passed a spending authorization bill that included language to [repeal the White House's Covid mandate](#) for military service members.



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