



Because Freedom Can't Protect Itself

DEFENDING HEALTHCARE ACCESS FOR ALL



Leah Rutman, Policy Counsel, ACLU of Washington

Presentation Take-Away

1. An Overview of Washington State Religious-Secular Health System Mergers/Affiliations
2. The Impact of Religion on Healthcare in Washington State
3. The Reproductive Privacy Act

No matter where you live in Washington...

You should have access to lawful best care medical treatment and the ability to make health care decisions without input or restrictions based on religion.

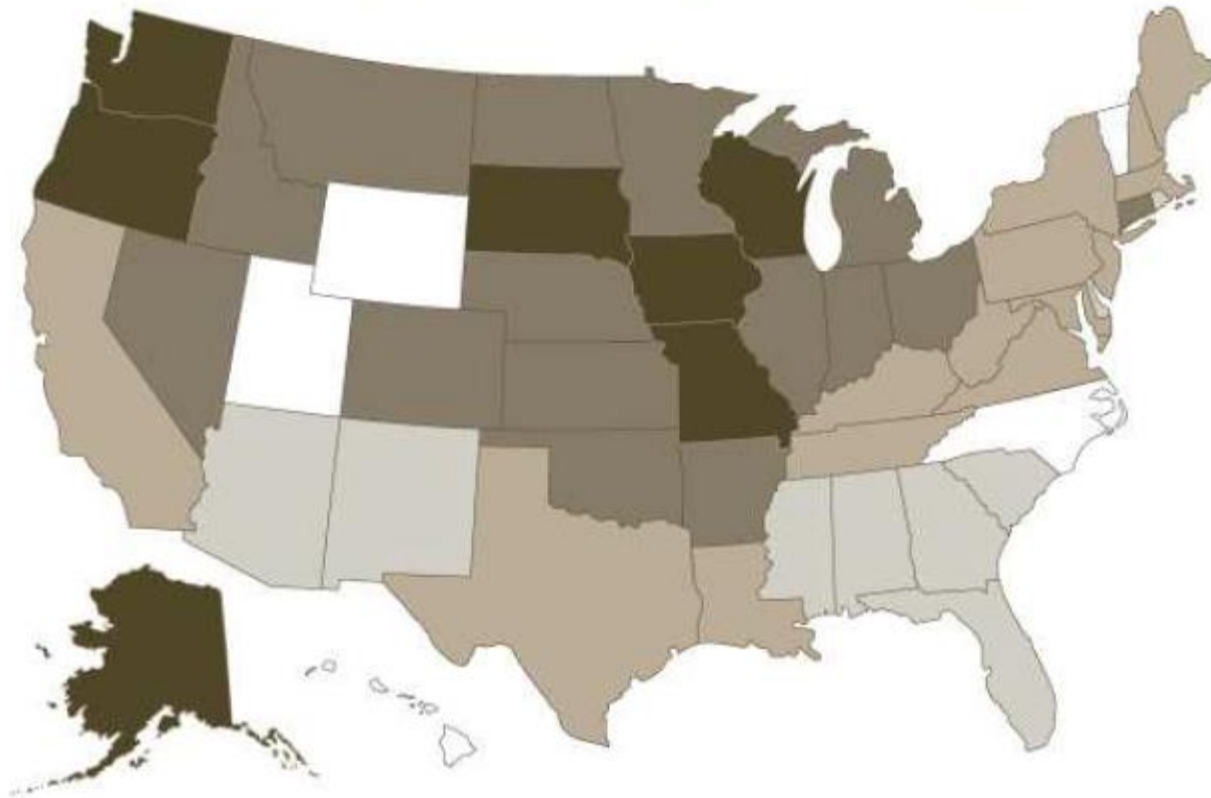


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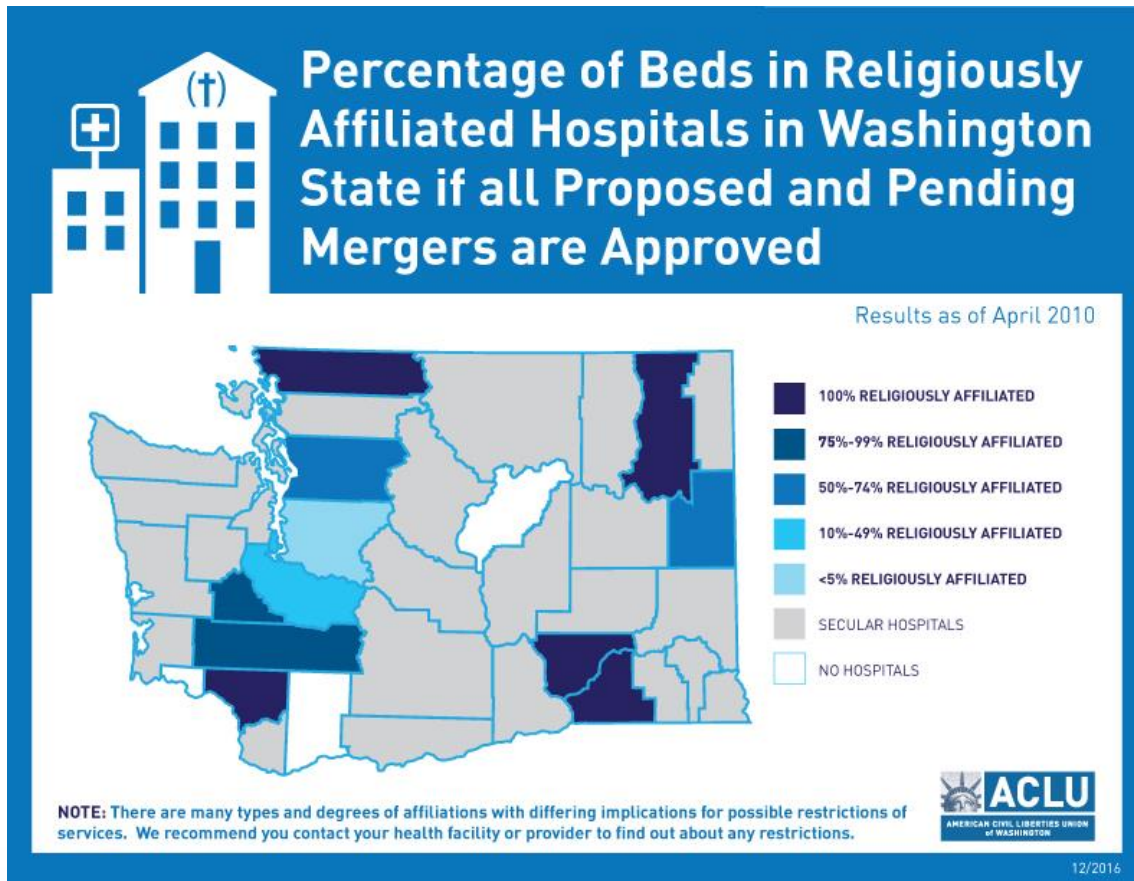


