



September 27, 2018

Wendi A. Horwitz, Esq.
Deputy Attorney General
California Department of Justice
Charitable Trusts Section
300 South Spring Street, Suite 1702
Los Angeles, CA 90013

Re: Proposed Change in Control and Governance of Dignity Health and Catholic Health Initiatives

Dear Deputy Attorney General Horwitz and Department of Justice Colleagues:

On behalf of the Society for Adolescent Health and Medicine (SAHM)'s national organization and the Northern and Southern California chapters of SAHM, we are writing to express concern over the proposed affiliation of Dignity Health (DH) and Catholic Health Initiatives (CHI), and the potential impact of this merger on the health of adolescents and young adults in California and their access to essential health services. This merger presents potential threats to reproductive justice, health care access for LGBTQ patients, and transgender patients in particular, and economic justice.

SAHM is a national multidisciplinary organization committed to improving the physical and psychosocial health and well-being of adolescents and young adults through advocacy, clinical care, health promotion, professional development and research. It is the formal position of SAHM that all adolescents and young adults should have universal access to comprehensive sexual and reproductive health information and services that are evidence-based, confidential, developmentally appropriate, and culturally sensitive.¹ Further, it is the position of SAHM that all women, including adolescents and young adults, should have equal access to the full range of contraceptive options, including long acting reversible contraceptive methods (LARCs). An adolescent-friendly, patient-centered approach is essential to promote contraceptive choice. This involves contraceptive counseling on the full range of options, supporting an individual's needs and preferences for pregnancy planning and prevention.² SAHM also supports timely counseling and provision of emergency contraception for adolescents and young adults.³ SAHM's position is that all health care providers who care for adolescents should be trained to provide competent and nonjudgmental care for lesbian, gay, bisexual, or transgendered (LGBT) youth, should be educated regarding the health care needs of sexually active LGBT teenagers, and that appropriate screening and services should be provided for individuals who are sexually active with members of the same sex.⁴

We are concerned that the proposed merger between Dignity Health and Catholic Healthcare Initiatives (CHI) will compromise adolescents' and young adults' access to recommended sexual and reproductive health services. Care provided through all the Catholic Health Initiative facilities and a number of the Dignity Health facilities is governed by Ethical and Religious Directives (ERDs). These directives are based on the principles and priorities of the Catholic Church, and forbid many sexual and reproductive health services that are considered to be evidence-based standards of care by SAHM and the major medical professional organizations in the US, including the American College of Obstetricians and Gynecologists,⁵ American Academy of Pediatrics,⁶ Institute of Medicine,⁷ and the American Academy of Family Physicians.⁸

The forbidden services include all birth control methods (except intermittent abstinence), tubal ligations, emergency contraception, abortions, certain procedures recommended for management of miscarriages and ectopic pregnancies, and some infertility treatments. Gender affirming surgery for transgender men and women also is not permitted. The ERDs also limit the information that providers may give to patients to options that are "morally legitimate" according to Catholic doctrine and prohibit providers from referring patients denied services at a Catholic hospital to hospitals that do provide the services. Limiting sexual and reproductive health services in this way can place adolescents and other women who are treated in these facilities at risk. As noted by ACOG, the leading national professional organization for obstetricians and gynecologists, "Access to comprehensive reproductive health care services is essential to women's health and well-being. Women should have access to scientifically based health care. Prohibitions on essential care that are based on religious or other non-scientific grounds can jeopardize women's health and safety."⁵

While the degree to which the ERD guidelines are followed currently varies between sites included in the Dignity Health and CHI health care networks, care provided by all medical providers within these networks is potentially subject to these guidelines in the future, should this merger be allowed to proceed. Some Dignity Health hospitals are "non-Catholic" and historically have not been required to follow the ERDs, so they may be able to provide contraception and sterilization procedures. However, 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 recently revised ERDs place the provision of essential health services in Dignity Health's non-Catholic hospitals at risk (including contraceptives, sterilization, and other sexual and reproductive services). 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.

If allowed to proceed, the merger between Dignity Health and CHI would create the largest non-profit health care system in the United States. One goal of this expanded network is to increase the service range and financial leverage of facilities that are founded on Catholic principles and priorities, which by definition includes limiting the range of reproductive health services available to patients who are in-network or seek care at their facilities.

