



The National Catholic Bioethics Center

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Bioethics and Public Policy Report

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The National Scene: *President Obama* signed into law the National Defense Authorization Act which provides *coverage of abortion* in cases of rape or incest by the military health plan.¹ This legislation also protects military chaplains from being forced to officiate at same-sex marriages, and thus, violate conscience.² ♦ The *U.S. Senate* refused to ratify the *United Nations Convention on the Rights of Persons with Disabilities*. There exist concerns that the Convention could lead to more abortions, threaten parental rights and erode U.S. sovereignty.³

The State of Conscience/Religious Liberty: The *NCBC* has signed onto three *amicus curiae* briefs in support of conscience objections to the *U.S. Dept. of Health and Human Services (HHS)* contraceptive coverage mandate by agencies: *State Of Nebraska, et al v. U.S. Department of Health and Human Services, et al*;⁴ *Frank O'Brien, et al. v. U.S. Department of Health and Human Services, et al*;⁵ and *Wheaton College; Belmont Abbey College v. Kathleen Sebelius, Secretary of the United States Department of Health and Human Services, et al*.⁶ A panel of the Eighth Circuit Court of Appeals has issued an injunction against forcing the O'Brien Company to implement the mandate, in response to the pleadings filed on behalf of the company.⁷ ♦ The Tenth Circuit Court of Appeals has denied similar relief to *Hobby Lobby*, a privately owned retail chain.⁸ In response, *Hobby Lobby* sought, and was denied, an emergency injunction from the U.S. Supreme Court, sending the case back to the U.S. District Court of Oklahoma. In the meantime, *Hobby Lobby* has decided to continue offering employees health insurance without provision for emergency contraception, which could result in a 1.3 million dollar penalty per day.⁹ ♦ A U.S. District Court judge has ruled that the Roman Catholic *Archdiocese of New York* can proceed with a lawsuit challenging *HHS mandate*.¹⁰ ♦ A *Mennonite-owned cabinetmaker*, Conestoga Wood Specialties, and the owner of *Dominos Pizza*, Tom Monahan, have filed federal suits in U.S. District Courts charging that the *HHS mandate* violates their constitutional rights.¹¹ ♦ The *Michigan* Legislature failed to pass a bill that would protect health care providers from being coerced to perform morally objectionable procedures and to respect the conscience rights of employers in providing health insurance to employees that is morally objectionable.¹² ♦ A U.S. District Court has issued a temporary restraining order against a *Missouri* law which would grant conscience protection to employers and health plans who object to providing employees with contraception coverage in employee health plans.¹³ ♦ Also see **Recent Good News**.

The State of Marriage: The U.S. Supreme Court has agreed to hear a challenge to the ruling of the 9th U.S. Circuit Court of Appeals striking down *California's Proposition 8*, which by a vote of the people defined marriage as between one man and one woman. Also,

the Supreme Court has agreed to hear a challenge to the U.S. 2nd Circuit Court of Appeals ruling that the federal Defense of Marriage Act (**DOMA**) is unconstitutional. The federal **DOMA** defines marriage as between a man and a woman for the purpose of deciding who can receive a range of federal benefits.¹⁴ ♦ A bill has been introduced into the **Rhode Island** legislature which, if passed into law, would make that state the tenth state to legally recognize same-sex marriage.¹⁵ Also see **Recent Good News**.

State by State: A **Georgia** District Court judge has issued an injunction to a law restricting abortions after **20 weeks gestations**.¹⁶ ♦ The **Oklahoma** Supreme Court rejected as unconstitutional a state law that required a woman seeking an **abortion have an ultrasound**, for the purpose of having the opportunity to view an image of her unborn child.¹⁷ ♦ A U.S. District Court has ruled that **North Carolina's Choose Life** license plate, in the absence of a pro-choice plate, is unconstitutional.¹⁸ ♦ The U.S. Court of Appeals for the Second Circuit is hearing arguments on the 8-year federal lawsuit seeking the approval of the pro-adoption "**Choose Life**" License Plate in **New York State**.¹⁹

Recent Good News: States passed 43 abortion restrictions in 2012, the second-highest number enacted in a single year. Arizona passed seven laws restricting abortion, while Kansas, Louisiana, Oklahoma, South Dakota and Wisconsin each passed at least three.²⁰ ♦ In a significant decision, the D.C. Court of Appeals put Wheaton College and Belmont Abbey's **HHS mandate** challenge on hold pending the anticipated new HHS rule, which was represented to the U.S. Department of Justice (DOJ) as a remedy to the present violation of religious liberty. The three-judge panel said it wants regular updates on DOJ's claim that a new preliminary rule will come out in the first quarter of 2013. The Court insisted that it will make sure the DOJ lives up to its claim. The NCBC was a signatory to an *Amicus* brief to the court in support of the colleges' claims.²¹ ♦ The U.S. District Court for the Eastern District of New York (Brooklyn) granted a request for an injunction against enforcement of the **HHS mandate, by Priests for Life**. The federal government entered into a stipulation that it would not enforce the HHS mandate against Priests for Life pending a revision in the rules that would protect religious liberty.²² ♦ The U.S. District Court for Northern Illinois has granted a preliminary injunction, against the **HHS mandate**, to Triune Health Group, Inc., a Roman Catholic health care service company.²³ ♦ Similarly, the U.S. Court of Appeals for the Seventh Circuit granted an emergency injunction against the enforcement of the **HHS mandate to Korte & Luitjohan Contractors, Inc.**, a family owned construction contractor in Illinois.²⁴ ♦ In another significant decision, the Illinois Attorney General has announced that the State would not appeal a judicial ruling that protects **Illinois pharmacists'** conscience rights. In September 2012, an Illinois appellate court ruled against the "Blagojevich Rule," a regulation that would have forced Illinois pharmacists to dispense abortion-inducing drugs despite their religious and moral convictions. The State had been expected to appeal to the Illinois Supreme Court. But fortunately, after seven years of litigation, the Attorney General bowed to judicial rulings telling the State to respect pharmacists' conscience rights. The NCBC was a signatory to an amicus brief in support of the pharmacists.²⁵ ♦ The Governor of **Michigan** signed into law legislation to protect women from **coerced abortions**.²⁶ ♦ A **Nevada** U.S. District Court Judge has upheld the constitutionality of that state's definition of marriage as between one man and one woman, citing that: "The protection of the traditional institution of marriage, which is a conceivable basis for the distinction drawn in this case, is a legitimate state interest."²⁷ ♦ Similarly, the **Montana Supreme Court** affirmed a lower court ruling that held that courts should not order the state legislature to enact a law recognizing same-sex unions.²⁸ ♦ Proponents for legalizing **same-sex marriage** in **Illinois** failed to garner sufficient support to advance their proposal.²⁹

