



How the Supreme Court's 2020 Ruling in *Little Sisters of the Poor Affects Churches and Ministries*

LITTLE SISTERS OF THE POOR SAINTS PETER AND PAUL HOME V. PENNSYLVANIA ET AL.

In *Little Sisters of the Poor*, the Supreme Court ruled that the Departments of Health and Human Services, Labor, and the Treasury had the authority to create exemptions from the Affordable Care Act's contraceptive-coverage mandate for employers who object on religious or moral grounds. This mandate interfered with the ability of religious organizations to minister consistent with their religious beliefs about the sanctity of life without fear of unjust government interference. However, some states that opposed the religious and moral exemptions challenged the authority of the federal departments to grant them.

While this ruling was primarily about procedures and rule-making, the decision's effect is greater freedom for religious organizations, provided the departments don't revoke the exemptions in the future (which is possible depending on the preferred policies of the administration in charge). With this decision, Little Sisters of the Poor and ministries like it have finally been granted the victory they have been seeking for nearly a decade. Although the case is still ongoing, those like the Little Sisters of the Poor may now provide health insurance coverage to the people they employ without compromising their religious beliefs about the sanctity of life.

WHAT PROTECTIONS AGAINST FEDERAL ABORTION-PILL MANDATES EXIST FOR CHURCHES AND MINISTRIES?

In its ruling, the Court affirmed government agencies' authority to institute religious exemptions – and thus greater freedom – for religious organizations. These exemptions allow churches and ministries to refrain from covering objectionable, life-ending drugs, devices, and procedures in their employee health insurance plans.

The ruling also highlighted the Religious Freedom Restoration Act (RFRA), which provides protection to religious people across the country. The Court reminded us that RFRA applies and can be used as a defense. Importantly, RFRA was used as a defense in the landmark *Hobby Lobby* ruling, which affirmed religious individuals' right to operate their closely-held businesses according to their sincerely held religious beliefs.

Beyond protections found within government agencies' exemptions and RFRA, churches and ministries have additional protections under the First Amendment.

WHAT QUESTIONS STILL REMAIN AFTER THE *LITTLE SISTERS OF THE POOR* DECISION?

While the initial Supreme Court decision in *Little Sisters of the Poor* was a positive ruling, it did not address every question that could impact churches and ministries, such as:

- Can states force churches and religious organizations to cover abortion in their healthcare plans even if the federal government exempts them?
- Will religious employers be forced by states to cover puberty blockers, cross-sex hormones, and so-called sex reassignment surgeries in their healthcare plans?
- If a new administration changes the federal guidelines, or if courts strike them down on different grounds, will ministries have to abide by a mandate to cover abortion-inducing devices and drugs in their employee healthcare plans?

WHAT CHALLENGES ARE AHEAD FOR CHURCHES AND MINISTRIES?

Some states are attempting to force churches and ministries to cover elective, surgical abortion in their employee healthcare plans. Because these states are not relying on federal law – which was at issue in this ruling – they are continuing to violate the conscience rights of churches and ministries. The ruling in *Little Sisters of the Poor* did not directly address these continued violations of the First Amendment. As activist organizations like Planned Parenthood promote such policies, it is likely that more states across the country will adopt them. ADF is currently defending churches in states that mandate churches cover abortion if they provide health insurance to their employees.

Beyond forcing abortion coverage in church and ministry employee healthcare plans, some government officials and activists are trying to force coverage for puberty blockers, cross-sex hormones, and so-called sex reassignment surgeries for those wishing to “transition” to a gender that differs from their sex. This coverage is a way to advance gender-identity theory, regardless of the religious beliefs held by churches and ministries.

Weaponizing employee healthcare plans is a strategy frequently being employed by those who oppose biblical teaching about life, marriage, and sexuality. By altering employee health insurance – health insurance benefits generally being a good thing – they are creating no-win situations for religious organizations: choosing between providing objectionable coverage or no coverage at all. Churches and ministries should have the ability to choose excellent health insurance coverage for employees without having to sacrifice their religious beliefs.

WHAT CAN I DO TO BETTER PROTECT MY CHURCH OR MINISTRY?

The *Little Sisters of the Poor* decision should motivate churches and ministries to ensure their governing documents, which are an important line of defense, provide the strongest possible religious liberty protections. Church and ministry leaders should ask the following questions:

- Do your church or ministry’s governing documents make clear your beliefs about the sanctity of human life?
- Have your employees signed a statement affirming that they have read, agree with, and will abide by your church or ministry’s beliefs?

A thorough review of your governing documents is critical. If your church has not yet started reviewing its governing documents—particularly documents related to employment—we encourage you to begin now.

We also encourage churches and ministries to review their employee healthcare policies, to ensure they are not being used as a vehicle to promote abortion or gender identity theories.

ADF attorneys can review problematic portions of insurance coverage that you may find, and help you consider how to respond to such coverage. They can also help better prepare churches and ministries by providing a legal review of your governing documents. This service is available to ADF Church Alliance and ADF Ministry Alliance members for free.

An ADF attorney will review your governing documents with an eye toward better protecting your religious freedom, consistent with the membership scope of services. You don't have to compile all your documents or make them perfect before beginning this process. You can even start with our team reviewing just one document, like your statement of faith.

WHAT IF MY CHURCH OR MINISTRY NEEDS LEGAL HELP?

If your church or ministry encounters a legal situation challenging your beliefs on the sanctity of human life or marriage and sexuality, please contact us immediately by [requesting legal help here](#). We recommend seeking legal advice before responding in any manner.

In addition to document review, members of the Alliance have access to attorneys who can advise you on the best possible protections for your church or ministry. To request a religious liberty document review or legal help, follow these three easy steps:

- (1) Go to the [legal intake form](#).
- (2) Fill out [the form](#), and in the "Brief description of your legal situation" section, state that you are an ADF Church Alliance or ADF Ministry Alliance member requesting a document review or consultation on a legal matter.
- (3) After you submit this form, an ADF attorney will contact you about your document review or legal matter.

WHAT CAN MY CHURCH OR MINISTRY DO BEYOND LEGAL PREPARATION?

The biblical understanding of why human life matters continues to erode. By sharing the importance of life – from conception to natural death – with employees and church members alike, we have an opportunity to restore a culture of life.

Members of ADF Ministry Alliance and ADF Church Alliance can access this and many other resources within the members-only website.

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1-800-835-5233

ADFlegal.org