



Bioethics Public Policy Report January 2023

This Bioethics Public Policy Report is a collaboration between Knights of Columbus councils, parishes, grassroots organizations, and The National Catholic Bioethics Center to inform the laity about developments in bioethics that impact human dignity.



National

- The US Food and Drug Administration (FDA) has finalized new risk evaluation and mitigation strategy (REMS) guidance for the chemical abortion pill mifepristone. A woman now can obtain a prescription for the drug through telemedicine and then fill the prescription at a local retail pharmacy. Critics contend that without an in-person visit, a physician cannot confirm that a woman is within the ten-week gestational limit for using mifepristone or whether she has an ectopic pregnancy. They also contend that mifepristone is associated with at least twenty-eight deaths, more than five hundred life-threatening complications (the chemical abortion complication rate is four times higher than that for surgical abortion), and that between 2002 and 2015, emergency room visits due to chemical abortion increased more than 500 percent.
- The FDA is changing messaging on Plan B, now claiming that the drug (levonorgestrel) does not have any post-fertilization or abortifacient mechanism, including altering the endometrium to render the uterus “inhospitable” to embryo implantation. Plan B, euphemistically known as the “morning after pill,” is used by women after noncontraceptive sex to avoid pregnancy, and it is routinely given by Catholic hospitals to victims of sexual assault. John Brehany, NCBC vice president of institutional relations, responded to the FDA’s announcement by stating the agency “didn’t look at any new evidence but considered evidence contained in an application from some consumer group in 2018 to alter the label.” He added, “Could taking Plan B still allow conception or fertilization to take place? The short answer is yes.”



Federal Courts

- The Sixth Circuit Court of Appeals (Cincinnati) has ruled that a “buffer zone” around EMW Women’s Surgical Center, the only abortion facility in Kentucky, is unconstitutional. The buffer zone had been established by the city of Louisville, and it prevented anyone who was not entering or exiting the abortion facility from coming within ten feet of the entrance. The ordinance establishing the zone was challenged and ultimately defeated by the Sisters for Life.
- On December 30, the Eleventh Circuit Court of Appeals (Atlanta) ruled (7–4) that that a public school system in Florida did not violate the equal protection clause of Title IX by separating student bathrooms by sex. The case was brought by a girl who self-identifies as a boy and wanted to use the boy’s bathroom. In brief, the decision determined that the bathroom policy “advances the important governmental objective of protecting students’ privacy in school bathrooms and does so in a manner substantially related to that objective.” It also found that with regard to educational programs, the word *sex* means biological male or female.



States

- The Massachusetts Supreme Judicial Court has ruled (4–2) in the case of *Klingler v. Healy* that there is no legal right to physician-assisted suicide in the state constitution. Writing for the court, Justice Frank Gaziano stated, “Given our long-standing opposition to suicide in all its forms, and the absence of modern precedent supporting an affirmative right to medical intervention that causes death, we cannot conclude that physician-assisted suicide ranks among those fundamental rights protected by the Massachusetts Declaration of Rights.” In fact, no court in the United States has ever found assisted suicide to be a fundamental right.