

Metro

Hospital, U-Md. medical system discriminated against trans man, judge says

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The University of Maryland St. Joseph Medical Center in Towson and the university medical system discriminated against a Baltimore man for being transgender when the hospital refused to perform his hysterectomy, a federal court has ruled.

Jesse Hammons filed a federal lawsuit in U.S. District Court for the District of Maryland in the summer of 2020, alleging that the medical institutions violated his First and Fourth Amendment rights and the Affordable Care Act when they canceled the surgical procedure one night before it was scheduled.

According to court documents, Hammons's doctor recommended that he receive the procedure as treatment for his gender dysphoria - a diagnosis included in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders that describes the feeling of discomfort or distress that may occur in people whose gender identity differs from their sex assigned at birth.

In fall 2019, a physician at St. Joseph met with Hammons and determined that a hysterectomy - a procedure in which a patient's uterus is removed - was the proper treatment for his gender dysphoria, according to court documents.

But a week before the scheduled procedure, the medical center's chief medical officer, physician Gail Cunningham, told the surgeon that "transgender surgery" could not be performed at the hospital, a former Catholic institution that still follows health-care policies created by the U.S. Conference of Catholic Bishops, according to court documents.

U.S. District Judge Deborah Chasanow dismissed Hammons's claims that the medical institution and its parent violated his First and Fourth Amendment rights, but ruled last Friday that they did violate Section 1557 of the Affordable Care Act, which prohibits discrimination based on race, color, national origin, sex, age or disability in certain health programs and activities.

St. Joseph and the University of Maryland Medical System (UMMS) dispute many of the conclusions that were reached in the ruling, according to a statement emailed Tuesday to the Baltimore Sun by UMMS spokesman Michael Schwartzberg.

The organizations "may be in a position to comment further after additional analysis of the ruling," the statement read.

"Legal disagreements aside, we sincerely wish the very best for Mr. Hammons and we support his efforts to seek the highest quality healthcare," the statement read. "We may disagree on certain technical, legal points but compassion for the patients we serve remains foundational to our work."

In the statement, St. Joseph and UMMS said the case stemmed from a surgeon mistakenly scheduling a procedure that could not be performed at the Towson hospital.

Until the medical center was purchased by UMMS in 2012, it was operated as a Catholic hospital by

Catholic Health Initiatives, a national health-care system based in Colorado. As a condition of the \$200 million purchase, UMMS agreed the hospital would continue to follow the "Ethical and Religious Directives for Catholic Health Care Services."

Among other rules, the directives bar Catholic health-care institutions from performing procedures that induce the "sterilization of either men or women," according to court documents.

Exceptions to the policy include when the direct result of the procedure is the cure or alleviation of a "serious pathology" and a simpler treatment is not available.

The National Catholic Bioethics Center, which - according to court documents - regularly audits St. Joseph for compliance with the directives, issued guidance that states Catholic health centers should never provide gender-affirming treatment.

In her testimony for the lawsuit, Cunningham said she did not "have any reason to believe that" the center's guidance did not apply at St. Joseph. She also said the hospital prohibits medical personnel from participating in both surgical and nonsurgical gender-affirming treatments for patients.

Any patient seeking treatment that they cannot receive at St. Joseph because of the Catholic health-care directives can receive care at other UMMS hospitals, according to a statement the hospital system sent to the Sun in 2020.

"Although our offer to perform gender-affirming surgery at a different location was declined by Mr. Hammons," according to the UMMS statement that Schwartzberg sent the Sun on Tuesday, "the University of Maryland Medical System remains committed to meeting the unique medical needs of transgender individuals and patients who are routinely scheduled by physicians for appointments and procedures at UMMS member organizations."

Cunningham also said in her testimony that hysterectomies are frequently performed at St. Joseph when they are medically necessary to treat a diagnosed condition other than gender dysphoria. Chasanow ruled that when the medical center canceled Hammons's medically necessary surgery, it was discriminating against him on the basis of sex because it was treating him differently from non-transgender patients who require hysterectomies for other medical conditions.

Hammons, a freelance American Sign Language interpreter, ultimately received a hysterectomy at another hospital in June 2020.

He was represented in the lawsuit by attorneys from the American Civil Liberties Union, as well as the law firms Patterson Belknap Webb & Tyler and Rosenberg Martin Greenberg.

In a news release from the ACLU last Friday, Hammons described the ruling as a "great win for myself and all transgender people denied equal treatment because of who they are."

"All I wanted was for UMMS to treat my health care like anyone else's, and I'm glad the court recognized how unfair it was to turn me away," Hammons said in the release. "I'm hopeful UMMS can change this harmful policy and help more transgender people access the care they need."

- Baltimore Sun