The majority of patients served by Dignity Health facilities in California are publicly insured, through Medi-Cal or Medicare. Many Dignity Health hospitals are located in more rural areas of the state, where access to alternate health care facilities with more comprehensive health services is limited and would require traveling long distances. Traveling to another facility with more comprehensive reproductive health services would be particularly difficult for low income individuals, including many adolescents

and young adults, and could be dangerous for a pregnant woman or someone experiencing a health emergency. Since many people in California, including Medi-Cal recipients, now receive care through health care networks, they must access services through facilities that are in-network, or pay significant out-of-pocket expenses. This would disproportionately affect adolescents and others with limited income, creating a situation in which adolescents and low-income people in the state of California would be denied access to the full range of comprehensive sexual and reproductive health care services required for their physical and emotional health. This inequity in access to evidence-based standards of care in medicine is dangerous, unjust, and potentially life-threatening. **The California Attorney General has a very important role in setting requirements for this merger that would ensure the health and safety of all Californians, including low income individuals, adolescents, and young adults.**

Adherence to the ERDs increases the likelihood that sexual/gender minorities will face discrimination in accessing health care services consistent with their medical needs. Low-income individuals may face inequalities in health care access, as Dignity Health is the state's largest provider of Medi-Cal services. These patients and all others who seek care at health care centers associated with Dignity Health and CHI deserve to have full access to the best evidence-based reproductive health services.

The Society for Adolescent Health and Medicine urges that, if the California Attorney General approves any change in control and governance of DH and CHI, he also ensures that the approval is accompanied by robust and enforceable conditions that protect community interests and access to essential sexual and reproductive health services by taking the following steps:

Ensure parity of access to reproductive health services

We urge the Attorney General to ensure parity of access to reproductive health services at all DH hospitals. Where reproductive health services are currently being provided as exceptions to the ERDs or the Statement of Common Values, those services must be maintained. Where those services are being provided even on a case-by-case basis, the Attorney General must require that DH and CHI put protocols in place to make those services available equally and transparently to all patients at those facilities. If DH can and is providing a service to some patients, as a matter of law and policy, DH cannot be allowed to claim the ERDs require them to deny those services to other patients. To further ensure transparency DH and CHI also should be required to provide written notice in multiple languages to patients at their facilities about the scope of services that are – and evidence-based reproductive health services that are not – provided at each facility.

Ensure access to comprehensive reproductive health services for all individuals who have publicly funded insurance plans

All individuals in California who have publicly funded insurance plans (Medi-Cal or Medicare) deserve equal access to reproductive health services. Although Medi-Cal assures freedom of choice of provider for family planning and outpatient abortion services, other services do not fall within the scope of that protection, including reproductive health services that would generally be managed in a hospital setting or emergency department (e.g. tubal ligation during a cesarean section delivery, or emergency contraception provision during treatment for sexual assault). The Attorney General should ensure that any person in California who receives care through a publicly funded insurance plan and is assigned to a DH/CHI network provider, has access to the

full range of evidence-based comprehensive reproductive health care services. Ideally, these services would be provided through expanded service provision within the DH/CHI network. If a service is not available through an individual's local DH/CHI provider, the patient should be directed to another local provider who is able to provide that service in a timely fashion, at no additional cost than the patient would have if services were received from an in-network provider.

Commit to treating LGBTQ patients with dignity and respect

The Attorney General should secure from DH a commitment that all LGBTQ patients and their families will be treated with dignity and respect, including that they will all receive the medical standard of care that any other patient should receive. The Attorney General should also explicitly condition approval on the merging entities' commitment to allow providers to deliver care—gender-affirming and otherwise—to transgender, non-binary, and gender non-conforming patients. We request that the Attorney General include a provision noting that gender dysphoria is a serious medical condition that may require medical interventions, and for that reason prohibiting the merging entities from citing the ERDs or any other doctrine or document to prevent provision of such care.

Maintain services, community benefits, and charity care

The Attorney General should ensure that the conditions on any merger require that DH hospitals maintain at least the levels and types of reproductive health services and essential health services currently provided for a minimum of fifteen years post-merger. It is also critical that DH and CHI establish and maintain robust charity care policies and meet measurable standards for the delivery of charity care. As the state's largest provider of Medi-Cal services, DH is critical to the state's social safety net. We urge the Attorney General to require that DH and CHI maintain their current levels of Medi-Cal and Medicare participation for at least fifteen years post-merger and continue to contract with Medi-Cal managed care entities.

The Society for Adolescent Health and Medicine appreciates the opportunity to comment on this important proposed change in the delivery of health services in California, a change that could have a significant impact on adolescents and young adults. We urge the Attorney General to ensure strong protections for the health and health care access of young people in California when acting on the proposed merger of Dignity and Catholic Health Initiatives.

Sincerely,

The Society for Adolescent Health and Medicine

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References

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