



## Secretariat of Pro-Life Activities

3211 FOURTH STREET NE • WASHINGTON DC 20017-1194

202-541-3070 • FAX 202-541-3054 • EMAIL PROLIFE@USCCB.ORG • WEB WWW.USCCB.ORG/PROLIFE

August 3, 2012

Dear Member of Congress:

One year ago, for the first time, the federal government announced that it would forbid Americans to provide or purchase health coverage unless it includes female surgical sterilizations, all FDA-approved prescription drugs and devices for preventing pregnancy – including drugs and devices which can destroy a human life at its earliest stages – and “counseling and education” to promote these to all women and girls of childbearing age.

This unprecedented and misguided federal policy, ironically marketed as part of an effort to *expand* access to health coverage, began to take effect this week. Most of those who initiate or renew employee health plans as well as student plans at educational institutions after August 1 must comply with this mandate, notwithstanding their moral or religious objections, or drop their health coverage altogether as some colleges have now begun to do.

For our part, the Catholic bishops of the United States continue to advocate for life-affirming health care for all, especially for poor and vulnerable people. We do not see this policy as a step in that direction.

I am writing again on this subject because, despite widespread opposition to this coercive policy by religious organizations, lawmakers and the general public, Congress has still taken no action to counter it. The time for such action is, to say the least, overdue. Some weeks ago the Senate tabled a corrective proposal by the barest majority of 51 votes, after it was claimed that the proposal would deprive Americans of health care protections they have long enjoyed under existing laws. Those claims have been shown to be false. More recently the House incorporated a similar laudable proposal into its Labor/HHS appropriations bill for Fiscal Year 2013 – but it now seems this legislation will not be considered until next March, months after the mandate has been imposed on most employers. The fundamental importance of the religious freedom issue at stake demands a timely congressional response.

Through this mandate, the Administration is promoting an approach to religious freedom that is more grudging and arbitrary than any yet seen in federal law. A minority of religious employers – those which, among other things, engage primarily in prayer and preaching – are said to be exempt from the mandate, although few really know whether their request for exemption will be accepted by the government or not. By contrast, religious organizations which live out their faith by reaching out to all in need with health care and other humanitarian services are deemed “not religious enough” for the exemption. Many, though not all, of these organizations will qualify for a one-year delay in enforcement, after which partial control of their health plans will be handed over by the government to others willing to implement the mandate.

Note that this coverage will be imposed “automatically” on these organizations’ employees and their dependent teenage children, regardless of the moral or religious objections of the employer *or employee* (*Fed. Register*, March 21, 2012, at 16505). Yet some have cynically said this policy ensures female employees’ right to make *their own choice* on health coverage.

A third group of employers who may have moral or religious objections to some or all of the mandated “services” will have no conscience protection at all under this policy. These are devout individuals and families who own and operate businesses, who without any word of protest from employees have been offering health coverage that does not violate their moral convictions. Now their longtime practice will be contrary to federal law, punished by a tax of \$100 a day per employee and other penalties. Four of the pending law suits against the contraceptive mandate represent Catholic business owners of this kind in Colorado, Pennsylvania, Missouri and Michigan. The Michigan plaintiff is also joined by Legatus, an association of about 2,000 Catholics who strive to operate their businesses in accord with sound Christian values.

In court, the Administration has insisted that these companies are entirely “secular” with no claim on religious freedom. In effect, if an organization is “for profit,” it is not allowed to be “for” anything else. The owners who have imbued their companies with faith-based commitments to employee well-being, community service and social responsibility strongly disagree. And at a time of grave concern over business and banking scandals, does anyone think that rewarding businesses obsessed solely with company profits is sound government policy?

In one court case in Colorado, a federal district judge has now called at least a temporary halt to the Administration’s extreme approach. In granting a preliminary injunction against imposition of the mandate on Hercules Industries on July 27, Senior Judge John Kane found that any “public interest” the Administration claims for the uniform imposition of its mandate is “countered, and indeed outweighed, by the public interest in the free exercise of religion,” adding that this mandate already exempts many other organizations for reasons far less important than religious freedom.

However, this welcome and sensible initial decision marks only the beginning of even the Newland family’s court battle. It does not affect companies filing suit in other states, or even the many thoroughly religious nonprofit organizations serving the public whose religious character has always been obvious to most people. Vindication of the fundamental rights of these individuals and organizations may take years of litigation.

In conclusion, the validity of the religious freedom claim against the contraceptive mandate is clearer than ever – even for those supposedly “secular” companies whose rights are completely ignored under that mandate. Yet timely and uniform protection of these rights cannot be expected from the current lengthy judicial process. Therefore the Catholic bishops of the United States and many others fervently hope Congress will address this urgent and fundamental issue before it completes its business this year.

Sincerely,

A handwritten signature in cursive script that reads "Cardinal Daniel DiNardo".

Cardinal Daniel N. DiNardo  
Archbishop of Galveston-Houston  
Chairman, Committee on Pro-Life Activities  
United States Conference of Catholic Bishops