



Secretariat of Pro-Life Activities

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DOES THE HHS MANDATE INCLUDE ABORTIFACIENTS?

A federal mandate for “preventive services” is being used by the U.S. Department of Health and Human Services (HHS) to require most health plans to cover sterilization, all drugs and devices approved by the FDA for contraception, and related “education and counseling” for females of reproductive age. Does this mandate include items that can cause an abortion?

One problem is confusion about the word “abortion.” HHS uses it to describe only the disruption of an already implanted pregnancy.¹ However, because a human life begins when sperm and egg meet to form a new living organism, the moral problem of abortion arises whenever a drug or device destroys the new embryonic human being, for example by preventing his or her implantation in the uterine wall needed to survive. This is why Catholic teaching recognizes that “abortion...in its moral context, includes the interval between conception and implantation of the embryo.”²

Can some drugs or devices covered by the mandate cause an abortion in either of these senses?

1. Ella (Ulipristal acetate)

Ella or Ulipristal (also known as HRP 2000) is very similar to the “abortion pill” RU-486 (mifepristone), and works the same way – by blocking receptors in the uterine lining from receiving the progesterone needed to begin and sustain implantation. Animal tests indicate that it can prevent implantation *and* disrupt it after it has begun. Therefore *Ella can cause an abortion by anyone’s definition of that term.* Medical experts say:

“Studies with mifepristone and HRP 2000 have shown both antiprogestins to have roughly comparable activity in *terminating pregnancy* when administered during the early stages of gestation.”³

“Ulipristal has similar biological effects to mifepristone, the antiprogestin used in *medical abortion.*”⁴

“Ulipristal acetate prevents progesterone from occupying its receptor, thus the gene transcription normally turned on by progesterone is blocked, and *the proteins necessary to begin and maintain pregnancy are not synthesized.*”... [In animals] “ulipristal acetate is *embryotoxic* at low doses.”⁵

¹For example, HHS Secretary Sebelius has said the mandated drugs “are specifically those that are designed to prevent implantation,” so “[t]hey are contraceptives, they are not abortion pills.” K. Wallace, “Health and Human Services Secretary Kathleen Sebelius Tells iVillage ‘Historic’ New Guidelines Cover Contraception, Not Abortion,” *iVillage*, August 2, 2011, at <http://www.ivillage.com/kathleen-sebelius-guidelines-cover-contraception-not-abortion/4-a-369771>.

²U.S. Conference of Catholic Bishops, *Ethical and Religious Directives for Catholic Health Care Services*, 5th ed. (2009), Directive 45. Thus in Catholic protocols on care for victims of sexual assault “it is not permissible... to initiate or to recommend treatments that have as their purpose or direct effect the removal, destruction, or interference with the implantation of a fertilized ovum.” *Id.*, Directive 36.

³A. Tarantal, *et al.*, “Effects of Two Antiprogestins on Early Pregnancy in the Long-Tailed Macaque (*Macaca fascicularis*),” *54 Contraception* 107-115 (1996), at 114 (emphasis added).

⁴G. Bernagiano & H. von Hertzen, “Towards more effective emergency contraception?”, 375 *The Lancet* 527-28 (Feb. 13, 2010), at 527 (emphasis added).

⁵European Medicines Agency, *Evaluation of Medicines for Human Use: CHMP Assessment for Ellaone* (2009), at 8, 16 (emphasis added); see www.ema.europa.eu/docs/en_GB/document_library/EPAR_-_Public_assessment_report/human/001027/WC500023673.pdf.

2. Plan B (Levonorgestrel)

Some experts say this hormonal drug, the most common form of “emergency contraception,” may not interfere with implantation. They point out that Plan B seems most effective if given before ovulation; and in the laboratory it does not seem to cause radical changes when applied directly to uterine tissue.

However, other studies suggest that when given shortly before ovulation, Plan B is not very effective in preventing the ovary from releasing an egg. Instead it may disrupt the ovary’s next important task: releasing progesterone to prepare the uterine lining for implantation. If that is true, Plan B would still be most effective if given before ovulation, and directly applying Plan B to uterine tissue in a lab would not reflect how it works in the human reproductive system. Some studies of changes in the uterine lining of women taking Plan B support this theory about an abortifacient mode of action.⁶

3. The Copper IUD

The copper-containing IUD is increasingly recommended for “emergency contraception” as it seems more effective than Plan B in preventing pregnancy. Even a recent *New York Times* article claiming that Plan B is not abortifacient conceded: “By contrast, scientists say, research suggests that the only other officially approved form of emergency contraception, the copper intrauterine device (also a daily birth control method), *can work to prevent pregnancy after an egg has been fertilized.*”⁷ Say experts at Princeton University who promote emergency contraception:

“Implantation occurs 6-12 days following ovulation. Therefore, copper IUDs can be inserted up to 5 days *after* ovulation to prevent pregnancy.... Its very high effectiveness implies that emergency insertion of a copper IUD must be able to prevent pregnancy *after fertilization.*”⁸

So a major mode of action for the copper IUD is to prevent implantation and survival of the new embryo, and proponents see this as responsible for its high effectiveness.

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In short, the abortifacient potential of Plan B is disputed but cannot be dismissed at our current state of medical knowledge. There is a broader consensus on the anti-implantation potential of the copper IUD and Ella -- and on Ella’s ability to disrupt pregnancy (induce abortion) even after implantation. So the “contraceptive” mandate also raises an abortion problem.

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⁶ For a recent analysis of existing studies and their implications see R. Peck, M.D. and Rev. J. Vélez, M.D., “The Postovulatory Mechanism of Action of Plan B: A Review of the Scientific Literature,” 13 *The National Catholic Bioethics Quarterly* 677-716 (Winter 2013), available at <http://ncbcenter.org/document.doc?id=584>.

⁷ P. Belluck, “Abortion Qualms on Morning-After Pill May Be Unfounded,” *The New York Times*, published online June 5, 2012 (emphasis added). Available at http://www.nytimes.com/2012/06/06/health/research/morning-after-pills-dont-block-implantation-science-suggests.html?pagewanted=all&_r=0.

⁸ J. Trussell et al., “Emergency Contraception: A Last Chance to Prevent Unintended Pregnancy” (Feb. 2014) at 2, 7 (emphasis added); *The Emergency Contraception Website*, <http://ec.princeton.edu/questions/ec-review.pdf>.