

October 15, 1997

(97-92)

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Annuity Board grants appeal to woman denied cancer treatment

By Laurie Lattimore

DALLAS (ABP) -- For the second time in a year, the Southern Baptist Annuity Board has been asked to pay for a treatment its insurance carrier calls experimental but doctors say is proven effective as a last resort for advanced stages of cancer.

But this time, unlike the first case, the Dallas-based Annuity Board is exercising an option to overrule Prudential Insurance and paying the \$85,000 claim by a woman battling stage-four breast cancer.

Diana Taylor, wife of the pastor of a small Baptist church in Homer, La., says her only hope for survival is a peripheral-blood-stem-cell transplant, a procedure similar to a bone-marrow transplant.

Oncologists at the University of Texas M.D. Anderson Cancer Center in Houston labeled her a good candidate for the procedure after conventional chemotherapy treatments shrank her tumor by 50 percent. Doctors at M.D. Anderson perform about 200 stem-cell transplants a year for breast-cancer patients.

Prudential denied Taylor's initial request and subsequent appeal for coverage of the stem-cell transplant, however, calling the procedure "experimental" and therefore ineligible for coverage.

Taylor enlisted the help of her father-in-law and an Annuity Board trustee to aggressively appeal the rejection. On July 17, the Annuity Board's executive committee approved the payment of \$85,000 to M.D. Anderson for her treatment.

In December, the Annuity Board refused to overturn Prudential's rejection of a claim for a stem-cell transplant to a Louisiana woman suffering from ovarian cancer. The woman, Susan Sutton, received the treatment only because her church agreed to underwrite a \$200,000 loan to cover medical bills. Ironically, once the stem-cell transplant was underway, Prudential began paying the bills. Sutton returned to work full-time in March, a month ahead of schedule.

Mark Sutton, Susan Sutton's husband and past president of the Louisiana Baptist Convention, has filed suit to force the Annuity Board to change its policy on stem-cell transplants to guarantee the procedure is covered in future cases.

On July 28, the Taylors received a letter from Prudential indicating the insurance company would pay for Diana's stem-cell transplant. Kevin Heine, spokesperson for Prudential, said that after the July 17 meeting, the Annuity Board asked Prudential to review the case. Prudential ordered an MRI to check the size of the tumor. "Diana had been turned down originally because she had shown no response to chemotherapy," Heine reported.

The Taylors, however, said Diana's medical records indicate the tumor had reduced 50 percent by June, prior to Prudential's second denial dated July 12. "Prudential definitely knew before the denial that I had responded to regular chemotherapy," Diana Taylor said, adding that the MRI was unnecessary. She pointed out that all earlier correspondence had said the treatment was denied because it was experimental.

Prudential called the Annuity Board's intervention routine. The Annuity Board employs the insurance company as a third-party administrator of medical coverage for Southern Baptist ministers, church and agency employees.

The Annuity Board said Taylor's case is an example of the system working as it is supposed to -- coverage was denied initially but later granted in the appeals process.

While grateful for the outcome, the Taylors say the system is wrong. If the nation's No. 1 cancer center believes the procedure is effective, safe and necessary, it should be granted without time-consuming appeals, they contend.

"I do indeed think the Annuity Board is the one that needs to step up on cases like this and overrule Prudential," said Jim Taylor, Diana's father-in-law. "The way the policy is written means they can tell Prudential to pay the claim. [The Annuity Board] has chosen to be slow in doing this."

The Insurance Commissioner's office in Louisiana verified that the Annuity Board has full authority to tell Prudential what to cover. "The Annuity Board does have ultimate yes/no authority," said Lester Dunlap, assistant commissioner. "And they have ultimate responsibility to decide what is covered and what is not covered."

Annuity Board spokesperson Tom Miller declined to comment on the Taylors' criticism. "There is no issue whatsoever here," he said. "As I understand it, she is being covered and there is no dispute."

Part of the Annuity Board's dilemma lies in the fundamental debate over experimental medical procedures. Annuity Board lawyer Jim Herod said the agency "does not pay claims for something that is not covered, and things considered truly experimental are not covered according to our contract with Prudential."

But M.D. Anderson officials argue that stem-cell transplants are no longer experimental.

Doctors James Gajewski and Richard Champlin said M. D. Anderson has been using the procedure on breast-cancer patients since the early 1980s with great success. They have been doing it for ovarian cancer since the beginning of this decade.

