

# **ACLU asks federal agency to investigate Catholic hospitals on abortion**

WASHINGTON - The American Civil Liberties Union has launched the latest salvo in the controversy over an abortion performed at a Phoenix Catholic hospital with the approval of the hospital's ethics committee, including a nun.

In a July 1 letter to the acting administrator of the Centers for Medicare and Medicaid Services, the ACLU said the Phoenix case and others cited in an October 2008 article in the American Journal of Public Health show that "religiously affiliated hospitals across the country inappropriately and unlawfully deny pregnant women emergency medical care."

But Sister Carol Keehan, a Daughter of Charity who is president and CEO of the Catholic Health Association, told Catholic News Service July 9 that "a couple of stories that the ACLU has dredged up doesn't hold a candle to the competent care and respect for both mothers and their infants that have been a daily part of life in the maternity units and neonatal units of Catholic hospitals for decades."

In contrast to the "unsubstantiated" examples cited by the ACLU stands a history of "hundreds of thousands of women and their infants who have been cared for wonderfully well" in Catholic hospitals, she added.

The ACLU's letter said Catholic hospitals have violated both the Emergency Medical Treatment and Active Labor Act, which requires hospitals that participate in Medicare and Medicaid to treat patients in emergencies and active labor, and the Conditions of Participation for hospitals receiving Medicare and Medicaid funds, which require that patients be informed of their rights prior to furnishing or discontinuing care.

The letter was signed by the director and legislative counsel for the ACLU's legislative office, two attorneys for the ACLU Foundation's Reproductive Freedom

Project and the legal director of ACLU of Arizona. It asked the Centers for Medicare and Medicaid Services to “investigate these situations, provide technical assistance where appropriate and take any measures to fully enforce” the law and the Conditions of Participation.

“Moreover, we ask that you clarify in the appropriate CMS program manual, and issue a transmittal, that denial of emergency reproductive health care violates” the law and the conditions, it said.

The Phoenix case discussed in the letter involved a mother of four who was 11 weeks pregnant and suffering from pulmonary hypertension when she was admitted to St. Joseph’s Hospital and Medical Center in Phoenix in November 2009.

After her doctors determined that the woman was likely to die if she did not have an abortion, a hospital ethics committee – which included Mercy Sister Margaret Mary McBride, then vice president of mission integration at St. Joseph’s – concurred in the decision to abort, saying it would not violate the “Ethical and Religious Directives for Catholic Health Care Services.”

When news of the abortion surfaced several months later, Phoenix Bishop Thomas J. Olmsted said Sister Margaret had incurred automatic excommunication because of her participation in an abortion; the nun, who has not commented on the controversy, was subsequently reassigned to a different position within the hospital.

The bishop said that “the direct killing of an unborn child is always immoral, no matter the circumstances, and it cannot be permitted in any institution that claims to be authentically Catholic.”

Some moral theologians and officials of Catholic Healthcare West, the San Francisco-based health system to which St. Joseph’s belongs, have argued that the abortion was permissible under a section of the directives that says: “Operations, treatments and medications that have as their direct purpose the cure of a proportionately serious pathological condition of a pregnant woman are permitted when they cannot be safely postponed until the unborn child is viable, even if they will result in the death of the unborn child.”

In their letter, the ACLU officials also cited other examples of what they called “the refusal to provide timely reproductive health care to pregnant women” at Catholic hospitals. The examples were taken from an October 2008 article in the American Journal of Public Health, which was based on interviews with 30 obstetricians-gynecologists in 2006.

Thirteen of the physicians had worked “regularly or occasionally” in Catholic-run medical facilities, and six of those said they had experienced at least one case in which “abortion was medically indicated according to their medical judgment but, because of the ethics committee’s ruling, it was delayed until either fetal heartbeats ceased or the patient could be transported to another facility,” according to the journal article.