

Follow-up to “Hoag Hospital v Providence Health: The Lawsuit”

Although we did not record our meeting on Monday, January 18, 2021, in accordance with our presenter’s wishes, the following column written by Michael Hiltzik, LA Times business columnist, on November 2, 2020, gives an excellent summary of the current situation and issues surrounding Hoag Hospital’s lawsuit. [Michael Hiltzik, 2020-11-02](#)

If you wish to support Hoag Hospital, please send a letter of support to the office of Attorney General at <https://act.newmode.net/action/hoag/send-letter-0>

[Michael Hiltzik, 2020-11-02](#) Link to:

LA TIMES

Business Column

At a top hospital, Catholic restrictions on women’s healthcare are growing worse

By [MICHAEL HILTZIK](#) BUSINESS COLUMNIST

NOV. 2, 2020

6 AM

Back in 2014, then-California Atty. Gen. Kamala Harris imposed a strict condition on the affiliation between Hoag Memorial Hospital and St. Joseph Health System, a Catholic hospital group: For the most part, Hoag was to be exempt from Catholic church restrictions on women’s healthcare services.

Doctors at Newport Beach-based Hoag say that condition has been flagrantly breached by Providence Health, the successor to St. Joseph — and the violations are proliferating.

Since 2015 and up to the present day, a managed health plan controlled by Providence has been refusing to pay for contraceptives prescribed by Hoag OB/GYNs for their patients.

We would like to be tops in women’s healthcare, but how can we be if there are certain things we will never be able to provide, based on our association with Providence?

JEFFREY ILLECK, AN OB/GYN AT HOAG MEMORIAL HOSPITAL

The health maintenance organization, Heritage Healthcare, has cited the [Ethical and Religious Directives for Catholic Health Care Services](#) as grounds for refusing payment, even though the 2014 agreement under which Harris approved the affiliation explicitly states that Hoag would not be bound by the so-called ERDs then or “in the future.”

Frustration among Hoag OB/GYNs has been rising.

Several members of Hoag’s professional staff filed a confidential complaint with Atty. Gen. Xavier Becerra’s office on Oct. 9.

The complaint asserts that “Providence has increasingly disallowed women’s health services when they involve any form of contraceptive care,” even when IUDs are prescribed for reasons other than birth control, such as heavy menstrual bleeding.

Providence also has refused to cover deliveries when they’re combined with sterilization procedures such as salpingectomies (the removal of one or both fallopian tubes), even though combining those procedures is the standard of care to avoid requiring a patient to undergo two rounds of anesthesia and recovery rather than one.

The complaint says that physicians’ staffs are spending many hours a day pursuing reimbursement claims for Heritage enrollees.

“We have seen IUD reimbursements, for example, pending for as long as two years, requiring multiple appeals and grievances on behalf of patients,” the complaint states. Billing staff “have never spent so much time trying to get reimbursements for IUDs. ... In many cases, payment is never received.”

The Hoag doctors say that Providence established “an anonymous hotline for people to complain if they believed Hoag was committing so-called immoral procedures involving women’s reproductive health.” The hotline was connected to the Orange County bishop’s office, they say, adding: “We were never told of its existence.”

In sum, “Providence has established a history of broken trust in its relationship with us, with absolutely no end in sight,” says the complaint, which is not a public document but which I’ve reviewed.

Providence has refused to comment on any of these assertions.

Becerra has not responded to the complaint, even though as Harris’ successor, he has a clear responsibility to investigate Providence’s actions and force the Catholic system to adhere to its legal commitments.

It’s time he took the matter in hand.

That’s especially so given the assaults on women’s reproductive rights unfolding nationwide. Legislatures in red states have been trying assiduously to restrict access to abortion.

The rushed appointment of right-wing judge Amy Coney Barrett to the Supreme Court is widely feared to betoken a reversal of the landmark 1973 decision *Roe vs. Wade*, which established a constitutional right to abortion, by a strengthened conservative bloc on the court.

But the greatest threat may come from the growing influence of Catholic health systems, which now account for [one of every six acute care hospital beds](#) in the country, according to the healthcare advocacy group Community Catalyst.

The church exercises its influence through the ERDs, which are issued by the U.S. Conference of Catholic Bishops. The ERDs explicitly forbid Catholic hospitals and their affiliates from providing contraceptives, sterilization, abortion, and artificial infertility services.

The ERDs also discourage many services sought by LGBTQ patients, including gender-affirming procedures, and some end-of-life care.

The directives' most recent revision, issued in 2018, aims to tighten Catholic authority over even nonsectarian partners.

"Whatever comes under the control of the Catholic institution — whether by acquisition, governance, or management — must be operated in full accord with the moral teaching of the Catholic Church, including these Directives," the document states.

The increasingly aggressive application of these policies at Hoag, which was founded as a Presbyterian institution, prompted Hoag's board of directors to move last year to [extricate the hospital from its affiliation with Providence](#).

"It has become increasingly clear that Presbyterian beliefs, values and policies have been compromised due to restrictions within the larger Catholic system," [according to a lawsuit filed to force the dissolution](#). Providence is fighting the dissolution; a hearing on its motion to throw out the lawsuit is scheduled for Nov. 16 in Orange County Superior Court.

"Hoag prides itself as being a center of excellence" in healthcare, says Jeffrey Illeck, a Hoag OB/GYN. "We would like to be tops in women's healthcare, but how can we be if there are certain things we will never be able to provide, based on our association with Providence?"

Illeck says he and his fellow physicians are exasperated with the need to appeal to administrators "to decide if I can provide care" when it might conflict with Catholic rules. In one recent case, he says, a patient awaiting a liver transplant unexpectedly became pregnant, a life-threatening situation.

