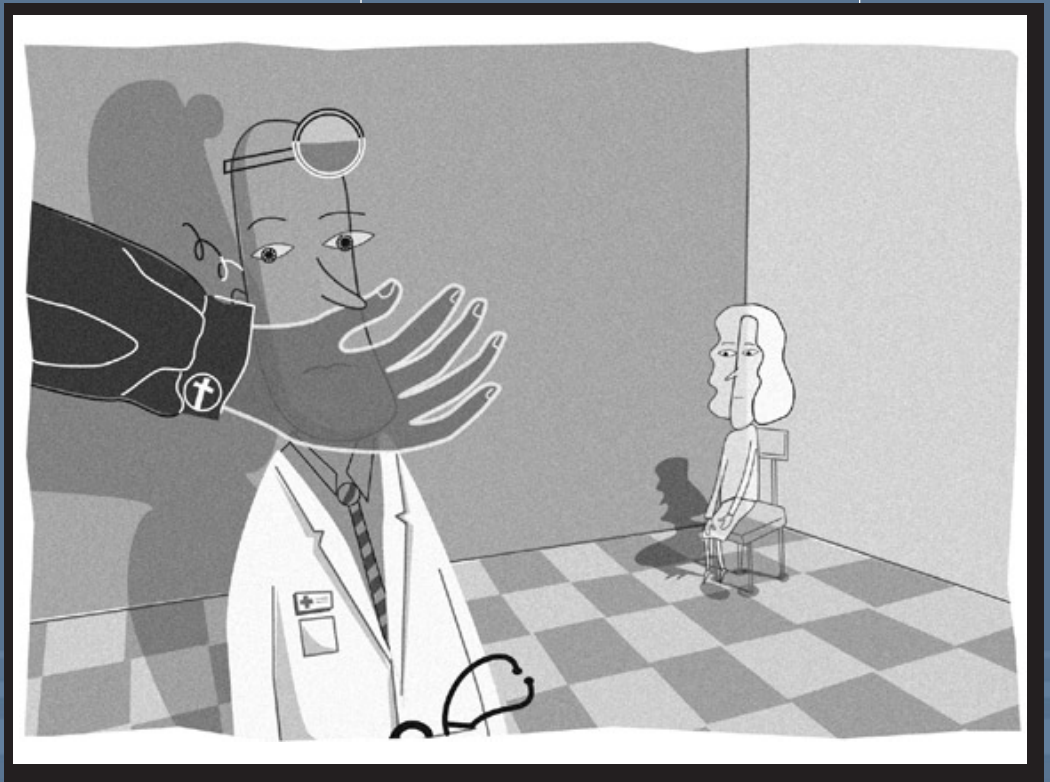


**FIGHTING  
RELIGIOUS  
HEALTH  
RESTRICTIONS**

**Ensuring  
Reproductive Care  
For Women With  
Serious Mental  
Illnesses**



## **The MergerWatch Project**

The MergerWatch Project was founded in 1996 at the Education Fund of Family Planning Advocates of NYS in Albany, NY, after a religious/secular hospital merger caused the loss of patients' access to contraceptive services at a hospital outpatient clinic in Troy, NY.

MergerWatch staff work directly with community coalitions across the nation to protect hospital-based services that are threatened by proposed business partnerships between secular community hospitals and religiously-sponsored health systems. We seek to preserve patients' access to threatened services at the historically-secular facilities through such means as public education, community organizing and regulatory intervention.

Project staff have undertaken research, policy analysis and strategic work at the state and national levels to provide new tools and information that can be utilized by local hospital merger coalitions. The project collaborates with the National Health Law Program to coordinate a National Advisory Board on religious restrictions to health care. Member organizations have specific areas of expertise that can be brought to bear on the problem, or represent those constituencies most affected by the spread of religious health restrictions (such as low-income women, women of color and residents of medically-underserved rural and urban areas).

## **The Emerging Issues Briefing Paper Series**

This paper is one of five developed in 2004 by the MergerWatch Project to inform communities, advocacy groups and medical providers about emerging threats to health care services from religiously-based restrictions.

