

Advocates Work to Preserve Reproductive Health Care Access When Hospitals Merge

By Rachel Benson Gold

In an effort to solidify their relative market positions, health care providers throughout the 1990s moved aggressively to consolidate. Catholic hospitals have been at the forefront of this trend, leading to numerous mergers and other forms of affiliations between Catholic and secular institutions. Information collected thus far shows that the negative impact of these consolidations on the availability of reproductive health services can be enormous. At the same time, evidence is mounting that some Catholic providers are success-

fully finding ways to maintain access to this care. Meanwhile, legislators in California are taking important first steps toward addressing several of the myriad issues raised by religious and secular hospital consolidations.

Impact on Reproductive Health

According to the Catholic Health Association, the 620 Catholic hospitals nationwide together constitute the single largest group of nonprofit hospitals in the country. These institutions represent almost 11% of all U.S. hospitals and account for 17% of all hospital admissions each year.

Catholic hospitals operate according to “The Ethical and Religious Directives for Catholic Health Care Services,” issued by the National Conference of Catholic Bishops. These directives specifically ban reproductive health services considered to be morally objectionable, including contraception, sterilization, abortion and such infertility services as in vitro fertilization and artificial insemination (see box). The Bishops revised the directives in 1994 to address the question of affiliations between Catholic and non-Catholic institutions; the directives now require that such partnerships “must respect church teaching and discipline.”

Because of these requirements, the spate of mergers or other forms of affiliation between Catholic and secular hospitals—some 127 nationwide between 1990 and 1998, according to Catholics for a Free Choice (CFFC)—has translated into a significant diminution of access to reproductive health services. Half the mergers about which CFFC was able

to obtain information have resulted in the limitation or discontinuation of some reproductive health services. In addition, while early merger controversies often involved a loss of abortion services, more recent disputes have included other reproductive health services, such as contraception and sterilization.

Most recently, CFFC has noted a second disturbing trend: Of the nearly 600 Catholic hospitals nationwide that were surveyed in late 1998 and early 1999, eight in 10 indicated that they did not provide emergency contraception, even to women who were raped. Further, only one in five of those hospitals even provided women with a referral for emergency contraception. This situation, which has implications far beyond the issue of mergers and affects the accessibility of care in Catholic facilities in general, will grow in significance if more hospitals become affiliated with Catholic institutions.

Creative Steps Preserve Access

While many mergers undeniably are resulting in decreased access to reproductive health services, some positive trends also are beginning to emerge. Just as some religious managed care plans have moved to make special accommodations to provide enrollees with continued access to reproductive health services (“Contraceptive Coverage: Toward Ensuring Access While Respecting Conscience,” December 1998), some hospitals involved in mergers are taking similar steps.

While the health care directives as a whole clearly prohibit Catholic facilities from directly providing services considered to be wrong, Directive 69 specifically permits a Catholic institution to have a limited, indirect role in the delivery of services in the context of affiliations with other, non-Catholic providers. This principle, known as “material cooperation,” according to Rev. Thomas Schlinder, director of ethics at

EXCERPTS FROM THE ETHICAL AND RELIGIOUS DIRECTIVES FOR CATHOLIC HEALTH SERVICES

Directive 40: Heterologous fertilization (that is, any technique used to achieve conception by the use of gametes coming from at least one donor other than the spouses) is prohibited because it is contrary to the covenant of marriage, the unity of the spouses, and the dignity proper to parents and child.

Directive 41: Homologous artificial fertilization (that is, any technique used to achieve conception using the gametes of two spouses joined in marriage) is prohibited when it separates procreation from the marital act in its unitive significance.

Directive 45: Abortion is never permitted....Catholic health care institutions are not to provide abortion services, even based upon the principle of material cooperation.

Directive 52: Catholic health institutions may not promote or condone contraceptive practices but should provide, for married couples and the medical staff who counsel them, instruction both about the Church’s teaching on responsible parenthood and in methods of natural family planning.

Directive 53: Direct sterilization of either men or women, whether permanent or temporary, is not permitted in a Catholic health care institution.

Directive 69: When a Catholic health care institution is participating in a partnership that may be involved in activities judged morally wrong by the Church, the Catholic institution should limit its involvement in accord with the moral principles governing cooperation.

Mercy Health Services in Farmington Hills, Michigan, means that where some services are concerned, Catholic facilities “can cooperate in some way as long as we maintain some distance.”

