

FAQ:
Dignity Health/Catholic Health Initiatives Proposed Merger

Background

Dignity Health is a nonprofit Catholic hospital system with twenty-seven acute care hospitals in California. The hospitals and their respective counties are listed in the appendix at the end of this fact sheet. Dignity Health and Catholic Healthcare Initiatives (CHI) have given notice of an agreement to merge. Their announcement raises concerns about the future availability of reproductive health services and other critical services at their hospitals, as well as services for low-income communities.

What is the role of the Attorney General?

California law requires the Attorney General's review and consent for any sale or transfer of a health care facility owned or operated by a nonprofit corporation.¹ The review process includes a public meeting in every county affected by the transaction. The Attorney General's consent is often conditional on the continuation of existing levels of charity care, emergency services, and other essential health services.² However, the Attorney General can consider any other factors that they deem relevant.

What are the Ethical and Religious Directives (ERDs) and how do they impact reproductive health?

The Dignity Health-CHI merger is between two Catholic hospital systems. Catholic hospitals adhere to the Ethical and Religious Directives for Catholic Healthcare Services (ERDs) promulgated by the United States Conference of Catholic Bishops.³ The ERDs prohibit many critical reproductive health services including abortion, contraception, and some infertility treatments, making no exceptions for risks to the patient's health or life.

The ERDs also limit the information that providers may give to patients to options that are "morally legitimate."⁴ For example, a Catholic hospital in Michigan gave a woman whose water broke at eighteen weeks two Tylenol instead of informing her that the safest course of action would be to end the pregnancy,⁵ which is not a "morally legitimate" option. The ERDs also prohibit providers from referring patients denied services at a Catholic hospital to hospitals that do provide the services.

¹ CAL. CORP. CODE §§ 5914–5925.

² Nonprofit Hospital Transaction Notices, OFFICE OF THE ATTORNEY GENERAL, <https://oag.ca.gov/charities/nonprofithosp>.

³ UNITED STATES CONFERENCE OF CATHOLIC BISHOPS, ETHICAL AND RELIGIOUS DIRECTIVES FOR CATHOLIC HEALTH CARE SERVICES, <http://www.usccb.org/about/doctrine/ethical-and-religious-directives/upload/ethical-religious-directives-catholic-health-service-sixth-edition-2016-06.pdf>.

⁴ JULIA KAYE ET AL., AMERICAN CIVIL LIBERTIES UNION, HEALTH CARE DENIED: PATIENTS AND PHYSICIANS SPEAK OUT ABOUT CATHOLIC HOSPITALS AND THE THREAT TO WOMEN'S HEALTH AND LIVES 27 (2016).

⁵ KIRA SHEPHERD ET AL., BEARING FAITH: THE LIMITS OF CATHOLIC HEALTH CARE FOR WOMEN OF COLOR 9 (2017).

How are the ERDs implemented in Catholic hospitals such as Dignity?

Implementation of the ERDs can vary greatly from hospital to hospital. Some hospitals follow the ERDs strictly, while others pick and choose which patients get exceptions from the ERDs. Some Dignity Health hospitals are also “non-Catholic” (see appendix). These hospitals are not required to follow the ERDs, so they may be able to provide contraception and sterilizations. Yet, even non-Catholic hospitals may be prohibited from performing abortions or in vitro fertilizations.

Non-Catholic hospitals, including those operated by Dignity Health, may face more restrictions in the future. Recently, the U.S. Conference of Catholic Bishops released the sixth edition of the ERDs, strengthening the language in a section on collaborations in health care. The revised directives’ bottom line is that, “In any kind of collaboration, 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.”⁶

With the revised ERDs, the provision of contraceptives, sterilizations, and other reproductive health services in Dignity Health’s non-Catholic hospitals may be at risk. The directives give bishops the “ultimate responsibility” to determine whether health care collaborations involve “scandal” or “wrongful cooperation” in medical care that violates Catholic principles.⁷ In the future, non-Catholic hospitals may be forced to adhere fully to the ERDs, or they may be separated from Catholic hospital systems, potentially threatening their survival and threatening the provision of necessary health services to the communities they serve.

One in six hospital beds in the United States is in a Catholic hospital.⁸ Patients have been turned away for treatment while actively miscarrying.⁹ Other patients are denied tubal ligation surgeries,¹⁰ and transgender patients have been denied gender-affirming surgeries.¹¹ Catholic hospitals, which receive billions in taxpayer dollars, are turning away patients seeking emergency care, failing to provide critical reproductive health services, and placing their religious beliefs ahead of women’s health and lives.

⁶ UNITED STATES CONFERENCE OF CATHOLIC BISHOPS, *supra* note 3, at 26.

⁷ *Id.* at 25.

⁸ SHEPHERD ET AL., *supra* note 5, at 6.

⁹ Judy Stone, *Healthcare Denied at 550 Hospitals Because of Catholic Doctrine*, FORBES, May 7, 2016, <https://www.forbes.com/sites/judystone/2016/05/07/health-care-denied-at-550-hospitals-because-of-catholic-doctrine/#60d7a9725ad9>.