## **Our Funders**

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By Patricia Miller, MA, and  
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# I

## Introduction

*Reproductive health needs of women with serious mental illnesses*

**Women with schizophrenia experience more unplanned births and undergo more abortions than do women in the population at large.**

Women suffering from serious mental illnesses such as schizophrenia, bipolar disorder, and major depressive, panic or obsessive-compulsive disorders, like all women, have a critical need for reproductive health services. The vulnerability associated with some of these conditions, and their acute exacerbations, puts these women at increased risk of sexual abuse and sexual violence, both in the community and in hospital settings.

Serious mental illness may lead to impulsive or dangerous sexual behaviors which are not, strictly speaking, coerced.<sup>1</sup> For example, among the symptoms of depression are feelings of helplessness, hopelessness and guilt, which may diminish the ability of affected women to refuse unwanted sexual activity or to insist upon the use of contraceptives. Acute mania causes impulsivity, grandiosity and, sometimes, promiscuity. Schizophrenia is associated with hallucinations and delusions that interfere with the accurate perception of reality and the ability to conform one's behavior to one's real situation. Not surprisingly, women with schizophrenia experience more unplanned births and undergo more abortions than do women in the population at large.<sup>2</sup>

If a woman with a serious mental illness becomes pregnant, the physical and emotional stresses of bearing a child may worsen her symptoms. Both the symptoms of untreated mental illnesses and some of the psychotropic medications used to control these symptoms are potentially damaging to the fetus. Serious mental illnesses may also make it difficult or impossible for a woman to understand or to obtain good pre-natal care and to take adequate care of an infant once born. Post-partum psychotic episodes are common among women with schizophrenia and bipolar illness.<sup>3</sup> That is not to say that many women with serious mental illnesses cannot make considered reproductive decisions, adhere to good prenatal care or provide adequate parenting; it is to say that it is especially important for these women to be informed about the risks and benefits of pregnancy and to have access to the full range of reproductive information and services.

Unprotected sex can also expose women with serious mental illnesses to the risk of contracting HIV/AIDS. The prevalence of HIV among persons with serious mental illnesses is at least seven times higher than in the population as a whole.<sup>4</sup> Psychiatric patients in public hospitals are infected at 10 times the national average, and one in five homeless mentally ill individuals is HIV positive.<sup>5</sup> Thus, the probability that a woman with serious mental illness will contract and/or transmit HIV/AIDS is high.

Even in the best of circumstances, when women with serious mental illnesses have unimpeded access to the full range of reproductive health services, they may have difficulty in understanding or using contraceptive methods. For example, a study of 80 seriously ill women at a publicly funded mental health clinic in Virginia found that 73 percent had been unable to understand the family planning options recommended by their doctor and had failed to use prescribed contraceptives.<sup>6</sup> Women in this situation need special and more intense family planning counseling and services than do women in general. In the worst of circumstances, serious and chronic mental illness results in poverty or homelessness, with an attendant lack of access to any regular health care, including reproductive health services.

## II

### **Religious Health Care Restrictions**

*Barriers to care for women with serious mental illnesses*

Religiously-based health care restrictions add an undue burden to the already vulnerable population of women with serious mental illnesses. Clearly, women with chronic mental illness need access to the full range of reproductive health services when they come into contact with the health care system. Points of contact, such as emergency rooms and outpatient and inpatient psychiatric facilities, offer important opportunities for health care providers to counsel women about family planning options and HIV/AIDS prevention. The discussion of sexual practices and reproductive options is an inherent part of good psychiatric diagnosis and care.<sup>7</sup>

Women who receive care from mental health providers in facilities affected by religious restrictions on reproductive health care, however, do not receive the full range of counseling and services they require to maintain their health. For example, women who have been raped or coerced into sex may not be informed of the possibility of using emergency contraception to prevent pregnancy. They will not get timely access to abortion services when pregnancy threatens to exacerbate their illnesses, when they are not able to parent, when pregnancy or birth would constitute a burden making them unable to care for children they already have, or when the only way to control psychotic symptoms is to use psychotropic medications that would be damaging to the fetus.

