

CATHOLICS
FOR
CHOICE

IN GOOD CONSCIENCE

April 8, 2013

The Honorable Kathleen Sebelius
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Room 445-G, Hubert H. Humphrey Building
200 Independence Avenue, SW
Washington, DC 20201

Submitted electronically at www.regulations.gov

RE: NPRM: Certain Preventive Services Under the Affordable Care Act, CMS-9968-P,
Docket ID: CMS-2012-0031-63161

Dear Secretary Sebelius,

On behalf of the more than 68 million Catholics in the United States—63 percent of whom support coverage for birth control in private or government-run plans,¹ and more than 80 percent of whom believe that using contraception is a moral choice²—we applaud the Departments of Health and Human Services, Labor and the Treasury (herein after “the Departments”) for their attempts to ensure no-cost coverage for contraceptive counseling and services for women. Unfortunately, our previously registered objection to the Departments’ proposed exemption for certain religious employers and our concerns regarding the proposed accommodation for certain other eligible organizations remain unresolved—in fact, the recent proposed changes have amplified our concerns in several instances.

We call for the complete rescission of the exemption for “religious institutions” from the rule.

With regards to the accommodation for “religious organizations,” we call on the Departments to take care that any final “accommodation” prioritizes individuals’ privacy, religious liberty and healthcare rights. Furthermore, we urge the Departments to consider first and foremost the impact on employees’ health needs and rights to conscience and religious liberty when writing the final rules to safeguard this important benefit of critical preventive health services for all.

Ultimately, we hope that the Departments will indeed ensure that contraceptive access is “affordable, accessible, meaningful and stable,” as iterated in the previous Advance Notice of Proposed Rulemaking³ (ANPRM), and that religious liberty is protected for all employees, regardless of their employer.

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To restate our concerns included in earlier comments submitted on June 19, 2012, and September 30, 2011, the exemption contained in the Notice of Proposed Rulemaking (NPRM), which allows certain religious employers to completely deny contraceptive coverage to their employees:

- denies too many women affordable access to the healthcare they need;
- constitutes state-sponsored discrimination by denying certain women equal access to contraceptive coverage available to others, a benefit guaranteed by the federal government, simply on the basis of where they work;
- represents an affront to religious freedom by allowing employers to trample the beliefs and practices of individual workers; and
- offends Catholic ideals of the primacy of individual conscience, workers' rights and social justice by leaving some women behind in this significant step forward for women's health.

The proposed new criteria for the "religious employer" exemption from the contraceptive coverage requirements do nothing to alleviate the wrongs done to employees of these institutions while adding insult to injury by claiming to strike a balance between "provid[ing] women contraceptive coverage without cost sharing" and "taking into account religious objections to contraceptive services of eligible organizations."⁴ Instead, the complete exclusion of the employees of these institutions constitutes a discriminatory refusal clause that allows certain religious institutions to deny contraceptive coverage to their employees, rather than protecting the conscience rights of any individual, employee or employer.

We therefore respectfully request, as we have consistently done in the past, that the Departments completely eliminate this exemption because it creates a separate class of employee ineligible for this critical benefit, not because of their own religious beliefs but because of the objections of their employer.

Additionally, we have strong concerns regarding the proposed accommodation for certain employers with "religious objections." We believe that, rather than simply accommodating the religious objections of some nonprofit employers, the rule presents more questions than answers for an estimated one million workers at certain organizations in the United States. In these workplaces, the proposed accommodation continues to allow employers to determine the course, content and cost of their employees' access to healthcare based simply on the organization's tax status. Again, the changes in the NPRM to the eligibility criteria for the accommodated organizations do not assure the seamless and comprehensive coverage for contraceptive services and counseling guaranteed for employees at any other organization in the United States.

We maintain that the organizations that employ workers should not be allowed decide whether or not their employees will be able to access the affordable and comprehensive healthcare coverage they need, deserve and are guaranteed by law without additional undue burdens on their conscience-based decision to utilize contraception. We do not believe employers' objections should trump the religious freedom of their employees.

Before moving forward with a final rule on this matter, we request that the Departments clarify several additional aspects left unaddressed in the most recent proposed rules with regard to the accommodation, namely:

- ensuring that contraceptive coverage for enrollees in religiously-affiliated HMOs and managed care organizations is available and easily accessible,
- guaranteeing that workers and dependents who currently have contraceptive coverage through religiously-affiliated employers do not lose that coverage,
- assuring that all notices to enrollees provided by third-party administrators respect and retain the right to privacy for all enrollees, and
- allowing state laws that require broader access to contraceptive coverage than required in the federal proposed rules to preempt federal regulations.

We further ask that the Departments, when finalizing the proposed “accommodation” for eligible organizations, at least correct the current, misplaced deference to the false “conscience” claims of institutions rather than the true conscience rights of individuals. The Departments can then avoid implementing any policies that would continue or expand that dangerous trend.

