N.J. nurses don’t have to assist in abortion in new hospital agreement

NEWARK, N.J. – A group of 12 nurses who sued the University Hospital in Newark over a policy requiring them to care for patients before and after abortions can no longer be compelled to assist in these procedures, under an agreement reached in federal court.

The nurses in the same-day surgery unit of the University of Medicine and Dentistry of New Jersey can remain in their current jobs and will only be required to help patients with abortions in a life-threatening emergency when no other nonobjecting staff members are available and only until someone can be brought in to relieve them, according to the Dec. 22 agreement.

U.S. District Judge Jose Linares, who mediated the agreement, said the nurses would be allowed to remain in the unit and would not be discriminated against because of their stance on abortion. He declined to rule on how the hospital would configure its nursing staff, calling that a contract issue.

Linares will retain jurisdiction over the case to rule on its enforcement or any disputes that arise because of it.

The Associated Press reported that the judge praised both sides for reaching an agreement on a case that was not an easy one to resolve since it concerned a highly emotional issue and the complexities of a hospital’s obligations to its patients.

The group of nurses filed suit against the hospital Oct. 31, a month after they had been notified in writing that the hospital’s new policy would require same-day surgery unit nurses to assist in abortions. One nurse said the policy confronted them with a “choice between our faith and our jobs.”

Linares issued a temporary restraining order Nov. 3 directing the hospital not to compel adherence to the new policy until after the case came before his court.

In a mid-November news conference outside the hospital, Rep. Chris Smith, R-N.J.,

joined the nurses and their attorneys in criticizing the new policy.

Smith praised the agreement in a Dec. 22 statement, saying the hospital had "finally agreed" to respect the nurses' rights. "The nurses may continue to provide compassionate life-affirming care without being complicit in the destruction of innocent human life," he added.

A statement issued by the hospital said the agreement meets the interests of its patients while respecting the beliefs of its nurses.

In a brief filed with the court Nov. 22, the hospital argued that the nurses were being required only to provide "the same routine pre-operative and post-operative care that is provided to all patients" in the unit, such as taking the patients' vital signs and medical history and providing pain medications.

The hospital also said it would cost approximately $280,000 a year to hire nurses to perform the duties refused by the objecting nurses. "In the current economy, incurring such an unnecessary expense … would be devastating to the hospital," the brief said.

Matt Bowman, legal counsel for the Alliance Defense Fund, an Arizona-based Christian legal alliance that is representing the nurses, said the hospital's policy requiring its nurses to assist patients getting abortions amounted to job discrimination.

He said he was pleased with the hospital's agreement, adding, "No pro-life medical personnel should be forced to assist or train in services related to abortions. The hospital has finally done the right thing in agreeing to obey the law and not force our clients to do any work on abortion cases in violation of their beliefs."

Smith, who co-chairs the Congressional Pro-life Caucus, said the hospital now bears the responsibility to make sure that "respect for conscience is implemented through a hospitalwide policy without nuance, loopholes, ambiguity or small print."

"A durable, transparent and effective means of monitoring compliance with federally protected conscience rights must be put in place," he said, to ensure that no one at the hospital is "subjected to any discrimination or retaliated against now or at any

time in the future."

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