Most mental illnesses can be treated on an outpatient basis with a combination of psychotropic medications, psychotherapy and social supports. Patients with severe, persistent mental illnesses, however, may require hospitalization during crisis situations.<sup>8</sup> Inpatient psychiatric services can be provided in psychiatric units in general hospitals or in dedicated, free-standing psychiatric facilities.

Women need a range of reproductive health care needs during hospitalization for treatment of mental illness, including family planning counseling, STD/HIV prevention counseling and abortion services. Those services may be banned or restricted at facilities affiliated with some religious faiths.

Religious restrictions on reproductive health care are imposed at hospitals associated with the Catholic Church, which operates the overwhelming majority of church-operated hospitals (about 80 percent); the Adventist faith (about 7.5 percent); and the Baptist faith (5 percent). Baptist and Adventist hospitals and facilities generally allow contraceptive services, family planning counseling, and only those abortions necessary to save a woman's life.<sup>9</sup> The Catholic Church forbids a wide range of reproductive health services at its facilities, including all forms of contraception (except so-called 'natural' family planning), counseling about

family planning options and HIV/AIDS prevention, most abortions, and most uses of emergency contraception.

Women with serious mental illnesses have a significant chance of receiving care in a hospital operating under religious restrictions. In 2001, 308 of these hospitals provided psychiatric care. These hospitals operated 18.3 percent of the psychiatric care beds located in acute care hospitals in the United States and provided 2,977,102 days of care or 19.8 percent of total psychiatric days in acute care hospitals.<sup>10</sup> In some geographic regions, the percentage is much higher. In South Dakota, 40 percent of all psychiatric care was provided in hospitals operated by one of these religious orders.<sup>11</sup>

As with acute care hospitals in general, the largest church-sponsored provider of hospital-based inpatient psychiatric care is the Catholic Church. Eighteen of the 20 largest and busiest church-controlled acute care hospital providers of inpatient psychiatric care are affiliated with the Catholic Church (see chart on the next page).<sup>12</sup> In terms of dedicated psychiatric hospitals, two of the 10 largest health care systems operating psychiatric hospitals in the United States are Catholic-controlled systems. They are Catholic Health Initiatives, two hospitals and 486 beds, and Marian Health Systems, with two hospitals and 184 beds.<sup>13</sup>

Explicitly Catholic hospitals are not the only ones governed by Catholic rules prohibiting many reproductive health services. If a non-Catholic hospital is purchased by a Catholic health system, it usually comes under the governance of the *Ethical and Religious Directives for Catholic Health Care Services*, a set of guidelines created by the Catholic bishops of the United States and approved by the Vatican, that govern the services that can and cannot be provided at Catholic hospitals. Even if a hospital that merges with a Catholic system remains secular, it usually is governed by the provisions of the *Directives* that forbid abortion, contraception and family planning counseling. Between 1990 and 2001 there were more than 170 of these Catholic/non-Catholic hospital mergers in the United States.<sup>14</sup>

Dr. Nada Stotland, a Chicago psychiatrist and co-author of this paper, has described what can occur when a formerly secular hospital becomes part of a health system imposing religious restrictions. The reproductive health policies at the medical center where she worked changed dramatically as the result of a merger with a religiously-operated provider, severely limiting the ability of medical staff to provide

necessary care to women with serious mental illnesses. For example, a woman with schizophrenia who had been forced to surrender her three previous children to the Department of Children's Services found herself pregnant for a fourth time. With each previous pregnancy and subsequent placement of her child, she had a severe relapse and had to be hospitalized; the risk of such episodes increased with each pregnancy. According to Stotland, it was the duty of her psychiatrist to help her

**A woman with schizophrenia who had been forced to surrender her three children found herself pregnant for the fourth time. With each previous pregnancy and placement of her child, she had a severe relapse and had to be hospitalized.**

## 20 Largest Church-Controlled Hospital Providers of Psychiatric Care

(Catholic-controlled hospitals are in bold)

