



## Secretariat of Pro-Life Activities

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November 1, 2011

The Honorable Joseph Pitts  
Chairman, Subcommittee on Health  
House Energy and Commerce Committee  
Washington, D.C. 20515

Dear Mr. Chairman:

On behalf of the United States Conference of Catholic Bishops, I want to thank you for holding a hearing on November 2 titled, “Do New Health Law Mandates Threaten Conscience Rights and Access to Care?” We would like to ask that you accept this letter and its attachments as our written submission for this hearing.

This issue has been a matter of grave concern to the Catholic bishops of the United States throughout Congress’s debate on health care reform. We have long supported the goal of universal access to health care, and encouraged the 111<sup>th</sup> Congress to advance this goal through morally responsible health care reform. At the same time, we consistently stated that such reform must not become a vehicle for abandoning or weakening longstanding federal policies that respect unborn human life and rights of conscience. Days before final votes on the health care reform bill, Cardinal Francis George as President of the USCCB reaffirmed what we had said many times over the previous year: **“Any final bill, to be fair to all, must retain the accommodation of the full range of religious and moral objections in the provision of health insurance and services that are contained in current law, for both individuals and institutions”** (Statement of March 15, 2010).

The final legislation passed by Congress was flawed in several respects. It fell short of universal access, most notably with respect to immigrants. It allowed for federal funding of elective abortions, and of health benefits plans that cover such abortions, for the first time in decades. It excluded longstanding protections for conscience rights on abortion, by failing to apply the annual Hyde/Weldon amendment to the billions of dollars newly appropriated by the Act. And it created new open-ended mandates for “essential health benefits” and “preventive services” to be included in almost all private health plans, without any provision for individuals or institutions that may have a moral or religious objection to particular items or procedures.

This last deficiency in the statute has now been exploited by the Department of Health and Human Services to impose a nationwide mandate for coverage of all FDA-approved contraceptive drugs (including at least one abortion drug similar to RU-486),

sterilization procedures, and education and counseling to promote these to “all women with reproductive capacity.” The HHS rule includes an exemption for “religious employers” so narrowly crafted that many religious organizations cannot fulfill any of its four requirements, let alone all four. Catholic health care providers, educational institutions and social services agencies would have to be listed in the tax code as a church or similar narrowly defined entity, make the inculcation of religious doctrine their organizational purpose, and largely refuse to hire *or serve* non-Catholics to be fully eligible. It has been said that Jesus and the apostles would not be “religious enough” under such a test, as they served and healed people of different religions. Moreover, even Catholic institutions that somehow manage to meet these tests would not be allowed to offer a Catholic health plan to non-employees – for example, to students at a Catholic college, or to members of the public (even if they are fellow Catholics).

Here we see immediately how a failure to respect conscience rights poses a serious threat to the goal we share of expanding access to health care. For under the new HHS mandate, Catholic organizations committed to their moral and religious teaching will have no choice but to stop providing health care and other services to the needy who are not Catholic, or stop providing health coverage to their own employees. This is an intolerable dilemma, and either choice will mean reduced access to health care.

It is especially troubling that this reduction in access to life-saving health care would be done in order to maximize the use of elective drugs and procedures that prevent no illness, are used mainly for personal lifestyle reasons, and can pose their own significant risks to women’s life and health. Even recent findings that hormonal contraceptives can heighten women’s risk of contracting and transmitting the AIDS virus has not made any difference to this campaign – although the “preventive services” package of benefits is, among other things, supposedly aimed at *preventing* AIDS. Is the drive to maximize contraceptive coverage, even among those who do *not* want it, such an urgent national priority that it transcends concerns about religious liberty, our nation’s “First Freedom,” as well as concerns about women’s health and about access to basic health care for men and women alike?

In this new rule, we have moved very far from the longstanding consensus on respect for rights of conscience that has prevailed in the federal government for decades. To cite just one instance, when Congress decided to require contraceptive coverage in the Federal Employees Health Benefits Program in 1999, there was also a strong bipartisan consensus that any health plan would be exempt if its carrier simply objected on the basis of religious belief – and that individual health care providers in all plans would be protected from being required to violate their religious beliefs or moral convictions. This policy remains in place to this day. So for the past twelve years, a Catholic health system could offer a health plan without contraceptive coverage to anyone who wanted it, including federal employees – yet now it will be prohibited from offering such a plan to *anyone*, even *its own* employees.

This is why congressional approval of the Respect for Rights of Conscience Act (H.R. 1179/S. 1467) is urgently needed. This legislation would not affect any state or

federal obligation to provide health coverage, except to provide that new nationwide mandates under the new health care reform law will not forbid the issuers, sponsors, and beneficiaries of private health plans to negotiate health coverage that is consistent with their moral and religious convictions. Such accommodations have been the norm in federal law for many years, and it is long overdue that they be permitted by the health care reform law as well.

As attachments to this letter, I have provided additional materials: A full-page ad appearing this week in *Politico*, *Roll Call*, *The Hill*, and *CQ Today* signed by the leadership of 22 Catholic organizations concerned about the “preventive services” mandate; my September 7 letter endorsing the Respect for Rights of Conscience Act; and an August 31 press release about our formal comment letter to HHS objecting to this mandate. The comment letter itself, and other materials on this issue, are available at [www.usccb.org/conscience](http://www.usccb.org/conscience).

Thank you again for addressing this situation in which religious liberty, freedom of conscience for health care providers, and access to health care for all Americans are very much at stake.

Sincerely,

A handwritten signature in black ink that reads "Cardinal Daniel DiNardo". The signature is written in a cursive, flowing style.

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