

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

STATE OF NEW YORK, *et al.*

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES; ALEX M. AZAR II, *in his official capacity as Secretary of the United States Department of Health and Human Services*; and UNITED STATES OF AMERICA,

Defendants,

DR. REGINA FROST and CHRISTIAN MEDICAL AND DENTAL ASSOCIATIONS,

Defendants-Intervenors.

No. 1:19-cv-04676-PAE
(consolidated with 1:19-cv-05433-PAE;
1:19-cv-05435-PAE)

**DECLARATION OF DAVID STEVENS,
M.D., M.A., IN SUPPORT OF
MOTION FOR SUMMARY
JUDGMENT, AND IN OPPOSITION
TO PLAINTIFFS' MOTIONS FOR
PRELIMINARY INJUNCTION**

PLANNED PARENTHOOD FEDERATION OF AMERICA, INC.; and PLANNED PARENTHOOD OF NORTHERN NEW ENGLAND, INC.,

Plaintiffs,

v.

ALEX M. AZAR II, *in his official capacity as Secretary, United States Department of Health and Human Services*; UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES; ROGER SEVERINO, *in his official capacity as Director, Office for Civil Rights, United States Department of Health and Human Services*; and OFFICE FOR CIVIL RIGHTS, United States Department of Health and Human Services,

Defendants.

No. 1:19-cv-05433-PAE
(consolidated with 1:19-cv-0476-PAE;
1:19-cv-05435-PAE)

NATIONAL FAMILY PLANNING AND
REPRODUCTIVE HEALTH ASSOCIATION;
and PUBLIC HEALTH SOLUTIONS,

Plaintiffs,

v.

ALEX M. AZAR II, *in his official capacity as
Secretary of the U.S. Department of Health and
Human Services*; U.S. DEPARTMENT OF
HEALTH AND HUMAN SERVICES;
ROGER SEVERINO, *in his official capacity
as Director of the Office for Civil Rights of the
U.S. Department of Health and Human Ser-
vices*; OFFICE FOR CIVIL RIGHTS of the
U.S. Department of Health and Human Ser-
vices,

Defendants.

No. 1:19-cv-05435-PAE
(consolidated with 1:19-cv-0476-PAE;
1:19-cv-05433-PAE)

1. I, David Stevens, pursuant to 28 U.S.C. § 1746, hereby declare that the following is true and correct:

2. I submit this Declaration in support of Defendants-Intervenors Dr. Regina Frost and Christian Medical and Dental Associations' ("CMDA") Motion for Summary Judgment, and in Opposition to Plaintiffs' Motions for Preliminary Injunction. I have personal knowledge of the facts set forth herein and if called upon to do so, would testify competently thereto under oath. I have familiarized myself with the recently issued rule entitled "Protecting Statutory Conscience Rights in Health Care; Delegations of Authority" ("Final Rule"), to understand its immediate impact upon CMDA and its members.

3. I am a physician and the Chief Executive Officer ("CEO") of CMDA, a position I have held for 25 years. Prior to joining CMDA, I was the Director of World Medical Missions, the medical arm of Samaritan's Purse.

4. Consistent with CMDA's commitment to serving all people with dignity and compassion, I have spent considerable time overseas serving those with little to no access to medical care. Much of this work involved significant personal costs and physical danger. For example:

- From 1981 to 1991, I served in a rural hospital in Kenya that was the only source of healthcare for half a million people. During this time I was Medical Superintendent and then CEO. I was involved in developing the hospital from a "bush hospital" to a 250-bed tertiary center, started a nursing school, a laboratory training school and a large public health program.
- I led a relief team of physicians in Mogadishu, Somalia that treated over 45,000 patients in the midst of a civil conflict and famine in that country.
- I led a medical relief team in Sudan that treated over 25,000 patients and wiped out a deadly epidemic of relapsing fever that had a 50% mortality rate. The country was in the midst of a civil war while we were there, and our team was kidnapped and held hostage for a number of days.