Hospital	System	Inpatient Psych Days/ Beds
<b>St. Vincent's Hosp &amp; Med Ctr</b> (New York, NY)	Sisters Of Charity	73,177/214
<b>St. Joseph's Hospital</b> (Mt. Clemens, MI)	Trinity Health	39,636/120
Florida Hospital Medical Ctr (Orlando, FL)	Adventist Health System Sunbelt	35,915/184
<b>St. Charles Hosp &amp; Rehab Ctr</b> (Port Jefferson, NY)	Catholic Health Services	33,168/135
<b>St. Anthony's Medical Center</b> (St. Louis, MO)	N/A	32,662/169
<b>St. John's Mercy Medical Ctr</b> (St. Louis, MO)	Sisters Of Mercy Health System	30,078/123
<b>St. Joseph Health Services</b> (North Providence, RI)	N/A	29,747/110
<b>St. Mary's Health Services</b> (Grand Rapids, MO)	Trinity Health	27,974/94
Northside Health System (Chicago, IL)	Advocate Health Care	27,609/120
<b>Covenant Health System</b> (Lubbock, TX)	St. Joseph Health System	25,799/144
<b>St. Dominic-Jackson Mem Hosp</b> (Jackson, MI)	N/A	25,706/115
<b>Avera Mckennan</b> (Sioux Falls, SD)	Avera Health	22,424/104
<b>Sacred Heart Medical Ctr</b> (Spokane, WA)	Providence Services	22,322/91
<b>St. Anthony Hospital</b> (Oklahoma City, OK)	SSM Health Care	21,648/93
<b>Schumpert Medical Ctr</b> (Shreveport, LA)	Christus Health	20,400/104
<b>Good Samaritan Hospital</b> (Cincinnati, OH)	Catholic Health Initiatives	16,991/90
<b>St. John's Regl Health Ctr</b> (Springfield, MO)	Sisters Of Mercy Health System	16,016/99
<b>St. Joseph Hospital</b> (Houston, TX)	Christus Health	15,380/94
<b>Provena Mercy Center</b> (Aurora, IL)	Provena Health	10,096/91
<b>St. Joseph Hospital</b> (Chicago, IL)	Catholic Health Partners	9,510/108

Source: Analysis of CMS HCRIS (2003 Q2), CMS Provider of Services (2001), and AHA (2001) Data Provided by Empire Health Advisors.

consider her options regarding the pregnancy and advise her of the risks and benefits of each. However, the hospital system forbade clinicians to discuss abortion or subsequent contraception or sterilization with patients, so her psychiatrist was not able to provide comprehensive counseling.<sup>15</sup>

Another example is the case of a 28-year-old woman with schizophrenia who was brought in to the hospital emergency room after police found her on the streets, completely unclothed, in the middle of winter. She was out of touch with reality and dangerous to herself and others. She required emergency medication to stabilize her condition. She was then admitted to the psychiatric unit. There, it was

discovered that she was in the early stages of pregnancy. Because the medication she had taken could harm her embryo and because she was unprepared to care for an infant, the patient decided that abortion was the wisest course. However, the hospital only allowed abortion if the pregnancy was dangerous to the woman or the fetus had a deformity incompatible with life. Even then, it only allowed the procedures in one facility of the hospital system and required approval of a committee specially convened for the purpose.

If such a woman cannot receive an abortion while she is an inpatient, Dr. Stotland notes, she will have to wait until she is discharged, which means the pregnancy will be more advanced. In addition, the patient, “in fragile condition and with urgent life necessities to attend to, will have to locate an abortion provider, make an appointment, find funds to pay for the abortion, make her way to the abortion provider, and undergo the procedure on her own,” according to Dr. Stotland.<sup>16</sup>

Dr. Stotland notes that patients like these are “struggling with psychiatric illnesses that may impede their abilities to fully understand their situations. As physicians, my colleagues and I must fully inform our patients of their treatment options. Religious restrictions, however, forbid our providing informed consent to our patients.”<sup>17</sup>