Hospital Admissions in 2012

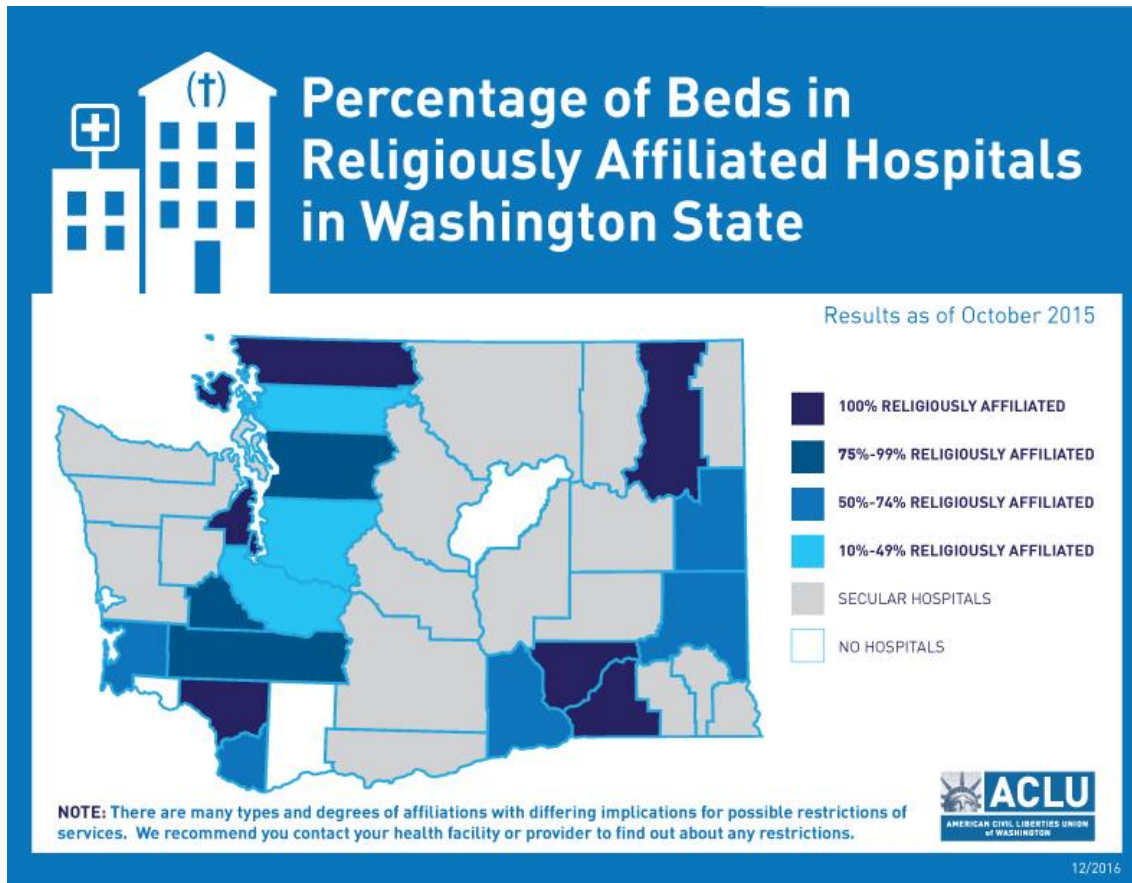
ADMISSIONS TO CATHOLIC HOSPITALS, AS SHARE OF TOTAL



Hospital Bed Count – 2010



Hospital Bed Count - 2015



What Religious Health Care Corporations Operate in Washington?

- **Adventist Health**
 - Seventh-day Adventist affiliated
- **Ascension Health**
 - Catholic affiliated
- **CHI Franciscan Health**
 - Catholic affiliated
- **PeaceHealth**
 - Catholic affiliated
- **Providence Health & Services**
 - Catholic affiliated

Health System Affiliations

- **Peace Island Medical Center (PeaceHealth)**
- **Harrison Medical Center (CHI Franciscan Health)**
- **Highline Medical Center (CHI Franciscan Health)**
- **United General Hospital (PeaceHealth)**
- **Swedish Medical Center (Providence)**
- **Kadlec Health System (Providence)**
- **Regional Hospital for Respiratory and Complex Care (CHI Franciscan Health)**

More Than Hospitals Are Affected

- **Physician Practice Groups**

- **Medical Clinics**

- Pacific Medical Centers - Providence

- **Medical Laboratories**

- **Medical Student Training**

- University of Washington – PeaceHealth
- Washington State University – Providence

- **Insurance**



Additional Affiliations

- **Virginia Mason and CHI Franciscan**
 - Intent to affiliate announced Nov. 1, 2016
- **CHI Franciscan and The Doctors Clinic**
- **Providence Health & Services and St. Joseph Health**
 - Intent to affiliate announced July 2015
 - Two religious health systems
- **Walgreens and Providence Health & Services**
 - Strategic clinical collaboration announced August 2015
 - Plan to open up to 25 new retail clinics in Oregon and Washington

Ethical and Religious Directives for Catholic Health Care Services

- Authored by U.S. Conference of Catholic Bishops
- Religious doctrine dictates service



The Directives Affect Reproductive Health Care

Fertility Treatment Not Allowed

“Reproductive technologies that substitute for the marriage act are not consistent with human dignity.”



The Directives Affect Reproductive Health Care



- “Catholic health institutions may not promote or condone contraceptive practices....”
- “Abortion...is never permitted”
- “In case of extrauterine pregnancy, no intervention is morally licit which constitutes a direct abortion.”
- “Direct sterilization of either men or women, whether permanent or temporary, is not permitted in a Catholic health care institution.”

The Directives Affect End-of-Life Health Care



- Advance Directives May Not Be Honored
- DNRs May Not Be Honored

“a Catholic health care institution will not honor an advance directive that is contrary to Catholic teaching.”

“The free and informed judgment made by a competent adult patient concerning the use or withdrawal of life-sustaining procedures should always be respected and normally complied with, unless it is contrary to Catholic moral teaching.”

The Directives Affect End-of-Life Health Care



Death with Dignity forbidden

“Catholic health care institutions may never condone or participate in [Death With Dignity] in any way.”

