

# THE ACLU'S WAR ON CATHOLIC HOSPITALS

Across the United States, Catholic hospitals remain the biggest private sector health care providers. Catholic-affiliated health services account for more than 600 hospitals, 200 health care centers, and 1,500 specialized care facilities (i.e. drug treatment centers). These health care operatives serve 50 million patients annually. Since the early 1990s, the American Civil Liberties Union (ACLU) has been engaged in a prolonged series of battles with these Catholic hospitals and health care centers.

Why does the ACLU hold such an animus against Catholic hospitals? The ACLU actively works to protect abortion rights from those who would restrict its access. They specifically target Catholics: "In too many places, Catholic bishops, not doctors, are making medical decisions for women." They call this "using religion to put women's health at risk." But these health care restrictions are based in Catholic doctrine. The United States Conference of Catholic Bishops (USCCB) has issued Ethical and Religious Directives for Catholic Health Care Services that prevent Catholic-run hospitals from providing abortion, sterilization, contraceptive services, and most forms of assisted reproduction. The ACLU's campaign against Catholic health care has been well documented and remains a fundamental part of its mission to this day.

## Fetus of Gwendolyn Young

- In 1989, Gwendolyn Young of Jacksonville, Florida underwent amniocentesis at St. Vincent's Medical Center, during which a doctor punctured one of her twins with the needle, inadvertently resulting in the death of one of the twins. Young later filed suit on behalf of the dead twin, claiming that her unborn daughter qualified as a "person" under

Florida's Wrongful Death Act. The ACLU of Florida filed an amicus (friend of the court) brief, opposing Young. It didn't want Florida's Wrongful Death Act to include the unborn within the definition of a person.

### BayCare Alliance Merger

- In 1996, the ACLU partnered with MergerWatch, an organization co-founded by Frances Kissling, formerly of Catholics for Choice (a pro-abortion dissident group).
- In 1997, St. Petersburg, Florida-based Bayfront Medical Center entered into a merger with five other hospitals, including two Catholic ones, forming the BayCare Alliance. The new BayCare Alliance would not perform abortion, sterilization, emergency contraception, or artificial insemination according to guidelines issued by the USCCB. BayCare Alliance offered to buy the hospital property from the city, allowing it to follow religious directives, but their opponents refused this offer. BayCare was forced to disband at the end of 2000, leaving Bayfront Medical Center obligated to perform abortions.

### MergerWatch and ACLU

- MergerWatch released a report titled *No Strings Attached: Public Funding of Religiously-Sponsored Hospitals in the United States*. The document, reviewed and edited by six attorneys from the ACLU, claimed that there is a conflict between religiously-affiliated hospitals and the diverse communities they serve because they do not provide abortion and other reproductive health services.
- *Religious Refusals and Reproductive Rights*, a document from the ACLU, stated that only those entities whose mission is solely propagation of faith and who serve and employ primarily others of that faith should be exempt from providing "reproductive care."

**The limitations of the ACLU's proposed religious exemption is**

**the most draconian attack against Catholic hospitals and charities to date, since it would force every Catholic organization outside of churches to provide abortion and contraception coverage.**

#### Rancocas Hospital Merger

- In 2002, the ACLU and the New Jersey Appleseed Public Interest Law Center filed a lawsuit against the merging of Rancocas Hospital and Our Lady of Lourdes Healthcare System in Burlington County; the merger released the system from providing tubal ligations (“tube tying”), vasectomies, and abortions earlier that year and was approved by the Attorney General. A judge ruled there was sufficient abortion access in the community without Lourdes having to provide such services.

#### Catholic Charities v. Serio

- In 2003, the ACLU, with the New York Civil Liberties Union, filed an amicus brief supporting the Women’s Health and Wellness Act, which would force insurance companies to provide contraception coverage. Catholic Charities along with nine other religiously-affiliated organizations, filed a lawsuit challenging this Act. “The law rightly exempts churches, temples, and mosques, but protects people working for religiously-affiliated institutions that employ and serve people of many faiths, such as hospitals, charities, and social service organizations,” said Julie Sternberg, a staff attorney with the ACLU Reproductive Freedom Project. In 2004, the trial court upheld the Women’s Health and Wellness Act as constitutional. This verdict was appealed through the courts by Catholic Charities several times, and each time the ACLU filed against Catholic Charities. In October 2006, the New York Court of Appeals upheld the opinion of the lower courts. They found the law “neutral” and were “satisfied with its constitutional standards.” In October 2007, the U.S. Supreme Court denied Catholic Charities a petition to hear the case against the Women’s Health and Wellness Act.