Inpatient psychiatric facilities are not the only places where religious health restrictions can hamper reproductive care for women. In Florida, the care of mentally ill Medicaid patients has been turned over to health maintenance organizations (HMOs).<sup>18</sup> Most state Medicaid programs require coverage of inpatient psychiatric services for Medicaid recipients under the age of 21.<sup>19</sup> A 2000 study found that 15 Catholic HMOs, serving approximately 770,700 people, were serving Medicaid participants in 14 states. A total of 13 of the 15 plans contracted with other providers to provide family planning services, but two plans did not make any provisions for family planning services for their enrollees. None of the plans provided abortions, although in some states that require abortion services for Medicaid recipients, the plans partnered with non-religious providers to offer the service.<sup>20</sup>

Adequate HIV prevention counseling is of special concern for this population. One study found that Medicaid recipients with schizophrenia were 1.5 times as likely as those without

a serious mental illness to be HIV positive and patients with a major affective disorder were 3.8 times as likely as those without a serious mental illness to be HIV positive.<sup>21</sup> Facilities associated with the Catholic Church, however, are not allowed to discuss the use of condoms to prevent HIV infection—which is a key element of “safer sex” education and practices—because of the Catholic Church’s ban on all types of contraceptives.

Access to emergency contraception is also important for women with chronic mental illnesses because of the disproportionately high rates of sexual violence experienced by these women. Emergency contraception is a high dose of regular oral contraceptives given within 72 hours of sexual intercourse to prevent pregnancy. Women who have been raped and taken to an emergency room need to be

**Access to emergency contraception is important for women with chronic mental illness because of the disproportionately high rates of sexual violence experienced by these women.**

informed of the emergency contraception option immediately to ensure they can take the drug in a timely manner. While Catholic teaching does allow an exception to the general ban on contraception to allow emergency contraception for women who have been raped, the guidelines governing its use are convoluted and have resulted in many Catholic hospitals deciding to ban the drug or impose various restrictions on its use. A 2002 survey of all the Catholic hospital emergency rooms in the country by Catholics for a Free Choice found that less than one-third (28 percent) would provide the drug to women who have been raped.<sup>22</sup>

### III

## Case Study

*Vermont hospital restructuring threatens care for mentally ill women*

The potential impact of religious health restrictions on women's access to reproductive health care at inpatient mental health facilities became clear in a case involving a proposed hospital restructuring in Burlington, Vermont. The Fletcher Allen Health System had been created in 1995, when two secular hospitals — the Medical Center Hospital of Vermont and University Health Center — merged with Fanny Allen Hospital, which was Catholic. Under the terms of the merger, each hospital maintained its separate identity and the Catholic *Directives* applied only to Fanny Allen Hospital, which remained a subsidiary of Covenant Health Systems, a Catholic hospital system.<sup>23</sup>

In 2001, officials of the merged Fletcher Allen System announced plans to move its inpatient psychiatric unit from the secular hospital campus to the Catholic campus. Reproductive health advocates, fearing women would not get the reproductive services they needed in a Catholic facility, objected to the proposed move, as did mental health advocates, who opposed segregating mental health patients on a separate campus away from the main hospital facility and with limited physician staffing.

Psychiatrists who worked at the health system immediately expressed concern that they would be restricted in their ability to counsel female patients about reproductive health care, noting that Catholic hospitals ban counseling about abortion, contraception and emergency contraception. Fletcher Allen officials

initially asserted that patients at the inpatient psychiatric unit would be able to receive the full range of reproductive health services, including family planning counseling, at Fanny Allen, despite the Catholic Church's ban on these services, because the counseling would be protected by doctor-patient privilege.

Under pressure from state officials, however, Fletcher Allen Health Care was forced to reveal a copy of its lease agreement for the use of the Catholic-owned campus where the psychiatric unit would be relocated. The lease specifically restricted at that campus any activities banned by the *Directives* or not sanctioned by Canon Law or other laws of the Catholic Church. Moreover, a psychiatrist reported that two patients seeking contraception or emergency

contraception at the Catholic Fanny Allen campus' existing walk-in clinic were turned away.<sup>24</sup> As an alternative, hospital officials then proposed that female patients could be transported away from the Catholic campus temporarily for family planning counseling and services, and then returned to the Catholic-controlled psychiatric unit.