- I supervised the first medical relief team to enter Kigali, Rwanda in 1994, which opened the main hospital in the midst of the genocide in which over a million people were slaughtered.
- I have led medical teams into prisons with deplorable conditions and little to no medical care in Zambia, Peru, and Ecuador.
- I have led medical teams on trips to the Philippines (tsunami relief), Nicaragua (caring for victims of human trafficking) and to Honduras, and Kenya to take care of the poor.

5. In my long medical career, I have treated all patients without discriminating on the basis of race, religion, nationality, sexual orientation, or gender.

6. CMDA was founded in 1931. It educates and equips its nearly 20,000 members to glorify God by fulfilling His Great Commandment and His Great Commission. CMDA members are committed to fulfilling Christ's command to "love your neighbor as yourself." *Matthew 22:39* (English Standard Version). CMDA encourages its members to take an oath to "love those who come to [them] for healing and comfort" and to "car[e] for the lonely, the poor, the suffering, and the dying."

7. As a Christian organization, CMDA has published over seventy position statements concerning various medical, scientific, ethical and public policy issues. These position statements are informed by CMDA's Christian religious beliefs.

8. For example, CMDA has official position statements regarding—among other things—Abortion, AIDS, the Biblical Model for Medical Ethics, Death, Eugenics and Enhancement, Euthanasia, Healthcare Right of Conscience, Human Life: Its Moral Worth, Human Trafficking, Parental Rights, Patient Refusal of Therapy, Physician-Assisted Suicide, and Sharing Faith in Practice.

9. CMDA has long advocated for legislative and regulatory action to protect conscience rights. CMDA has an official position statement on Healthcare Right of Conscience, which states:

“Respect for conscientiously held beliefs of individuals and for individual differences is an essential part of our free society. The right of choice is foundational in our healthcare process, and it applies to both healthcare professionals and patients alike. Issues of conscience arise when some aspect of medical care is in conflict with the personal beliefs and values of the patient or the healthcare professional. CMDA believes that in such circumstances the Rights of Conscience have priority.”

10. CMDA also has an official position statement on The Healthcare Professional’s Right of Conscience, which states:

“All healthcare professionals have the right to refuse to participate in situations or procedures that they believe to be morally wrong and/or harmful to the patient or others. In such circumstances, healthcare professionals have an obligation to ensure that the patient’s records are transferred to the healthcare professional of the patient’s choice.”

11. CMDA encourages its members to treat all patients. For example, CMDA’s official position statement on LGBT patients states, *inter alia*:

“Because we are guided by Christ, who assisted all who sought his help regardless of sexual or social status, CMDA affirms the obligations of Christian healthcare professionals to care for all patients in need, regardless of sexual orientation, gender identification, or family makeup, with sensitivity and compassion[.] . . . Christian healthcare professionals, in particular, must care for their same-sex-attracted patients in a non-judgmental and compassionate manner, consistent with the humility Jesus modeled and the love Jesus commanded us to show all people.”

12. Similarly, CMDA’s official position statement on AIDS states:

“Acquired immunodeficiency syndrome (AIDS) caused by the human immunodeficiency virus (HIV) is a growing epidemic that may surpass the ravages of any plague in human history. We extend compassion to all who have acquired this disease by whatever means. We urge the provision of medical care for them to the same degree that patients with other life-threatening diseases receive it. Christian physicians and dentists, following the example of Christ, should care for HIV-infected persons even at the risk of their own lives. We encourage all healthcare workers to do the same.”

13. CMDA also believes that physicians should not hinder the continuity of care, even when they object to a particular procedure. For example, CMDA's position statement on Vegetative States provides that "[i]f a physician, because of moral convictions, is unable to comply with the patient's or surrogate's wishes to withhold or withdraw artificially administered nutrition and hydration, it is appropriate for the physician to withdraw from the care of the patient as soon as another physician assumes that care."