"She wouldn't have survived a pregnancy," he says. But because Harris permitted Hoag to be subject to a ban on "direct abortions" — a Catholic term with no medical definition — Illeck could not decide, in conjunction with his patient, to end her pregnancy; instead, he had to refer the issue to a hospital administrator, who ultimately approved it.

"If we didn't have that [direct abortion] requirement," Illeck says, "it would have been between me and my patient. I wouldn't have had to consult anybody."

Becerra has taken a hands-off position on the dissolution, thus far. "Our office is monitoring this litigation closely and continues to take seriously its statutory duty to ensure that all conditions of the affiliation agreement executed under [Atty. Gen.] Harris' tenure are met," a Becerra spokeswoman told me.

For Becerra, there's a risk of at least the appearance of a conflict of interest: His wife, Carolina Reyes, a physician, served on Providence Health's board of directors until April. She is no longer on that board, but is still listed as a member of the [board of trustees of the Catholic Health Assn. of the United States](#).

Becerra's office says he has recused himself from the "entire" Hoag/Providence matter. But that still leaves the possibility that his staff might be walking on eggshells in overseeing the relationship — an impression that could be dispelled by suitably stern enforcement of the affiliation's terms.

As [we've chronicled at length](#), the Hoag/Providence affiliation was born in a miasma of deceit. The relationship began as a corporate partnership between Hoag and St. Joseph, a Catholic chain with five Orange County hospitals, in 2013. Hoag's physicians, nervous about the imposition of Catholic restrictions on their services, were explicitly assured that there would be no changes in the services they provide to their female patients.

Within weeks of the deal's closing, however, Hoag doctors were informed that they could no longer perform elective abortions at the hospital.

Harris, who had jurisdiction over the deal because it involved nonprofit hospitals, unconscionably waved it through even though she knew the partners were planning to end abortion services at Hoag. Within a year, however, evidence that the partners had misled Harris about the impetus for the abortion ban prompted her to revise the conditions under which she had blessed the deal.

[The revised conditional approval](#) included the permanent prohibition against applying the ERDs to Hoag. Unwisely, however, Harris allowed St. Joseph to continue banning direct abortions at Hoag. When St. Joseph merged with Providence Health & Services in 2016, creating the nation's fourth-largest Catholic hospital chain, Harris required that the merged enterprise [accept all the conditions](#) she had imposed on the Hoag/St. Joseph partnership in 2014, including the ERD ban.

Including the religious term direct abortions in a state-sanctioned legal document was a major blunder by Harris that opened the door for church officials to interfere with physicians' relationships with their patients. Hoag physicians say that's exactly what has happened.

According to the physicians' Oct. 9 letter to Becerra, in 2016 an anonymous complaint to the Catholic bishop of Orange County — possibly delivered via the secret hotline — prompted Providence to demand "a full investigation guided by their appointed Catholic ethicist" of 13 separate medical procedures involving medical services protected by the attorney general's conditions.

In each case a pregnancy was terminated at a physician's private office, with a follow-up procedure at the hospital "for the safety of the women ... given the timing of the pregnancies at issue and the risks to our patients."

Providence decreed that these procedures constituted direct abortions and accused Hoag of violating the attorney general's conditions. This episode was confirmed by a Hoag insider who told me that no disciplinary action was taken, but that the entire affair "had a chilling effect on providers of women's healthcare at Hoag."

More insidious is how Providence has used its wholly-owned managed care arm, Heritage, to interfere with contraceptive prescribing by Hoag physicians.

According to the complaint, in 2015 Heritage began to routinely refuse payment for procedures involving contraceptives. Heritage advised the patients and their doctors to submit the claims to the patients' health insurance carriers, in accordance with a work-around fashioned by the Obama administration to handle contraception denials by religious healthcare institutions.

That has trapped the patients and doctors in a catch-22, the doctors say. Some health plans reject the claim on the grounds that it should be covered by the HMO.

"The convoluted reimbursement processes have effectively denied treatment in many instances. ... Innumerable women have experienced some form of frustration, marginalization, confusion, as well as tangible emotional harm."

This maneuver is "an end run around the attorney general's conditional approval [of the St. Joseph partnership] in 2014," says Allyson Sonenshine, founding director of the Orange County Women's Health Project and a member of Hoag's Women's Reproductive Advisory Council.

The council, which was established by Harris' 2014 agreement to monitor compliance with her conditions, supports dissolving the Hoag/Providence affiliation.

"Great care was taken to draft a conditional approval back in 2014," Sonenshine says. "That it is being so flagrantly disregarded at this time is untenable, and there's no question but that the attorney general's office should be investigating."

Some hospitals and regulators have begun pushing back against religious restrictions on medical judgments. [As we reported](#), UC San Francisco dropped plans to expand its affiliation with the Catholic hospital system Dignity Health last year, after the proposal provoked an uproar at UCSF over the potential for restrictions on care and teaching.

Just last week, the board of Memorial Hospital in Yakima, Wash., voted to disassociate from Seattle's Virginia Mason Health System over the latter's plan to merge with CHI Franciscan, a Catholic system.

And last November, Becerra himself blocked the merger of St. Joseph Health and Adventist Health, which would have brought together nine Northern California hospitals. The latter is affiliated with the Seventh-day Adventist Church, which like the Catholic Church places restrictions on healthcare, particularly in the areas of reproductive health and gender identification.

The Hoag dissolution may well become a test case for resistance to religious interference in medical care. Becerra simply cannot remain neutral. He must weigh in — on Hoag's side.