"Obviously, we wouldn't offer this procedure if we didn't believe it worked," Gajewski said.

In a letter of appeal to Prudential on behalf of Susan Sutton last year, Insurance Management Administrators of Louisiana reported that Medicare offers coverage for the stem-cell procedure.

Blue Cross Blue Shield of Alabama confirmed that it routinely extends coverage for stem-cell transplants.

Prudential spokesman Heine said his company does not have a uniform policy to deny coverage of the stem-cell transplant, but each case is reviewed on its own merits. Heine said he did not know how often Prudential has covered or denied coverage for the procedure. He said only one-half of one percent of all medical claims are appealed "because most things are covered."

But the Taylors say it is the Annuity Board, not Prudential, that is ultimately responsible for coverage. A letter drafted by Jim Taylor and Louisiana Annuity Board trustee Bill Ledbetter said handling of the two cases was giving the Annuity Board a bad name in Louisiana.

"When you are fighting cancer, it is hard enough to get out of bed without this hanging over your head," Diana Taylor said of her battles for insurance coverage. "When they say, 'Sorry, your life is not worth \$100,000,' it is very hard. They just saw me as a number."

Jim Taylor said the Annuity Board has the power to prevent such despair from happening again. "All the Annuity Board needs to do is say it messed up and then start helping people like it should."

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Clinton vetoes bill banning 'partial-birth' abortion

By Kenny Byrd

WASHINGTON (ABP) -- President Bill Clinton vetoed a measure Oct. 10 that would have banned a controversial late-term abortion procedure.

The U.S. House of Representatives approved the "Partial-Birth Abortion Act," which had been slightly altered by the Senate in May, Oct. 8.

The measure would have imposed fines and up to two years in prison for doctors performing the procedure, which involves partially extracting an unborn fetus through the birth canal before ending its life.

The ban approved by Congress contained an exception in cases where the procedure is used to save the life of the mother. Under the bill, a doctor on trial for performing the procedure in such a case could seek a hearing before the state medical board on whether the conduct was necessary to save the life of the mother.

But Clinton, who supports a woman's right to choose an abortion, had insisted on another exemption for cases when continuing a pregnancy poses "serious harm" to a woman's health.

"Unfortunately, [the bill] does not contain an exception to the measure's ban that will adequately protect the lives and health of the small group of women in tragic circumstances who need an abortion performed at a late stage of pregnancy to avert death or serious injury," Clinton said in his veto message to the House.

Clinton asked lawmakers to work in a bipartisan manner on new legislation. He reminded them that, as governor of Arkansas, he signed a bill barring third-trimester abortions with an appropriate exception for life or health of the mother.

Clinton's veto is expected to stand. The House passed the ban with a veto-proof margin of 296-132. But the Senate failed to get the two-thirds vote necessary to override a presidential veto when it approved the modified version of the bill, 64-36.

Rep. Charles Canady, R-Fla., author of the bill, released a statement disputing Clinton's call for a health exemption. "Partial-birth abortion is never necessary," Canady said.

"President Clinton knows that thousands of partial-birth abortions are performed primarily in the fifth and sixth months of pregnancy on the healthy babies of healthy mothers. But the president is unmoved by the facts," Canady said.

A spokeswoman for Canady said the House will wait until 1998 to attempt an override of the veto. She said that in addition to needing time to shore up votes in the Senate, lawmakers have little time to attempt an override this year due to the GOP leadership's goal of ending the first session of the 105th Congress by the end of October.

Clinton vetoed an almost identical bill last year. While the House voted to override the 1996 veto, the Senate sustained it.

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House approves voucher initiative

By Kenny Byrd

WASHINGTON (ABP) -- By a one-vote margin, the U.S. House of Representatives approved a funding bill that includes a controversial education-voucher plan after House Speaker Newt Gingrich prolonged a vote to shore up support.

The House passed the District of Columbia appropriations bill on a 203-202 vote after the GOP leadership convinced four members to change their votes. Gingrich extended the 15-minute vote to about 40 minutes as some lawmakers were reportedly rushed back from the airport in order to cast a last-minute vote before beginning a week-long recess.

Under House rules, votes may be extended at the chair's discretion.

The voucher plan in the D.C. funding bill would provide up to 2,000 "scholarships" to low-income parents to pay tuition at private and parochial schools.