Rather than prioritizing what services are covered, what money is used and what institutions are granted exemptions, we ask that the Departments prioritize the human impact of the exemptions included in the latest proposed rules. This would entail respecting the consciences and religious freedom of all individual employees—whether at secular places of employment, “religious institutions” or “religious organizations”—by providing them with equal access to no-cost contraception.

To assist the Departments in assessing the scope of this human impact, we briefly submit an appraisal of those who depend upon Catholic institutions for healthcare insurance and whose seamless and affordable access to contraceptive coverage remains jeopardized, if not outright denied, as a result of the current proposed rules. Following this assessment, we address our specific concerns and requests of the Departments regarding amending the proposed rules.

Whose Conscience Matters? Individuals Affected by Proposed Exemptions and Accommodations

Contraceptive coverage for each woman, regardless of where she works, respects employees’ individual rights—both conscience rights and individual religious liberty rights. Requirements for coverage of contraceptive services and counseling for every employee infringe on no one’s conscience, demand no one change her or his religious beliefs, discriminate against no woman or man, put no additional economic burden on the poor, interfere with no one’s medical decisions and compromise no one’s health. The exemption, along with any language designed to “accommodate” religious objections included in the proposed rule, tells a different story, however. The proposed exemption for certain religious employers, the accommodation for other objecting organizations and the request from some commenters that the exemption be extended to all employers, threaten both the conscience rights and religious liberties of every employee seeking access to contraception without co-pays. Individuals, after all, have consciences and a constitutional guarantee of religious liberty; institutions do not.

Catholic teaching reflects this understanding by prioritizing respect for individual consciences in matters of moral decision-making. Our Catholic tradition also calls on us to honor religious liberty—which includes individuals’ rights to both the freedom of religion, and the freedom from being forced to live by another’s beliefs. Neither this freedom of conscience nor the freedom of religion should be misconstrued as extending to institutions.

The exemption included in the latest proposed rule continues to allow employers at certain “religious institutions” to refuse to cover contraception while providing no workaround or recourse for these affected employees. They go far beyond any intent to protect conscience rights for all. Instead, they hinder access to essential healthcare for the many workers in churches, diocesan offices, convents and certain schools. This will make it more difficult for many working Americans to get the healthcare they need at a cost they can afford.

Included here is a brief assessment of the scope of the number of individuals throughout the United States dependent upon Catholic organizations for insurance coverage. The conscience and religious liberty rights of these employees are violated by the proposed exemption and the accommodation further jeopardizes the rights and liberties of hundreds of thousands more. Furthermore, it is worth noting that while the number of diocesan employees who will be left without any contraceptive coverage is unavailable, the more than 55,000 Catholic women religious in the United States,⁵ some of whom may need contraceptive coverage for health reasons, are almost all left without access by the proposed rule.

Catholic Primary and Secondary Schools—Female Employees and Dependents

The proposed rule creates uncertainty at best and exclusion at worst regarding contraceptive coverage for those who rely on Catholic primary and secondary schools for their health insurance. Of the more than 100,000 teachers working at these institutions, the vast majority of these are women, most are laywomen⁶ and most receive less compensation for their work than their counterparts at public schools⁷—the very employees, in other words, who most need the financial benefit of no-cost preventive health services to make their own conscience-based decisions about whether and when to use contraceptive services.

Female employees and female dependents at the 6,048 Catholic elementary, middle and secondary schools that are sponsored by one or more parishes or directly by their local diocese or archdiocese⁸ are now explicitly left at the mercy of their institution’s tax status to determine whether they are completely denied contraceptive coverage or will have to jump through burdensome hoops to receive it.

The vast majority of teachers and administrators at Catholic schools are women. There are more than 113,000 laywomen and more than 3,500 women religious teaching in Catholic elementary and secondary schools nationwide. Nearly 97 percent of all full-time equivalent staff at Catholic schools in the United States are laity—a total of 97,500 lay teachers at Catholic elementary schools and 48,000 lay teachers at Catholic secondary schools. Three in five Catholic elementary school principals (62 percent) and three in four Catholic elementary school assistant principals (76 percent) are laywomen.⁹

The majority of faculty members at Catholic primary and secondary schools are Catholic themselves (84 percent, or 142,057 people), but contrary to assertions included in the NPRM, this does not mean that they share their employers' objection to contraception. Nor does it mean that they or their fellow faculty of other faiths (14 percent, or 23,436 people)¹⁰ should be required by civil law to follow their employer's theological dictates in their personal lives.