These types of arrangements have preserved some access to reproductive health care in 16% of the mergers tracked by CFFC. For example, a five-hospital system in Jacksonville, Florida, run as a joint venture by Daughters of Charity National Health System and a Baptist hospital chain, continues to provide several services prohibited by the directives by separating the accounting so that revenue from those services “is not shared.” Another facility, run by Daughters of Charity in Niagara Falls, New York, permits contraceptive services to be provided at its outpatient facility located one and a half blocks from the hospital.

The search for creative solutions to these dilemmas led Catholic Healthcare West to develop its so-called community model. According to Carol Bayley, director of ethics and justice education for the Catholic hospital chain, hospitals operating under this model may provide some reproductive health services, but abortion is prohibited.

While viewing these creative approaches as holding enormous promise, advocates such as Lois Uttley of Merger Watch, a New York organization that monitors the impact on reproductive health services of merger activity nationwide, warn that each of these compromises must be examined individually in terms of the access they really provide. For example, providing sterilization services in an outpatient facility several blocks from the hospital does not address the needs of women who want a postpartum sterilization at the time of delivery.

Reproductive health care advocates are not alone in watching these cre-

ative solutions carefully. In the last two years, the Vatican has become directly involved by ordering two Catholic health systems to end arrangements designed to preserve access to reproductive health care services. In the first case, Seton Healthcare Network, a Catholic chain, leased Brackenridge Hospital, a public facility in Austin, Texas. According to the lease, reproductive health services, with the exception of abortion, would continue to be provided at Brackenridge. When alerted to the arrangement by conservative community activists, the Vatican’s Sacred Congregation for the Doctrine of the Faith, which is charged with safeguarding Catholic faith and morals worldwide, reviewed the arrangement. Shortly thereafter, Austin’s bishop was summoned to Rome and ordered to end the arrangement.

In a second case last year, St. Vincent’s Health System was ordered to terminate an arrangement with the Arkansas Women’s Health Center to provide sterilization services in a leased facility located in a hospital recently purchased by the Catholic hospital chain. Again, the order came after a finding from the Sacred Congregation that the arrangement was “inappropriate.”

California’s Legislature Acts

Faced with an enormous wave of mergers and the emergence of Catholic Healthcare West as the largest operator of hospitals in the state, reproductive health advocates in California have looked to the state legislature for help. They successfully pushed for a new law, which became effective at the beginning of this year, giving the state attorney general the authority to review proposed mergers between nonprofit health care facilities. In determining whether a proposed merger should go forward, the attorney general may consider whether the pending arrangement would have a significant impact on the availability of health care to the community.

At the same time that legislators were considering these measures aimed at mergers in general, advocates also proposed separate omnibus legislation aimed at maintaining access to reproductive health services following hospital mergers. In January, the state Assembly separated out and approved one critical component that would require all health plans in the state—whether serving commercial or Medicaid enrollees—to include a specific warn-

Both reproductive health advocates and the Vatican are watching these creative solutions carefully.

ing in promotional materials and member handbooks that some hospitals and other medical providers may not offer certain services that “you or your family member might need,” specifically including family planning, emergency contraceptives, sterilization, infertility or abortion. Enrollees or potential enrollees would be given a toll-free number for the health plan and urged to call prospective providers to determine whether the services they may need will be available.

A 1996–1997 study by The Alan Guttmacher Institute of the delivery of reproductive health services in managed care, conducted in California and four other states, highlights the urgent need for this type of information. According to the study, only 4% of the commercial or Medicaid managed care plans in the five states reported that they routinely notify enrollees that for religious or personal reasons, some participating providers may not provide or refer for all covered contraceptive services. Only half the commercial plans and a third of the Medicaid plans reported even offering enrollees a written list of the specific contraceptive methods covered.

While it grew out of concerns raised

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by hospital mergers, the pending California legislation, if actually enacted, would have a much broader reach. Now that the state has moved to require that all private insurance include contraceptive coverage (see *For the Record*, October 1999), for example, it could be critical to ensur-

ing that enrollees get important information about access to the care to which they are entitled. "This legislation is not everything we need to do to actually ensure access to reproductive health care in the state of California," notes Susan Berke Fogel of the California Women's Law

Center. "It is essential that we move toward really making sure that care is available when hospitals merge and also wherever religious health care dominates. But in the meantime, this bill, by providing information to consumers, is a critical first step." ⊕