Before the Oct. 9 House vote, Gingrich said that "thousands of children today in the nation's capital, at \$10,000 a child, are being cheated. They are being cheated by the politicians, they are being cheated by the unions, they are being cheated by the bureaucracy."

He said, "What this vote is about is whether or not 2,000 children have a chance to go to college and not go to jail."

President Clinton has signaled he would veto the bill because of the voucher provision.

The Senate Appropriations Committee approved the bill without the voucher plan attached to it, but the Senate has yet to pass the bill. Senate voucher proponents failed Sept. 30 to limit debate on whether the voucher plan should be added to the D.C. measure.

During House votes on the measure, a substitute amendment offered by Rep. James Moran, D-Va., failed 197-212. The amendment would have substituted the Senate appropriations committee version of the D.C. funding bill in place of the House bill.

Gingrich said if members vote against the voucher provision, "then one day down this road when they meet those children and they are illiterate, ignorant, and helpless, and going to jail, they should look in the mirror when they want to know what happened."

Rep. John Lewis, D-Ga., a voucher opponent, called the funding plan an assault on public education. "The radical Republican right have a plan to dismantle public education, abolish the Department of Education, cut the school-lunch program, cut funding for safe and drug-free schools, for teachers' training, for Head Start," he said.

Rep. Thomas Davis III, R-Va., meanwhile, defended the plan. "Low-income scholarships are a good vehicle for providing poor students with choices and opportunities more financially advantaged children enjoy, thus promoting equity," he said.

Del. Eleanor Holmes Norton, D-D.C., said the voucher provision was forced upon the District of Columbia. Advocates of vouchers and other controversial provisions in the funding bill have a simple strategy, she said: "Find a jurisdiction that cannot fight back and simply impose their will, like any old dictatorship."

Religious and other groups are divided over the idea of channeling public money to religious schools through voucher plans. Groups such as the Christian Coalition, Family Research Council, National Association of Evangelicals, Evangelicals for Social Action and Christian Legal Society support the inclusion of religious schools in plans that provide public money to private schools.

But others say vouchers violate the separation of church and state. Included in this group are the Baptist Joint Committee, National Council of the Churches of Christ in the U.S.A., Religious Action Center of Reform Judaism, People for the American Way, Americans United for Separation of Church and State and others.

The Southern Baptist Ethics and Religious Liberty Commission has not taken a position of the voucher proposal in the D.C. funding bill. The agency's written position on religious liberty, however, "allows tuition tax credits and school vouchers to parents for religious schools but opposes any direct government aid to parochial schools."

The Clinton administration also opposes several other provisions in the House bill, which outlines how D.C. will spend \$828 million in federal funds and \$3.7 billion in local funds. Some of those include:

-- A requirement that Pennsylvania Avenue in front of the White House be reopened to traffic. The Department of Treasury closed the street for security reasons in 1995. The administration says this provision would jeopardize the safety of those inside the White House complex.

-- A prohibition on D.C. increasing public assistance payments under the Temporary Assistance for Needy Families Program. The administration says this measure is inconsistent with the broad flexibility provided under federal welfare reform.

-- A prohibition on federal and local funds to pay for abortions except when the life of the mother is endangered or in cases involving rape or incest. The administration contends that dictating the use of local funds is an unwarranted intrusion into the affairs of D.C.

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Foundation disburses funds to new Baptist seminaries

By Marv Knox

FORT WORTH, Texas (ABP) -- A foundation established in 1990 to support theological education in the Southern Baptist Convention while bypassing the convention's conservative leadership has dissolved and redistributed its remaining funds.

Alumni and Friends of Theological Education was established in 1990 to "keep money coming into Southern Baptist Theological Seminary," one of six SBC seminaries. The seminary had just come under control of the SBC's conservative political/theological leadership, said Steve Shoemaker, pastor of Broadway Baptist Church in Fort Worth, Texas, and president of the organization.

"The future of Southern Seminary was extremely uncertain at that point," said Shoemaker, who at the time was pastor of Crescent Hill Baptist Church in Louisville, Ky., two blocks from the Southern Seminary campus. "Individuals and churches who loved the seminary wished to give to its support," Shoemaker said. "But they did not want to commit these monies to the seminary without a provision which could redistribute the funds if Southern Seminary left its heritage and went a new way. This foundation gave them a way to give to Southern Seminary in an uncertain time."