## ACLU Tries to For Emergency Abortions

- In 2010, The Department of Health and Human Services considered a request from the ACLU that it compel Catholic hospitals to provide “emergency” abortions. The ACLU argued that the Emergency Medical Treatment and Active Labor Act, passed by Congress in 1986, includes “emergency reproductive health care” in its requirement that all hospitals treat anyone needing emergency health care.

## Mercy Health Partners and USCCB

- In December 2013, the ACLU sued the USCCB on behalf of Tamesha Means, a pregnant woman denied an emergency abortion at a Catholic hospital in Muskegon, Michigan. At 18 weeks, Means began to miscarry but was sent home twice, since the hospital’s directives prevented it from providing an emergency abortion. The third time Means came to the hospital, she went into labor and was given treatment. The ACLU argued that Means was not provided all possible options and was allowed to endure pain and suffering before ultimately being treated. In June 2015, a federal district court dismissed the ACLU’s lawsuit against the USCCB because it would have involved reviewing religious doctrine, a First Amendment violation.

## Mercy Medical Center

- In August 2015, threatened with a lawsuit from the ACLU, a Catholic-affiliated hospital within Mercy Medical Center –the largest hospital network in California–approved a doctor’s request to perform a tubal ligation on Rachel Miller, who had requested one during her upcoming Cesarean section. The hospital had originally denied Miller the request, citing its religious directive.

## Trinity Health

- In October 2015, the ACLU filed a federal lawsuit against Trinity Health Corporations, one of the largest Catholic

health systems in the country, because it did not provide emergency abortions for women suffering pregnancy complications at any of its facilities. Trinity Health owns and operates over 80 hospitals and is publicly funded. All facilities are subjected to the religious directives of the USCCB. The ACLU stated: “[We oppose] the alarming arguments made by Trinity that their government-funded hospitals can refuse to provide emergency care to pregnant women because of their religious affiliation.” A federal judge dismissed the lawsuit.

### Dignity Health

- In December 2015, the ACLU partnered with a California law firm against Dignity Health’s Mercy Medical Center in Redding, CA. Rebecca Chamarro had been denied a tubal ligation during her scheduled C-section. The ACLU claimed that withholding such services for reasons other than medical considerations is illegal. It also asked the court to prevent Dignity Health from using religious directives to interfere with Chamarro’s request. In 2016, a San Francisco judge ruled that Dignity Health did not discriminate against the woman, stating that she could get the procedure done at another hospital. He also upheld Mercy Medical’s policy against sterilization, including procedures for men.

### Franciscan Alliance v. Burwell

- In the Fall of 2016, the ACLU filed a motion to intervene in a case seeking an amendment to section 1557 of the Affordable Care Act (ACA) which “prohibits health care providers from discriminating based on race, national origin, sex, age, or disability.” The lawsuit in question, *Franciscan Alliance v. Burwell*, was filed by a group of states and religiously-affiliated health care organizations who were suing the federal government to allow certain forms of “discrimination” in upholding religious directives. In December 2016, the U.S. District Court for the Northern District of Texas issued a

nationwide injunction that prevents enforcing certain parts of the ACA which prohibit discrimination on the basis of gender identity or termination of pregnancy. The court found this section failed to incorporate religious exemptions already provided through Title IX.

### Ascension Health

- In October 2016, the ACLU, on behalf of Jessica Mann, filed a government complaint against Ascension Health, the largest non-profit health care system in the U.S. and the largest Catholic health system in the world. Mann wanted her tubes tied during her C-section because she had a life-threatening brain tumor. Her local hospital obeys Catholic teaching and denied this request. The ACLU argued that banning tubal ligations was sex discrimination. The ACLU pointed to ACA's aforementioned Section 1557 and asked the courts to ensure these hospitals adhered to the guidelines outlined therein. This case is ongoing.

### Heartland Health Services

- In February 2017, the ACLU voiced an official complaint against federally-funded Heartland Health Services in Peoria, IL, because it leases two of its four clinics from OSF Saint Francis Medical Center; those two Catholic clinics do not provide prescription contraceptives.

### San Juan Medical Center

- In April 2017, the ACLU sued San Juan Medical Center, part of the Dignity Health Care system, for refusing to provide a hysterectomy for Evan Michael Minton, who wanted to transition from woman to man.