“Patients experiencing suffering that cannot be alleviated should be helped to appreciate the Christian understanding of redemptive suffering.”

The Directives May Affect Health Care for LGBT Individuals



- Recognition of Same-Sex Couples
- Fertility Treatments
- Transgender Health Care

Church Intrudes on Doctor-Patient Relationship

“The Church’s moral teaching on health care nurtures a truly interpersonal professional-patient relationship. This professional-patient relationship is never separated, then, from the Catholic identity of the health care institution.”

Catholic Health Care Directives Affect Employment



“Catholic health care services must adopt these Directives as policy, require adherence to them within the institution as a condition for medical privileges and employment, and provide appropriate instruction regarding the Directives”

Revisions to The Ethical and Religious Directives

- **November 2014: US Conference of Catholic Bishops voted to revise Part Six of the Ethical and Religious Directives**
 - **Part Six: Forming New Partnerships with Health Care Organizations and Providers (i.e. mergers/affiliations with non-Catholic health entities)**
 - **Revision to incorporate guidance received from the Vatican's Congregation for the Doctrine of the Faith**

Ethical Conflicts

- "The relationship between patient and physician is based on trust and gives rise to **physicians' ethical obligations to place patients' welfare** above their own self interest and **above obligations to other groups, and to advocate for their patients' welfare.**"



- A national survey found that **52% of OBGYNs** working in Catholic hospitals experience conflict with religiously-based policies about care

The Directives Are Contrary to State Public Policy and Law

Washington Constitution

- Equal Rights Amendment
- Religious Freedom

Anderson Murray Anti-Discrimination Law (2006)

- Prohibits discrimination based on sexual orientation and gender expression or identity

Death With Dignity Act (2008)

- Allows terminally ill adults to access lethal doses of medication from medical and osteopathic physicians

Marriage Equality (2012)

- Removes the prohibition on marriage for same-sex couples

Reproductive Privacy Act (1991)

“EVERY INDIVIDUAL HAS THE FUNDAMENTAL RIGHT TO CHOOSE OR REFUSE BIRTH CONTROL”

“EVERY WOMAN HAS THE FUNDAMENTAL RIGHT TO CHOOSE OR REFUSE TO HAVE AN ABORTION”

“If the state provides, directly or by contract, maternity care benefits, services, or information to women... the state shall also provide women...with substantially equivalent benefits, services, or information to permit them to voluntarily terminate their pregnancies.”

- ATTORNEY GENERAL OPINION 2013 No. 3

Compliance with the Reproductive Privacy Act

February 2015 Letter to Whidbey Island Public Hospital District



February 18, 2015

Via U.S. Mail and Electronic Mail

Board of Commissioners
Whidbey Island Public Hospital District
101 North Main Street
Coupeville, WA 98239-3413

Mr. Tom Tomasino
Chief Executive Officer
Whidbey General Hospital and Clinics
101 North Main Street
Coupeville, WA 98239-3413

Re: Compliance with the Reproductive Privacy Act, RCW 9.02

Dear Commissioners and Mr. Tomasino,

We write to express our concern that Whidbey Island Public Hospital District d/b/a Whidbey General Hospital and Clinics (hereinafter "Whidbey General Hospital and Clinics") is not in compliance with the Reproductive Privacy Act ("RPA"), RCW 9.02.

We understand that although Whidbey General Hospital and Clinics provides maternity care at its facilities, Whidbey General Hospital and Clinics has a policy of not providing abortion services for persons needing or requesting such services.¹ We believe this violates the RPA and request that Whidbey General Hospital and Clinics change its policies and practices to come into compliance with the law.

As you are aware, the RPA establishes that "[e]very woman has the fundamental right to choose or refuse to have an abortion" and that public hospital districts "shall not deny or interfere" with this fundamental right. RCW § 9.02.100(C)-(3). Further, state law requires that if a public hospital district provides maternity care benefits, services, or information, it must also provide abortion services. RCW § 9.02.160.

The Attorney General of the State of Washington has affirmed that a public hospital district that provides "a broad range of prenatal, childbirth, and postpartum services and information" is also required to provide abortion services. Wash. Att'y Gen. Op.

¹ Whidbey General Hospital & Clinics, Reproductive Healthcare Policy, available at <https://www.whidbeygen.org/our-hospital/important-policies/reproductive-healthcare-policy> (last accessed Feb. 18, 2015).