14. In furtherance of its mission to care for all people, CMDA partners with Christian Community Health Fellowship (CCHF) which encourages, engages and equips healthcare professionals to serve the poor and marginalized. CCHF works with 156 clinics in the United States that focus on serving the neediest members of society, including the uninsured, immigrants, and children.

15. CMDA also operates a short-term medical relief program that conducted 45 one-to two-week service projects in 2018, with 1,041 participants (physicians, dentists, nurses) traveling to Central and South America, the Caribbean, the Middle East, Asia, and Africa. Program participants served 60,060 patients without regard to race, religion, gender, sexual orientation, socio-economic status, or any other factor. Program participants paid their own way and helped to cover the cost of medicines and supplies.

16. CMDA conducted a survey of its members in 2014, and 55.4% of respondents reported that they offer free or steeply discounted care for the poor.

17. Although CMDA believes that healthcare providers should treat all patients, it holds that certain procedures—including elective abortion and euthanasia—are incompatible with the Christian faith.

18. CMDA's official position on euthanasia states:

“We, as Christian physicians and dentists, believe that human life is a gift from God and is sacred because it bears His image. The role of the physician is to affirm human life, relieve suffering, and give compassionate, competent care as long as the patient lives.”

19. Some of CMDA’s members have religious objections to other procedures, including sterilization and artificial contraception.

20. CMDA does not have any official policy addressing the ethics of treating an ectopic pregnancy. CMDA understands that the standard of care for treating an ectopic pregnancy is to remove the embryo from the fallopian tubes. Because this procedure is aimed at protecting the health of the mother, and because an embryo cannot survive in the fallopian tubes, CMDA does not have a religious objection to the standard treatments for ectopic pregnancies. Ectopic pregnancies sometimes rupture, a dangerous situation that can result in hemorrhaging. CMDA understands that the standard of care for a ruptured ectopic pregnancy is to remove the embryo—if it is still attached to the fallopian tube—and surgically repair the fallopian tube. Because this procedure is aimed at protecting the health of the mother, and because an embryo cannot survive a ruptured ectopic pregnancy, CMDA does not have a religious objection to the standard of care for treating a ruptured ectopic pregnancy. I have personally removed many ectopic pregnancies to protect the life of the mother when I served as a missionary physician in Kenya. I am aware of no faith group that categorically forbids adherents within the medical profession from treating an ectopic pregnancy along the lines described above.

21. According to the Pew Religious Landscape Study, 70.6% of Americans identify as Christian. See <https://www.pewforum.org/religious-landscape-study/>. 20.8% identify as Catholic. *Id.* 46.6% identify as Protestant, with 25.4% identifying as Evangelical Protestant, 14.7% identifying as Mainline Protestant, and 6.5% identifying as Historically Black Protestant. *Id.* The largest Protestant denominations include: the Southern Baptist Convention, United Methodist Church, American Baptist Churches, Evangelical Lutheran Church in America, Na-

tional Baptist Convention, Assemblies of God, Lutheran Church-Missouri Synod, Presbyterian Church USA, The Episcopal Church, and Seventh-day Adventist. See https://www.pewforum.org/2015/05/12/chapter-1-the-changing-religious-composition-of-the-u-s/pr_15-05-12_rls_chapter1-03/.

22. My understanding is that every single one of those religious groups permit removal of ectopic pregnancies, particularly where necessary to save the life or health of the mother. Many groups allow abortions in many more circumstances. I have reviewed the following statements from each religious group:

- a) Roman Catholic Church, *New Charter for Health Care Workers*, Pontifical Council for Pastoral Assistance to Health Care Workers ¶ 57 (2016), available at <https://www.ncbcenter.org/resources/church-documents-bioethics/new-charter-health-care-workers/>;
- b) Southern Baptist Convention, <http://www.sbc.net/resolutions/2289/on-reaffirming-the-full-dignity-of-every-human-being>, <http://www.sbc.net/resolutions/24/resolution-on-the-freedom-of-choice-act-hyde-amendment>, <http://www.sbc.net/resolutions/23/resolution-on-encouraging-laws-regulating-abortion>;
- c) United Methodist Church, <http://www.umc.org/what-we-believe/the-nurturing-community#abortion>;
- d) American Baptist Churches USA, <https://www.abc-usa.org/wp-content/uploads/2019/02/Abortion-and-Ministry-in-the-Local-Church.pdf>;
- e) Evangelical Lutheran Church in America, http://download.elca.org/ELCA%20Resource%20Repository/AbortionSS.pdf?_ga=2.56332776.293390546.1565119472-1956408064.1565119472;
- f) Assemblies of God, <https://ag.org/Beliefs/Position-Papers/Abortion-Sanctity-of-Human-Life>;
- g) Lutheran Church-Missouri Synod, <https://www.lcms.org/about/beliefs/faqs/lcms-views#abortion>, <https://www.lcms.org/Document.fdoc?src=lcm&id=363>;
- h) Presbyterian Church USA, <https://www.presbyterianmission.org/blog/2016/02/23/abortion-issues-2/>;

- i) Episcopal Church, https://episcopalarchives.org/cgi-bin/acts/acts_resolution.pl?resolution=1994-A054; <https://www.vbinder.net/resolutions/D032?house=hd&lang=en>;
- j) Seventh-day Adventists, <https://www.adventist.org/en/information/official-statements/guidelines/article/go/0/abortion/>;

23. I have also reviewed the statements of faith and reported beliefs of other faith groups, including the Church of Jesus Christ of Latter-Day Saints, Judaism, Buddhism, and Hinduism:

- a) the Church of Jesus Christ of Latter-Day Saints, https://www.churchofjesuschrist.org/study/manual/gospel-topics/abortion?lang=eng&_r=1;
- b) Orthodox Judaism <https://rabbis.org/rca-opposes-new-york-states-reproductive-health-act/>;
- c) Reform Judaism, <https://urj.org/what-we-believe/resolutions/reproductive-rights>;
- d) Conservative Judaism, <https://www.rabbinicalassembly.org/story/resolution-reproductive-freedom-united-states>;
- e) Buddhism <https://www.pewforum.org/2013/01/16/religious-groups-official-positions-on-abortion/>; and
- f) Hinduism, <https://www.pewforum.org/2013/01/16/religious-groups-official-positions-on-abortion/>.

24. CMDA recognizes that miscarriages are an unfortunate fact of life. In some cases, a woman who has suffered a miscarriage may need medical intervention to remove the fetal tissue to prevent infection. Because this procedure is aimed at protecting the health of the mother and does not terminate a human life, CMDA has no religious objection to this procedure for treating miscarriages. I have personally performed numerous D&C procedures to remove the products of a miscarriage. I am not aware of any other religious tradition that opposes the provision of care to a mother experiencing a miscarriage.

25. CMDA does not agree with all of the ethics guidelines adopted by the American Medical Association (“AMA”). In particular, CMDA does not believe that the AMA’s guidelines adequately protect the right of conscience. The AMA’s Code of Medical Opinion 1.1.7, Physician Exercise of Conscience, is particularly deficient, as it would impose an obligation on doctors to perform procedures against their religious beliefs when there is a risk even to the patient’s “emotional well-being.” CMDA does not believe that physicians should ever be required to perform procedures that violate their firmly held religious beliefs.

26. Rather, CMDA is convinced that forcing a physician to perform procedures that violates his or her beliefs degrades the quality of care to patients. In our experience, patients want their physicians to act in accordance with conscience.

I declare under penalty of perjury that, to the best of my knowledge, the foregoing is true and correct.

Executed on this 14 day of August, 2019.


David Stevens

CEO, Christian Medical and Dental Associations