

## 20-429 AMERICAN MEDICAL ASSOCIATION V. BECERRA

DECISION BELOW: 950 F.3d 1067

LOWER COURT CASE NUMBER: 19-35386, 19-35394, 19-15979

### QUESTION PRESENTED:

In 2019, the Department of Health and Human Services (HHS) issued a Rule imposing major changes on the Title X family planning program. *See* 84 Fed. Reg. 7,714 (Mar. 4, 2019). The Rule both prohibits and compels certain pregnancy-related speech between a Title X provider and her patient, proscribing abortion-related information but requiring information about non-abortion options—regardless of what the patient wants. The Rule also imposes burdensome physical separation requirements on any Title X provider engaging in abortion-related activities outside the Title X program. All of the nation’s major medical organizations opposed the Rule, explaining that it would violate fundamental medical ethics, force numerous providers out of the program, and leave patients with deficient health care. The en banc Ninth Circuit upheld the Rule against arbitrary-and-capricious and contrary-to-law challenges. The en banc Fourth Circuit invalidated the Rule on those same grounds.

The questions presented are:

1. Whether the Rule is arbitrary and capricious.
2. Whether the Rule violates the Title X appropriations act, which requires that “all pregnancy counseling” under Title X “shall be nondirective.”
3. Whether the Rule violates Section 1554 of the Affordable Care Act, 42 U.S.C. § 18114, which requires that HHS “shall not promulgate any regulation” that harms patient care in any one of six ways, including by “interfer[ing] with communications” between a patient and her provider.

CONSOLIDATED WITH 20-454 AND 20-539 FOR ONE HOUR ORAL ARGUMENT.

ORDER OF APRIL 26, 2021:

THE ACTING SOLICITOR GENERAL IS DIRECTED TO FILE A LETTER BRIEF ADDRESSING THE FOLLOWING QUESTION: WHETHER THE GOVERNMENT INTENDS TO CONTINUE TO ENFORCE THE CHALLENGED RULE AND REGULATIONS OUTSIDE THE STATE OF MARYLAND UNTIL THE COMPLETION OF NOTICE AND COMMENT; AND, IF FURTHER LITIGATION IS BROUGHT AGAINST THE CHALLENGED RULE AND REGULATIONS OUTSIDE OF MARYLAND, HOW THE GOVERNMENT WOULD INTEND TO RESPOND. THE BRIEF, NOT TO EXCEED THREE PAGES, IS TO BE FILED BY MONDAY, MAY 3, 2021. THE NON-FEDERAL PARTIES AND THE PROPOSED INTERVENORS MAY SUBMIT ANY RESPONSES IN LETTER BRIEFS, NOT TO EXCEED THREE PAGES EACH, BY MONDAY, MAY 10, 2021.

CERT. GRANTED 2/22/2021