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.

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- ¹ http://www.nytimes.com/2012/12/07/opinion/two-important-steps-for-women.html?_r=0.
 - ² <http://christiannews.net/2013/01/05/obama-criticizes-ndaa-conscience-clause-exempting-chaplains-from-performing-same-sex-marriages/>.
 - ³ <http://www.sfgate.com/news/politics/article/Republican-opposition-downs-UN-disability-treaty-4090048.php>.
 - ⁴ <http://www.aul.org/2012/11/aul-files-to-protect-religious-freedom-in-suit-against-obama-administration/>.
 - ⁵ <http://www.aul.org/2012/11/aul-supports-freedom-of-conscience-in-two-more-cases/>.
 - ⁶ <http://www.ncbcenter.org/page.aspx?pid=1263>.
 - ⁷ <http://www.nationalreview.com/bench-memos/334517/eighth-circuit-injunction-against-hhs-mandate-ed-whelan#>.
 - ⁸ <http://www.lifenews.com/2012/12/20/appeals-court-obama-admin-can-force-hobby-lobby-to-obey-hhs-mandate/>.
 - ⁹ <http://bjcmobile.org/hobby-lobby-to-defy-mandate-continue-coverage-excluding-contraception/>.
http://www.nationalpartnership.org/site/News2?abbr=daily4_&page=NewsArticle&id=37258&security=1521&news_iv_ctrl=-1.
 - ¹⁰ <http://www.newsmax.com/Newsfront/BIZNEWS-BNALL-BNCOPY-BNSTAFF/2012/12/05/id/466672>.
 - ¹¹ http://articles.philly.com/2012-12-07/news/35672770_1_contraception-affordable-care-act-mennonites.
 - ¹² http://www.mlive.com/politics/index.ssf/2012/12/lame_duck_legislature_action_a.html.
 - ¹³ http://www.nationalpartnership.org/site/News2?abbr=daily4_&page=NewsArticle&id=37262&security=1521&news_iv_ctrl=-1.
 - ¹⁴ http://www.huffingtonpost.com/huff-wires/20121207/us-supreme-court-gay-marriage/?utm_hp_ref=politics&ir=politics.
 - ¹⁵ http://www.huffingtonpost.com/2013/01/03/rhode-island-gay-marriage_n_2405506.html.
 - ¹⁶ <http://www.ajc.com/ap/ap/health/ga-judge-temporarily-blocks-abortion-law/nTfKb/>.
 - ¹⁷ <http://newsok.com/oklahoma-supreme-court-strikes-down-2-anti-abortion-laws/article/3734701/?page=1>.
 - ¹⁸ <http://www.lifenews.com/2012/12/10/judge-nc-choose-life-plates-invalid-because-no-pro-abortion-version/>.
 - ¹⁹ <http://www.lifenews.com/2012/12/10/judge-nc-choose-life-plates-invalid-because-no-pro-abortion-version/>.
 - ²⁰ http://www.washingtonpost.com/blogs/wonkblog/wp/2013/01/03/chart-of-the-day-states-passed-second-most-abortion-restrictions-ever-in-2012/?wprss=rss_business.
 - ²¹ <http://www.politico.com/politicopulse/>.
 - ²² <http://www.lifenews.com/2012/08/01/catholic-group-to-defy-new-obamacare-pro-abortion-mandate/>.
 - ²³ <http://www.christiannewswire.com/news/5359271190.html>.
 - ²⁴ <http://www.lifenews.com/2012/12/31/company-gets-injunction-stopping-hhs-mandate-enforcement/>.
 - ²⁵ <http://www.lifenews.com/2012/12/11/pharmacists-in-illinois-wont-be-forced-to-dispense-plan-b-drug/>.
 - ²⁶ http://www.nationalpartnership.org/site/News2?abbr=daily4_&page=NewsArticle&id=37260&security=1521&news_iv_ctrl=-1.
 - ²⁷ <http://www.buzzfeed.com/chrisgeidner/federal-judge-rules-the-nevada-can-ban-same-sex-co>.
 - ²⁸ <http://www.marriagedebate.com/pdf/MarriageLawDigest.Dec.2012.pdf>.
 - ²⁹ <http://www.chicagotribune.com/news/local/breaking/chi-illinois-gay-marriage-sponsor-looks-at-thurs-vote-20130102,0,7662241.story>.