**Patients seeking  
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Because of state health care use regulations, the move of the inpatient psychiatric facility from one hospital campus to another had to be approved by a Vermont State Public Oversight Commission. At public hearings on the issue, psychiatric experts testified that removing patients from the psychiatric unit for reproductive health counseling was not in the best interests of patients because it would fragment their care. MergerWatch Project Director Lois Uttley testified that the *Directives* prevented Fletcher Allen officials from making assurances that reproductive health services could be continued at the new facility.<sup>25</sup> In addition, Uttley noted that the Catholic Church could revise the *Directives* at any time to ban services that had previously been allowable, as the United States Conference of Catholic Bishops did in 2001 to make it more difficult for Catholic hospitals to partner with secular hospitals that perform sterilization.

Faced with opposition from doctors, members of the community and public health advocates, as well as overwhelming testimony that the care of patients would be impeded, the Public Oversight Committee recommended that the state deny the Fletcher Allen Health System a permit to move the inpatient psychiatric facility to the Catholic Fanny Allen hospital campus.

As a result, the Fletcher Allen System was forced to cancel the restructuring plan.<sup>26</sup>

**The type of isolated, off-campus birth control counseling envisioned by Fletcher Allen officials as a way to skirt Catholic guidelines could not meet clinical standards for care of women with mental illnesses.**

The proposed move of inpatient psychiatric services from the secular Fletcher Allen Hospital to the Catholic Fanny Allen Hospital highlighted many of the problems inherent in providing care for women with chronic mental illnesses at religiously controlled facilities. Dr. Jennifer FauntLeRoy, a Vermont doctor who testified at the state hearing about the proposed relocation of the psychiatric facility, noted that because their decision-making abilities can be impaired, women with severe and persistent mental illness need to be counseled about family planning issues in small doses over several days in order to ensure comprehension and informed consent. Her testimony made clear that Fletcher Allen's plan to transport women from the Catholic campus to the secular campus temporarily to give them family planning counseling would not work and therefore would not be in the best interests of patients.<sup>27</sup>

Ethical clinical guidelines for the prevention of pregnancy in women with chronic mental illnesses have been outlined in the *American Journal of Obstetrics and*

*Gynecology*.<sup>28</sup> According to these guidelines, women with chronic mental illnesses are "ethically unique because they have chronically and variably impaired autonomy." The goal is "to restore impaired autonomy in health care decision making" through a six-step process that includes: the patient's attending to the information being provided by her doctor, "absorbing, retaining, and recalling this information," cognitive understanding of this information, "evaluation of the consequences," expression of cognitive and evaluative understanding and, finally, the communication of a decision based on the patient's understanding.<sup>29</sup> These guidelines illustrate the need for holistic, comprehensive counseling that

is integrated into patient care to help women exercise autonomy in reproductive health decision-making. The type of isolated, off-campus counseling envisioned by the Fletcher Allen officials as a way to skirt Catholic guidelines could not possibly meet the standard outlined above.

When faced with religious rules that restrict family planning and abortion counseling, hospital staff often turn to covert counseling to attempt to provide the information their patients need.<sup>30</sup> Not only is this far from the standard of care outlined above, but the secrecy involved can exacerbate patients' symptoms and contribute to feelings of guilt about any decisions they make.<sup>31</sup> It leads to a lack of information among the team of professionals involved with mentally ill patients and to uncoordinated treatment and confusion for the patient. In addition, doctors who provide such counseling are in violation of hospital policy and risk losing their admitting privileges or jobs.