But subsequently, the faculty and administration have undergone "almost a complete overhaul," Shoemaker noted, leading the foundation's board of directors to act upon a charter provision allowing funds to be redirected when Southern Seminary "no longer fulfills its mission in a manner consistent with the heritage of the institution during the first century and a quarter of its history."

The foundation has disbursed about \$2,500 each to five causes, Shoemaker said. They are:

- Baptist Theological Seminary at Richmond, Va.
- Mercer University Divinity School in Atlanta.
- Baylor University's George W. Truett Theological Seminary in Waco, Texas.
- Wake Forest University Divinity School in Winston-Salem, N.C.
- Kentucky Baptists who are planning a seminary in that state.

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Supreme Court discards cases, including church-state disputes

By Larry Chesser

WASHINGTON (ABP) -- A handful of church-state disputes were among hundreds of cases the U.S. Supreme Court cleared from its docket Oct. 6, mostly by refusing to review them.

The high court broke no new church-state ground as it opened its 1997-98 term, refusing to disturb lower court rulings in four church-state cases.

In a partial exception to that pattern, the high court vacated a federal appeals court's decision that sided with a prisoner's claim under the Religious Freedom Restoration Act of 1993.

In June, the Supreme Court said Congress exceeded its authority when it enacted RFRA, which required government to have a compelling reason for laws or policies that place a "substantial burden" on religious practice.

Inmate John Mack complained in a federal lawsuit that Illinois prison officials substantially burdened his religious practice by refusing to accommodate the religious needs of Muslim prisoners during Ramadan.

Prison officials argued that their policies were a mere inconvenience, not a substantial burden to Mack's religious practice, and a federal district judge agreed.

But the 7th U.S. Circuit Court of Appeals said the districts court's definition of substantial burden was too narrow.

The appeals court defined a substantial burden as "one that forces adherents of a religion to refrain from religiously motivated conduct, inhibits or constrains conduct or expression that manifests a central tenet of a person's religious beliefs, or compels conduct or expression that is contrary to those beliefs."

Without the broader definition of substantial burden, the appeals court said, judges would be forced into the role of determining which religious practices are mandatory for believers.

Illinois officials asked the Supreme Court to reverse the appeals court decision. In their Oct. 6 order, justices returned the case to the federal appeals court for reconsideration in light of the high court's invalidation of RFRA.

In other actions, the high court:

-- Refused to review a federal appeals court decision upholding commencement prayers at a state university.

The dispute began in 1995 when a law professor James Tanford and three students sought to stop a 155-year-old practice of including prayers at commencement ceremonies at Indiana University's Bloomington campus.

Attendance at the ceremonies is voluntary. In 1995, approximately 5,000 of the 7,400 graduating students attended the event at the school's football stadium, along with 25,000 to 30,000 guests.

The appeals court contrasted the university's policy with a Rhode Island middle school graduation practice invalidated by the Supreme Court in 1992. Unlike the Rhode Island practice, the university's policy involved "no coercion -- real or otherwise -- to participate," the appeals court said.

The "mature stadium attendees were voluntarily present and free to ignore the clerics remarks," the appeals court noted. "Most remained seated."

The court concluded that the university's practice "has prevailed for 155 years and is widespread throughout the nation. Rather than being a violation of the Establishment Clause, it is 'simply a tolerable acknowledgement of beliefs widely held among the people of this country.'"

-- Declined to revive a civil-rights claim filed by a Richmond, Va., manager who was dismissed after sending letters to co-workers criticizing their lives.

Lower court rulings rejected religious discrimination claims by Charita Chalmers, a manager at Tulon Co.'s service center in Richmond. She was dismissed after writing letters to two co-workers critical of their lives and beliefs.

The case hinged, the 4th U.S. Circuit Court of Appeals said, on whether "Chalmers made Tulon aware, prior to her letter writing, that her religious beliefs would cause her to send the letters. Since it is clear that she did not, her claim fails."

Even if she had notified that company that her religion required her to send the letters, the appeals court concluded, the company would have been unable to accommodate her.

-- Left intact refusals by lower courts to remove a minor child from the foster home of two homosexual males. John Doe, father of the 14-year-old boy, argued that the placement of the boy in the foster home is inconsistent with the tenets of the Catholic faith.

