

## **20-429 AMERICAN MEDICAL ASSOCIATION V. COCHRAN**

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.

CERT. GRANTED 2/22/2021