



THE NATIONAL CATHOLIC BIOETHICS CENTER

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Bioethics and Public Policy Report

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The National Scene: The U.S. House of Representatives approved the *No Taxpayer Funding for Abortion Act (H.R. 7)*, which would prohibit insurance Exchanges created by the Affordable Care Act from covering abortion, and it would eliminate tax benefits for small businesses that purchase insurance plans covering abortion.¹

The State of Conscience/Religious Liberty: *Archbishop Joseph Kurtz*, president of the United States Conference of Catholic Bishops, outlines the U.S. bishops' position on the violation of religious liberty imposed by the U.S. Department of Health and Human Services, under the Affordable Care Act, which requires employers to provide contraception and abortifacient coverage as part of their employees' health insurance plans (*HHS Mandate*)² ♦ The Seventh Circuit Court of Appeals has denied the *University of Notre Dame's* emergency motion for a stay of a lower court decision which had denied the University injunctive relief from the *HHS Mandate*. The University will continue to pursue legal action. In the interim it will comply with the Mandate under the so called "accommodation."³ ♦ The *Alabama* Legislature is advancing legislation that would protect the conscience rights of health care providers.⁴ ♦ The Oregon Bureau of Labor and Industries has ruled that an *Oregon* bakery violated the civil rights of a *same-sex couple* by refusing to provide a cake for the wedding reception.⁵ ♦ The *New Mexico* Supreme Court has ruled against *Elane Photography* for its refusal to provide services for a same-sex wedding. *Elane Photography* has now asked the U.S. Supreme Court to review its case.⁶ ♦ An *Illinois* bed and breakfast establishment is awaiting a ruling from the Illinois Human Rights Commission concerning a complaint based on the company's policy to host only *weddings* between one man and one woman.⁷ ♦ The *Kansas* House of Representatives is considering legislation that will protect the conscience rights of individuals and businesses from being violated by being forced to participate in ceremonies of *marriages, domestic partnerships or civil unions* contrary to a sincerely held religious belief.⁸ ♦ Also see *Recent Good News*.

The State of Marriage: U.S. HR 3829: *The State Marriage Defense Act* has been proposed in Congress to reaffirm the constitutional right of states to define marriage and to have their determinations on this important matter respected by the federal government. See: <http://capwiz.com/nationformarriage/issues/alert/?alertid=63049346&link=link1> to have your voice heard. ♦ Two same-sex couples in *West Virginia* are suing the state, challenging its statutory definition of law marriage as being between one man and one woman.⁹ ♦ Two same-sex couples in *Kansas* are suing the state in an effort to overturn that state's constitutional amendment defining marriage as between one man and one woman. The issue is their desire to file a joint state income tax report, thus, forcing the state to legally recognize their union as the same as a heterosexual marriage.¹⁰ ♦ A suit has been filed in

Arizona Federal District Court by several same-sex couples seeking state recognition of same-sex marriage.¹¹ ♦ The Attorney General of **Virginia** will join in the lawsuit by same-sex couples challenging that state's definition of marriage as between one man and one woman.¹² The **Virginia** House of Representatives is considering legislation to allow them to oppose the challenge on behalf of the people of Virginia.¹³ ♦ The **Indiana Catholic Conference**, representing the six Catholic bishops of Indiana, has endorsed a proposed state constitutional amendment that is before the state Legislature that would define marriage as between one man and one woman. The proposal also states that other legal unions "identical or substantially similar to that of marriage" will not be recognized by the state.¹⁴ ♦ **Idaho's** Attorney General has filed a motion seeking to dismiss a lawsuit that challenges the state's voter-approved constitutional amendment defining marriage as between one man and one woman.¹⁵ ♦ **Ohio's** Attorney General has filed a notice of appeal in the 6th Circuit Court of Appeals of a federal court's ruling that Ohio must recognize on Ohio death certificate same-sex marriages contracted in other states.¹⁶ ♦ **Nevada's** Attorney General has filed a brief in support of the state's constitutional amendment that defines marriage as between one man and one woman, which is being challenged in the U.S. Ninth Circuit Court of Appeals.¹⁷ ♦ A U.S. District Court judge in **Oklahoma** has ruled that state's constitutional amendment protecting marriage as between one man and one woman is unconstitutional. The decision has been stayed, pending appeal.¹⁸ ♦ A ballot initiative is underway, as well as a law suit by same-sex couples, to overturn **Oregon's** law defining marriage as between one man and one woman.¹⁹ ♦ Also see **Recent Good News** and **The State of Conscience/Religious Liberty**.

