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New Jersey nurses sue hospital over abortion policy

by Nancy Frazier O'Brien by Catholic News Service

WASHINGTON -- Confronted with what one called "a choice between our faith and our jobs," 12 nurses are suing University Hospital in Newark, N.J., over a new policy requiring them to care for patients before and after abortions, even if they have religious or moral objections to abortion.

The hospital, part of the University of Medicine & Dentistry of New Jersey, said that because "no nurse is compelled to have direct involvement in, and/or attendance in the room at the time of," an abortion, its policy does not violate state or federal conscience protection laws.

U.S. District Judge Jose L. Linares issued a temporary restraining order Nov. 3 directing the hospital not to compel adherence to the new policy until after the case comes before his court Dec. 5.

At a Nov. 14 news conference outside the hospital in Newark, Rep. Chris Smith, R-N.J., joined the nurses and their attorneys in criticizing the new policy, which was announced in September.

"In pursuit of an illegal and highly unethical policy to coerce its own nurses to participate in abortions including support activities such as pre- and post-procedure complicity in abortion, UMDNJ has not only imposed irreparable harm and suffering on its own nurses, but has willfully and recklessly put federal funding for the institution at risk," Smith said.

He estimated that the hospital was risking up to \$60 million in federal funds by taking actions that violated the Church Amendment, which prohibits institutions that receive federal funding from discriminating against those who refuse to participate in health care services they find religiously or morally objectionable.

Two of the affected nurses, who work in the hospital's same-day services unit, also spoke at the news conference.

"No health professional should be forced to choose between assisting abortions or being penalized at work," said Beryl Otieno Ngoje. "The hospital is not speaking truthfully to the media when it says that it does not compel nurses to violate their beliefs."

Fe Vinoya said she and the other suing nurses -- who are among 16 nurses in the same-day services unit -- have been "confronted with a choice between our faith and our jobs."

"No nurse should be forced to violate her religious or moral beliefs in order to keep her job," she said. "Nursing is a healing profession, and the law protects our right not to provide any services related to abortion."

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.

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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.

In a Nov. 17 letter, chief nursing officer Theresa Rejrat offered to meet with the nurses "to discuss with us potential reasonable accommodations of your objections."

"Such potential accommodations may include changes in duties, changes in scheduling and/or transfer to another nursing position that does not involve duties that are objectionable to you for religious and/or moral reasons," she said.

Matt Bowman, legal counsel for the Alliance Defense Fund, an Arizona-based Christian legal alliance that is representing the nurses, said the letter itself amounted to job discrimination.

"The hospital is threatening to impose discriminatory transfers or changes in the employment conditions for these nurses because of their religious and moral objections to abortion," he said. "Such discrimination against pro-life nurses violates state and federal law, the court's order in this case and even the hospital's own public statements saying that no nurse must assist in procedures to which they object."

Patrick R. Brannigan, executive director of the New Jersey Catholic Conference, said the public policy arm of the state's Catholic bishops was following the nurses' case. But he told Catholic News Service Nov. 28 he had no comment on it at this time.

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