"The department [of social services] must not place a Catholic minor child into a foster home which, by its very nature, composition and appearance, violates the bedrock fundamental beliefs of the Catholic faith," lawyers for the boy's father argued in urging the high court to review the case.

-- Sidestepped a property dispute involving the Roman Catholic Diocese of Pittsburgh and former members of local parishes closed by the diocese. The dispute arose after Donald Wuerl, bishop of the Roman Catholic Diocese of Pittsburgh, closed the St. Michael's Church and Immaculate Conception Church and reassigned members of those churches to new parishes.

Former members of the parishes filed suit seeking to assert their rights to the real and personal property of St. Michaels and Immaculate Conception, but a trial court and the Superior Court of Pennsylvania said they lacked standing to sue.

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Court refuses to hear arguments made by abortion opponents

By Kenny Byrd

WASHINGTON (ABP) -- The U.S. Supreme Court refused Oct. 6 to review three court rulings restricting the activities of abortion protesters.

The high court also refused to disturb a lower-court decision forbidding a Missouri county from receiving family planning funds because of its parental-consent policy.

Barbara Bell, a regular abortion protester outside a Brookline, Mass., clinic, argued that her First Amendment rights were violated by court orders prohibiting her from certain activities.

The order barred her from her practices of wearing an apron similar to that worn by clinic staffers, shouting loudly outside the clinic and entering a 50-foot buffer zone where it was claimed that she blocked the way of clinic patients and staff.

The Supreme Judicial Court of Massachusetts ruled that the First Amendment does not shelter Bell's "persistent violation of an existing court order."

The ruling, which the Supreme Court refused to review, stated that the purpose of the court injunction "is not to suppress Bell's anti-abortion message, but rather to prevent her from engaging in objectionable activity."

In another case rejected by the high court, a sidewalk counselor who had counseled against abortion for years in a lawful manner through a church ministry was told that an injunction imposed on Operation Rescue of California also applies to him. The injunction bars the anti-abortion group from protesting, picketing, counseling or distributing literature within 15 feet of a San Mateo County abortion clinic.

The California Court of Appeals for the 1st District said that Robert Lynn Cochran's involvement with the anti-abortion organizations activities for several weeks was enough to justify associating him with the group and bind him to the same injunction leveled against the group.

While upholding the 15-foot buffer zone restriction, the California court overturned an injunction excluding protesters from activities within 250 feet of the physician's apartment, saying that it was possible to strike a more precise balance between preserving privacy and maximizing the opportunity for public expression.

The court also overturned an injunction that forbade approaching patients, clinic staffers and others once that person makes it clear that he or she does not wish to be approached. "Because the provision limits speech to that consented to by the listener, it burdens speech which is peaceable but unwelcome to the listener," the California court said.

In a third case, the Supreme Court declined to intervene in a dispute over actions at a 1990 inaugural event at a Catholic church.

Abortion opponents inside the Cathedral of the Blessed Sacrament in Sacramento, Calif., were arrested for disrupting the ecumenical prayer service for praying out loud for the unborn. They lost their bid to bring suit against officers at the inaugural event for then newly elected Gov. Pete Wilson. They also failed to show impartiality by the federal district judge whose nomination had been recommended by Wilson when he was a member of the U.S. Senate.

In a separate case, the high court sidestepped a decision that allowed a nonprofit group that distributes federal family planning funds to deny the funds to the County of St. Charles, Mo., because of the county's parental notification policy.

The county's policy requires parental consent for adolescents to receive prescriptive medications or intrusive medical procedures, including some forms of contraceptives.

The county filed a motion in state court seeking the funds under Missouri law. But the Missouri Family Health Council moved the case to federal court and asked that the case be dismissed.

In a decision upheld by the 8th U.S. Circuit Court of Appeals, a district court ruled that the case fell under federal jurisdiction and dismissed the lawsuit.

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CORRECTIONS: Please make the following corrections in the Oct. 9 ABP story "Baptist Joint Committee board opposes amendment, vouchers." Change the final sentence in the second paragraph to read as follows:

The BJC is a religious-liberty agency representing 11 Baptist bodies in the United States.

Also, please replace the ninth paragraph with the following:

Several directors expressed concern the resolution could cause a stir, since some BJC directors serve as directors of the National Association of Evangelicals, which is a major supporter of the Istook amendment.

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