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February 2015 Letter to Mason County Public Hospital District No. 1



February 18, 2015

Via U.S. Mail and Electronic Mail

Board of Commissioners
Mason County Public Hospital District No. 1
P.O. Box 1668
Shelton WA 98584

Mr. Eric Moll
Chief Executive Officer
Mason General Hospital & Family of Clinics
PO. Box 1668
Shelton, WA 98584

Re: Compliance with the Reproductive Privacy Act, RCW 9.02

Dear Commissioners and Mr. Moll,

We write to express our concern that Mason County Public Hospital District No. 1 d/b/a Mason General Hospital & Family of Clinics (hereinafter "Mason General Hospital & Family of Clinics") which owns and operates a critical access care hospital and eight clinics, is not in compliance with the Reproductive Privacy Act ("RPA"), RCW 9.02.

We understand that although Mason General Hospital & Family of Clinics provides maternity care at its facilities and has adopted a reproductive health policy stating that "[a] public hospital district which provides maternity care services and information to women, the District recognizes its obligation to also provide women otherwise eligible for maternity services with substantially equivalent benefits, services, or information to permit them to voluntarily terminate their pregnancies," Mason General Hospital & Family of Clinics has a policy of not providing abortion services for persons needing or requesting such services.¹ We believe this violates the RPA and request that Mason General Hospital & Family of Clinics change its policies and practices to come into compliance with the law.

As you are aware, the RPA establishes that "[e]very woman has the fundamental right to choose or refuse to have an abortion" and that public hospital districts "shall not deny or interfere" with this fundamental right. RCW § 9.02.100(C)-(3). Further, state

¹ Mason General Hospital & Family of Clinics, Reproductive Health and Voluntary Pregnancy Termination Policy (Mar. 19, 2014), available at <http://www.doh.wa.gov/Portals/1/Documents/2300/HospPolicies/MasonGeneral11.pdf> (last accessed Feb. 18, 2015).

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July 2015 Letter to San Juan County Public Hospital District No. 1



July 8, 2015

Via U.S. Mail and Electronic Mail

Board of Commissioners
San Juan County Public Hospital District No. 1
P.O. Box 370
Friday Harbor, WA 98250

Re: Compliance with the Reproductive Privacy Act, RCW 9.02

Dear Commissioners,

We write to express our concern that San Juan County Public Hospital District No. 1 (hereinafter "the District") is not in compliance with the Reproductive Privacy Act ("RPA"), RCW 9.02.

As you are aware, the RPA establishes that "[e]very woman has the fundamental right to choose or refuse to have an abortion" and that public hospital districts "shall not deny or interfere" with this fundamental right. RCW § 9.02.100(C)-(3). State law also requires that if a public hospital district provides maternity care benefits, services, or information, it must also provide substantially equivalent abortion benefits, services, or information. RCW § 9.02.160.

The Attorney General of the State of Washington has affirmed that maternity care includes "a broad range of prenatal, childbirth and postpartum services and information" and that a public hospital district that provides maternity care is also required to provide the substantially equivalent abortion care. Wash. Att'y Gen. Op. 2013 No. 3, 2013 WL 4517410, at *4-5 (hereinafter "AGO"). The Attorney General has found that a public hospital district that provides maternity care, but does not provide abortion care, violates both RCW § 9.02.160 and RCW § 9.02.100(4) by discriminating against the exercise of the fundamental rights recognized in the RPA. AGO at *5. In fact, this AGO was written in response to a question that focused on San Juan County Public Hospital District No. 1's contract with PeaceHealth. AGO at *2. In this contract PeaceHealth, a religious health care corporation, agreed to construct and operate a clinic/hospital, and the District agreed to subsidize the operation of the clinic/hospital by providing a substantial portion of the District's annual tax revenue. *Id.*

It is our understanding that the District, has contracted with PeaceHealth for the provision of health care services through Peace Island Medical Center (hereinafter "PIMC"). PIMC has asserted that prenatal services and "[g]ynecologic and ongoing



Questions? Stories?

Contact Information



We want to know if you or someone close to you have had reproductive or end-of-life health care restricted or denied at a medical clinic, hospital or hospice facility. We also want to know if you or someone close to you have been discriminated

against on the basis of sexual orientation or transgender status, at a medical clinic, hospital or hospice facility. **TELL US YOUR STORY.**

Please contact the ACLU of Washington
at **206.624.2180**

or www.aclu-wa.org/healthcaresstories



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