¹⁰ Michael Hiltz, *Here’s another case of a Catholic hospital interfering with patient care*, LOS ANGELES TIMES, Jan. 11, 2016, <http://www.latimes.com/business/hiltzik/la-fi-mh-catholic-hospital-interfering-with-medical-care-20160108-column.html>.

¹¹ Claudia Buck and Sammy Caiola, *Transgender patient sues Dignity Health for discrimination over hysterectomy denial*, THE SACRAMENTO BEE, Apr. 20, 2017, <http://www.sacbee.com/news/local/health-and-medicine/article145477264.html>.

What do we know about Dignity Health and reproductive health services?

Dignity Health has been sued for its denials of reproductive health services in California. In April 2016, the ACLU and the California Medical Association filed suit against Dignity Health for denying a patient a tubal ligation, arguing that withholding pregnancy-related care for reasons other than medical considerations is illegal in California.¹² The hospital, Mercy Medical Center in Redding, has denied at least three women tubal ligations. The case is currently in discovery on the claim that Dignity Health is engaging in an unlawful business practice. In April 2017, the ACLU again sued Dignity Health for denying a patient a hysterectomy for his gender transition.¹³ The suit alleges that withholding medical care on the basis of a patient's gender identity is sex discrimination in violation of California's Unruh Civil Rights Act.

What are some of the other services at stake?

Access to Emergency and Other Critical Services

Apart from access to reproductive services, Dignity Health hospitals are also a significant provider of emergency care and other critical services. In rural areas with few acute care hospitals, Dignity Health's hospitals are crucial to ensuring that people in those communities can access necessary care easily.

Equal Access to Medical Care; Anti-Discrimination

Catholic hospitals' adherence to the ERDs increases the likelihood that LGBTQ+ individuals will face discrimination in accessing health care services consistent with their medical needs. Catholic hospitals already do not perform hysterectomies for the purposes of gender reassignment.¹⁴ With the new Administration signaling that it would allow for more religious refusals in health care, it may be possible that more providers will discriminate when deciding who will receive care.

Access for Low-Income Communities through Medi-Cal

Dignity Health is the state's largest provider of Medi-Cal services.¹⁵ Not all doctors will accept patients covered by Medi-Cal because the program reimburses providers at a lower rate than other payers. As Medi-Cal has seen an increase of over 5.6 million enrollees since 2013 due to Medicaid expansion,¹⁶ it is critical that Dignity Health will continue to maintain or increase its current levels of Medi-Cal participation.

¹² Hiltz, *supra* note 10.

¹³ Buck & Caiola, *supra* note 11.

¹⁴ *Id.*

¹⁵ Letter from Anthony J. Portantino, Senator of California's 25th District, to The Honorable Xavier Becerra, Attorney General of California (May 14, 2018).

¹⁶ *Medi-Cal Facts and Figures: An Evolving Program*, CALIFORNIA HEALTH CARE FOUNDATION, Dec. 21, 2017, <https://www.chcf.org/publication/medi-cal-facts-and-figures-a-program-transforms/>.

Access for Low-Income Communities through Charity Care

Nearly 3 million Californians are still uninsured,¹⁷ and many insured Californians still face affordability concerns for medical care. All uninsured patients or patients with high medical costs who are at or below 350% of the federal poverty line are eligible to apply for a hospital's charity care or discount payment policy.¹⁸ Nonprofit hospitals like those owned by Dignity Health are required to provide a certain level of charity care and community benefit services each year. Community benefit services include charity care, along with other programs that improve access to health care services, enhance community health, or advance health knowledge. Dignity Health's California hospitals annually contribute more than \$71 million in charity care and \$135 million in community benefits, and they should be required to maintain or increase their contributions.

What could we ask the Attorney General to do?

Expand or Maintain Reproductive Health Services

As California's nonprofit hospital transactions must be approved by the Attorney General, there exists an opportunity for the public to express their opinions about Catholic hospitals' neglect of reproductive rights. Ideally, the Attorney General would require all Dignity Health hospitals in California to expand their women's health services to include those prohibited by the ERDs. This is unlikely to happen, but more plausible requirements might be 1) for Dignity Health's non-Catholic hospitals to expand their women's health services, or 2) that Dignity Health commit to not diminishing or eliminating any currently-offered reproductive health services for a long period of time.

Expand or Maintain Access to Emergency Care and Other Critical Services

The hospitals involved in the merger, especially the ones located in rural areas, should maintain their current offerings of critical care services for as long as possible after the merger takes place. Without this promise, there remains a possibility that rural communities would lack access to important health care services.

Ensure Equal Access to Medical Care

Dignity Health and CHI should be required to provide assurances that patients, including LGBTQ+ patients, will be treated with dignity and respect, and will receive the same medical standard of care as any other patient.