State by State: The **Minnesota** Supreme Court has agreed to hear a county prosecutors' appeal of a Minnesota Court of Appeals ruling that a state law prohibiting advising or encouraging **suicide** was unconstitutional on free speech grounds.²⁰ ♦ The Second Judicial District in **New Mexico** has issued a ruling allowing New Mexico doctors to prescribe lethal drugs to **assist the suicide deaths** of their patients.²¹ ♦ The **Connecticut** Legislature, for the second year in a row, is considering a proposal to legalize **physician assisted suicide** in that state.²² ♦ The **New Hampshire** Legislature also has before it a proposal to legalize **physician assisted suicide**.²³ ♦ The U.S. Supreme Court has refused to hear an appeal by the state of **Arizona** of a ruling by the U.S. Court of Appeals for the Ninth Circuit, finding unconstitutional an Arizona law, enacted in 2012, that prohibits **abortions** after 20 weeks gestation.²⁴ ♦ The **Mississippi** Legislature is considering a proposal to protect minors by requiring a prescription for their access to **emergency contraception**.²⁵ ♦ The family of a pregnant woman, reported to be **brain dead**, succeeded in challenging a **Texas** law that prohibits the removal of life-sustaining treatment for a **pregnant woman**. The woman's body, already declared dead by neurological criteria, was removed from life-support and her unborn child died.²⁶ ♦ The **Washington** Legislature is considering a proposal to require **insurers** offering maternity care to also cover elective **abortions**.²⁷ ♦ An **Oklahoma** County Court judge has ruled that requiring a prescription (and with it and a form of personal identification) for **Plan B emergency contraception** is unconstitutional.²⁸ ♦ A U.S. District Court has ruled that **Oklahoma's** law to provide full informed consent to women seeking an abortion, by allowing her to know the results of a **fetal ultrasound**, violates the physician's free speech.²⁹

Recent Good News: The U.S. Supreme Court granted an injunction to the **Little Sisters of the Poor**, protecting them from the controversial **HHS Mandate** while their case is before the Tenth Circuit Court of Appeals. The Sisters will not be forced to sign and deliver the controversial government forms authorizing and instructing their benefits administrator to provide contraceptives, sterilization, and abortifacients. The Court's order also provides protection to more than 400 other Catholic organizations that receive health benefits through the same Catholic benefits provider, Christian Brothers. ♦ The U.S. Supreme Court has

temporarily stayed a federal district court decision to allow *same-sex marriage* in *Utah* pending a decision by the 10th Circuit Court of Appeals concerning the stay request. *Utah's* constitution defines marriage as between one man and one woman.³⁰ However, U.S. Attorney General Eric H. Holder Jr. announced that same-sex marriages in Utah are considered legal under federal law and such couples are eligible for all federal benefits until further court action.³¹ ♦ A U.S. federal district court based in Houston, Texas, has granted a temporary injunction against the *HHS Mandate* as it pertains to *East Texas Baptist University and Houston Baptist University*. In December of 2013, federal judges in Washington, D.C., granted injunctions to *Thomas Aquinas College* and *Priests for Life*,³² as did the 6th Circuit Court of Appeals for the *Michigan Catholic Conference* and its *Catholic Charities*.³³

Sharing Your Good News and Your Efforts: If there are public policy advocacy strategies which you wish to share with others, please e-mail mhilliard@ncbcenter.org.

Sharing of Resources: The web page of the National Catholic Bioethics Center is a significant resource in the realm of bioethics: www.ncbcenter.org. Also, bioethicists are on call twenty-four hours a day, every day of the week, for consultation by calling 215-877-2660.

¹ <http://www.christianpost.com/news/us-house-passes-no-taxpayer-funding-for-abortion-act-113580/>.

² <http://www.uscatholic.org/news/201401/commentary-why-us-bishops-are-resisting-contraception-mandate-28341>.

³ <http://www.cardinalnewmansociety.org/CatholicEducationDaily/DetailsPage/tabid/102/ArticleID/2827/Notre-Dame-Denied-Relief-Will-Comply-with-HHS-Mandate.aspx>.

⁴ http://go.nationalpartnership.org/site/News2?abbr=daily2_&page=NewsArticle&id=43363&security=1201&news_iv_ctrl=-1.

⁵ <http://www.timesunion.com/news/article/Cake-refusal-violated-same-sex-couple-s-rights-5154362.php>.