The danger of birth defects due to certain common psychotropic medications raises another important concern about the care of women with chronic mental illnesses at religiously controlled facilities. At secular facilities, pregnant women who present with a mental health crisis can be offered abortion as an option so that they can take advantage of medications such as Depakote, Tegretol, Lithium, and Geodon, all of which can cause birth defects. At Catholic facilities, as well as potentially at some Baptist and Adventist facilities, women are denied abortion counseling and therefore cannot make a fully informed decision about the care they are receiving. If they elect to take the medication they need, their recovery is impeded by anxiety, guilt, and, potentially, the need to care for an affected child. If they elect not to take the medication, the likelihood of recovery is greatly diminished, making it very difficult for them to adhere to obstetrical treatment, to make obstetrical decisions, and to care for a child. Birth under these circumstances reduces the likelihood that a child will be adopted if that is what the mother decides. Potential adoptive parents may be concerned about the child's possible genetic vulnerability to serious mental illness and the child's exposure to psychotropic medications. In addition, women who need to continue with these medications once they are discharged from a psychiatric facility require contraceptive counseling prior to discharge because they should not become pregnant while on these medications.<sup>32</sup>

## IV

### **Strategies for Advocates**

*Ensuring reproductive health care for women with mental illness*

Advocates working to protect reproductive health services from the impact of religious/secular hospital mergers need to pay special attention to the needs of women with chronic mental illnesses. The Burlington, VT, case was the first in which advocates for reproductive health worked side by side with advocates for the mentally ill to address the potential impact of a hospital restructuring on the quality of reproductive care for women with mental illness. This briefing paper is a first step toward ensuring that future hospital merger coalitions recognize and address this problem.

Coalitions facing this problem need to involve mental health professionals and groups that represent and include women with mental illnesses. In the Vermont case, psychiatrists were among the first to raise the alarm about the proposed relocation of inpatient psychiatric services to the Catholic facility, and they provided cogent testimony to the state review board about the dangers of this plan.

State hospital oversight processes, such as Certificates of Need (CON) procedures, provide opportunities for community activists and health care professionals to intervene to challenge potential mergers between religiously controlled and secular hospitals. The (CON) procedure gives states the authority to approve or disapprove major alterations in the services provided by hospital and other health care facilities. In the Vermont case, this process was used successfully to block the transfer of psychiatric services to the Catholic facility.

**Advocates for reproductive health worked side by side with advocates for the mentally ill to address the potential impact of a hospital restructuring.**

Another method is to leverage the charitable tax status of a nonprofit community hospital to prompt state review of any reduction in essential services, such as reproductive health care, that may alter the charitable mission of the hospital. If the secular hospital involved is a nonprofit that has received tax benefits because of its provision of certain services to the community, the state may have an interest in ensuring the continuation of those services. According to the National Women’s Law Center, “If an affiliation that reduces or eliminates women’s health services is inconsistent with the secular health care provider’s charitable mission, it can be legally impermissible for that entity to complete the transition.”<sup>33</sup>

Some states allow advocacy groups such as the American Civil Liberties Union to challenge hospital mergers on charitable assets grounds, but in other states a public official such as the attorney general must become involved. A number of states have also passed “conversion laws” that give the state the authority to review deals when a nonprofit hospital is sold. The scope of these laws varies from state to state, but they commonly require notification of the intended sale to the community and state regulators, public hearings and state analysis on the impact of the merger on access to health care, and independent valuations of the assets being sold.<sup>34</sup>

Because women with serious mental illnesses are particularly vulnerable, protecting their rights to the full range of reproductive health services is especially important. The policies of religiously-operated providers of health care are not designed with the best interests of these women in mind, nor do they allow the process of informed consent.

Public health, reproductive rights and mental health activists must work with psychiatric professionals and state officials and regulators to ensure that women with serious mental illnesses have access to the full spectrum of reproductive health care in their community health care facilities.

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# Additional Resources

## Organizations

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### **American Civil Liberties Union**

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### **Catholics for a Free Choice**

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### **National Health Law Program**

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### **National Women's Law Center**

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### **Physicians for Reproductive Choice and Health**

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### **National Alliance for the Mentally Ill**

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[www.nami.org](http://www.nami.org)

## **Additional Resources**

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