Expand or Maintain Medi-Cal and Participation Levels

¹⁷ Paul Fronstin, *California's Uninsured: As Coverage Grows, Millions Go Without*, CALIFORNIA HEALTH CARE FOUNDATION (NOV. 14, 2017), <http://www.chcf.org/publications/2017/11/californias-uninsured>.

¹⁸ Cal. Health & Safety Code §§ 127405(a)(1)(A), 127452(a).

Dignity Health and CHI have pledged to maintain their current levels of participation for only five years after the merger. As Dignity Health hospitals may be the only acute care hospital in an area, patients with Medi-Cal coverage may have no other option if they cannot access care at a Dignity Health hospital. Thus, the Attorney General should require the hospitals to maintain Medi-Cal service levels for a longer period of time.

Expand or Maintain Charity Care and Community Benefit Service Levels

Many patients who are eligible for charity care do not know about the option. As a condition to consent for the merger, the Attorney General could require Dignity Health's hospitals to improve its policies for informing patients about their charity care programs. The hospitals should post information about these programs to their websites, place signs prominently and in multiple languages in hospitals, offer every uninsured patient a charity care application, and amend the application to say in bold letters that no social security number is required to qualify for charity care.

The Attorney General may consider increasing the amount of charity care and community service benefits that Dignity Health hospitals will be required to provide in the future. Dignity Health and CHI are willing to maintain their current levels of charity care and community benefit services for six years after the merger. As health care costs continue to rise, uninsured people may face larger burdens in paying for medical care, and it may be necessary for hospitals like Dignity Health's to offer more charity care.

Appendix: List of Dignity Health CA Hospitals and Counties

Calaveras County:

Mark Twain Medical Center: 768 Mountain Ranch Rd., San Andreas, CA 95249

Kern County:

Memorial Hospital - Bakersfield: 420 34th Street, Bakersfield, CA 93301

Mercy Hospital Downtown: 2215 Truxtun Avenue, Bakersfield, CA 93301

Mercy Hospital Southwest: 400 Old River Road, Bakersfield, CA 93311

Los Angeles County:

California Hospital Medical Center: 1401 S. Grand Avenue, Los Angeles, CA 90015

Glendale Memorial Hospital and Health Center: 1420 S. Central Avenue, Glendale, CA 91204

Northridge Hospital Medical Center: 18300 Roscoe Blvd., Northridge, CA 91328

St. Mary Medical Center Long Beach: 1050 Linden Avenue, Long Beach, CA 90813

Merced County:

Mercy Medical Center Merced: 333 Mercy Avenue, Merced, CA 95340

Nevada County:

Sierra Nevada Memorial Hospital: 155 Glasson Way, Grass Valley, CA 95945

Sacramento County:

Mercy General Hospital: 4001 J Street, Sacramento, CA 95819

Mercy Hospital of Folsom: 1650 Creekside Drive, Folsom, CA 95630

Mercy San Juan Medical Center: 6501 Coyle Avenue, Carmichael, CA 95608

Methodist Hospital of Sacramento: 7500 Hospital Avenue, Sacramento, CA 95823

San Bernardino County:

Community Hospital of San Bernardino: 1805 Medical Center Drive, San Bernardino, CA 92411

St. Bernardine Medical Center: 2101 N. Waterman Avenue, San Bernardino, CA 92404

San Francisco County:

Saint Francis Memorial Hospital: 900 Hyde Street, San Francisco, CA 94109

St. Mary's Medical Center: 450 Stanyan Street, San Francisco, CA 94117

San Joaquin County:

St. Joseph's Behavioral Health Center: 2510 N. California Street, Stockton, CA 95204

St. Joseph's Medical Center: 1800 N. California Street, Stockton, CA 95204

San Luis Obispo County:

Marian Regional Medical Center, Arroyo Grande Campus (fka Arroyo Grande Community Hospital): 345 S. Halcyon Road, Arroyo Grande, CA 93420

French Hospital Medical Center: 1911 Johnson Avenue, San Luis Obispo, CA 93401

San Mateo County:

Sequoia Hospital: 170 Alameda de las Pulgas, Redwood City, CA 94062

Santa Barbara County:

Marian Regional Medical Center: 1400 E. Church Street, Santa Maria, CA 93454

Marian Regional Medical Center West: 505 E. Plaza Drive, Santa Maria, CA 93454

Santa Cruz County:

Dominican Hospital: 1555 Soquel Drive, Santa Cruz, CA 95065

Shasta County:

Mercy Medical Center - Redding: 2175 Rosaline Avenue, Redding, CA 96001

Siskiyou County:

Mercy Medical Center - Mt. Shasta: 914 Pine Street, Mt. Shasta, CA 96067

Tehama County:

St. Elizabeth Community Hospital: 2550 Sister Mary Columbia Drive, Red Bluff, CA 96080

Ventura County:

St. John's Pleasant Valley Hospital: 2309 Antonio Avenue, Camarillo, CA 93010

St. John's Regional Medical Center: 1600 Rose Avenue, Oxnard, CA 93030

Yolo County:

Woodland Memorial Hospital: 1325 Cottonwood Street, Woodland, CA 95695