⁶ <http://www.heritage.org/research/reports/2014/01/new-mexico-photography-business-seeks-supreme-court-review>.

⁷ http://www.edgeboston.com/news/national/News/154431/ill_b&b_owner_won%E2%80%99t_host_same-sex_weddings.

⁸ <http://m.cjonline.com/news/state/2014-01-28/house-panel-joins-review-same-sex-marriage-bill>.

⁹ <http://www.herald-dispatch.com/news/x262019169/Same-sex-marriage-lawsuit-moves-on>.

¹⁰ <http://www.timesunion.com/news/article/Gay-couples-sue-over-Kansas-tax-filing-policy-5104615.php>.

¹¹ <http://ktar.com/305/1690056/Gay-marriages-again-an-issue-in-Arizona>.

¹² http://www.washingtonpost.com/politics/virginia-to-fight-same-sex-marriage-ban/2014/01/22/85a96a10-83ac-11e3-bbe5-6a2a3141e3a9_story.html.

¹³ http://www.timesdispatch.com/news/state-regional/house-panel-backs-bill-to-allow-defense-of-same-sex/article_55628202-8531-11e3-abb8-001a4bcf6878.html.

¹⁴ <http://www.catholicsentinel.org/main.asp?SectionID=2&SubSectionID=34&ArticleID=23720>.

¹⁵ <http://www.timesunion.com/news/article/Idaho-AG-motions-to-dismiss-same-sex-marriage-case-5129364.php>.

¹⁶ <http://www.timesunion.com/news/article/APNewsBreak-Ohio-appeals-gay-marriage-ruling-5149066.php>.

¹⁷ <http://www.advocate.com/politics/marriage-equality/2014/01/24/nev-ag-equates-same-sex-marriage-bigamy-incest>.

¹⁸ http://www.washingtonpost.com/politics/judge-rules-oklahoma-same-sex-marriage-ban-is-unconstitutional/2014/01/14/2729f2b4-7d73-11e3-95c6-0a7aa80874bc_story.html?tid=hpModule_ba0d4c2a-86a2-11e2-9d71-f0feafdd1394.

¹⁹ <http://www.columbian.com/news/2014/jan/22/judge-consolidates-oregon-same-sex-marriage-lawsuit/>.

²⁰ http://www.oregonlive.com/today/index.ssf/2013/12/assisted_suicide_case_heads_to.html.

²¹ <http://alexschadenberg.blogspot.ca/2014/01/attorney-general-must-appeal-assisted.html>.

²² <http://www.wfuv.org/news/news-politics/140129/connecticut-lawmaker-supports-state-legislation-legalize-assisted-suicide>.

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- ²³ <http://www.nationalreview.com/human-exceptionalism/370116/nh-assisted-suicide-bills-word-games-wesley-j-smith>.
- ²⁴ http://www.nytimes.com/2014/01/14/us/supreme-court-wont-hear-arizona-appeal-on-abortion-ban.html?emc=edit_tnt_20140113&ntemail0=y&r=0.
- ²⁵ <http://www.care2.com/causes/mississippi-bill-is-the-latest-assault-on-access-to-emergency-contraception.html>.
- ²⁶ <http://www.wfaa.com/news/health/fort-worth-hospital-will-end-life-support-for-marlise-munoz-242083601.html>.
- ²⁷ <http://www.seattlepi.com/news/article/Democrats-renew-push-on-abortion-insurance-bill-5139450.php>.
- ²⁸ <http://www.greenwichtime.com/news/article/Judge-throws-out-Oklahoma-morning-after-pill-law-5169628.php>.
- ²⁹ http://go.nationalpartnership.org/site/News2?abbr=daily2_&page=NewsArticle&id=43367&security=1201&news_iv_ctrl=-1.
- ³⁰ <http://qantdaily.com/2014/01/06/supreme-court-holds-same-sex-marriage-in-utah-until-appeal-is-settled/>.
- ³¹ http://www.washingtonpost.com/world/national-security/holder-same-sex-marriages-in-utah-legal-under-federal-law/2014/01/10/f08f363a-7a19-11e3-af7f-13bf0e9965f6_story.html?wpisrc=al_comboPN_p&clsrd.
- ³² <http://www.courthousenews.com/2013/12/31/64177.htm>.
- ³³ <http://www.therepublic.com/view/story/977d451ea12e40529fb93c7874f9fe6b/MI--Contraception-Coverage-Michigan>.