Indeed, when asked in March 2013 to sign a contract declaring them "ministerial agents" of the bishop and stating that they would abide by their local bishops' beliefs regarding contraception, among other issues, in their personal and professional lives, teachers at Catholic schools in the Diocese of Santa Rosa, California, fiercely rejected the policy and refused to sign. On the other hand, more than 200 individuals from the community signed a statement asserting that conscience rights properly belong to individuals such as Catholic schoolteachers, not institutions.¹¹

Under the new proposed rules regarding both exemptions for "religious institutions" and accommodations for certain other religiously-affiliated organizations, however, the conscience-based decisions of employees who disagree with their employers' views—such as those in the Diocese of Santa Rosa—will be hindered by the government itself. While some of the aforementioned individuals dependent upon Catholic schools for insurance coverage will be completely left out of coverage for contraception as a result of the exemption, the rest will need to endure additional uncertainty and administrative processes simply to receive the same coverage as their counterparts at schools with no such objections.

Catholic Institutions of Higher Education—Female Employees, Students and Dependents

The proposed accommodation included in this rule fails to address the real-life needs of students and employees at Catholic colleges and universities in the United States. For example, the proposed rule fails to articulate how students will receive notices from third-party administrators—over campus or personal e-mail, at their campus, home or parental addresses—and therefore leaves in question whether students at Catholic universities will be guaranteed accessible and confidential notices of accommodation that address their unique situation. Without appropriately guaranteeing such privacy and accessibility, the proposed rule could jeopardize the timeliness and comprehensiveness of contraceptive access for the more than 930,000 students—63 percent of whom are female¹²—enrolled at Catholic colleges and universities in the United States today.

Comprehensive and reliable data is unavailable to determine the number of faculty members, coaches, food services staff, custodial staff, administrators and other employees dependent upon the 233 Catholic colleges and universities in the United States for their healthcare coverage. We do know, however, that at least one of the premier Catholic universities in the United States has barely 50 percent co-religionist faculty members.¹³ We believe the employees of Catholic institutions in the United States, regardless of their personal faith tradition, should have equal access to the comprehensive preventive healthcare coverage guaranteed by law, allowing them to make decisions about their health and that of their families according to their own consciences and beliefs.

While some Catholic universities cover contraceptive services and counseling for employees, students or both, this proposed rule does not guarantee that any individual who depends upon

one of these institutions for healthcare coverage and currently has contraceptive coverage will retain it. As currently written, the proposed rule would allow certain eligible employers to drop coverage should they choose to object, thereby relegating their employees to the same uncertainty as those employees currently without coverage. This change to the eligibility prerequisite puts up for question whether these employees will be able to access these services through a third-party administrator in a seamless, confidential and timely manner.

This dependence upon university administrations for equal access to healthcare is one that the majority of Americans from all political and faith backgrounds, including Catholics, believe is wrong. In polling conducted in October 2012, 69 percent of Americans—including 68 percent of Catholics, 60 percent of Republicans and 67 percent of Evangelical Protestants—stated that they believed a religiously-affiliated university should not be allowed to deny its employees and students insurance coverage for birth control on the ground that university administrators believe birth control is a sin.¹⁴

Catholic Hospitals and Health Clinics—Female Employees and Dependents

According to the Catholic Health Association, Catholic hospitals in the United States employ 641,030 full-time equivalent staff and 232,591 part-time workers, nearly 14 percent of the healthcare workforce.¹⁵ Under the proposed accommodation for nonprofit organizations, most, if not all, Catholic hospitals in the United States will be eligible to refuse to directly provide employees with contraceptive coverage. This would leave approximately one in seven hospital staff in the country to the uncertainty associated with receiving coverage through a third-party administrator—uncertainty that their counterparts at other hospitals will not experience.

Catholic Charities and Social Service Organizations—Female Employees and Dependents:

Much like Catholic hospitals, most, if not all, Catholic Charities affiliates throughout the United States will be eligible for an accommodation under the proposed rule should they object or be directed to object to contraceptive coverage by the Catholic hierarchy which oversees their operations. As in the case of Catholic hospital workers, the 84,843 employees of Catholic Charities throughout the United States¹⁶ could therefore be subjected to additional administrative barriers to access that their counterparts working for non-objecting employers will not.

As a full 62 percent of Catholic Charities funding comes from government sources, this special dispensation could also constitute both state-sanctioned and state-sponsored discrimination against the workers of Catholic Charities affiliates simply on the basis of where they work.

Catholic HMOs—Female Enrollees and Employees

Catholics for Choice is concerned that the latest proposed rules make no mention of religiously-affiliated HMOs or other managed-care organizations, particularly given the fact that the ANPRM¹⁷ sought comments on this very issue. While we applaud those Catholic managed-care plans that choose to do the right thing by offering their enrollees coverage for reproductive healthcare services, including a South Dakota-based Catholic HMO that has already chosen to bring its non-exempted plans into compliance with federal regulations,¹⁸ we would not think it right for US federal law to condone leaving employees with sporadic access by codifying an option for employers to deny

employees the right to follow their own consciences. Workers deserve better than to leave the exercise of their guaranteed rights up to an employer's whim.

We therefore refer the Departments to our previous analysis and concerns regarding compliance by Catholic HMOs submitted on June 19, 2012, and request that US federal regulations ensure enrollees in such plans receive timely, complete and confidential contraceptive coverage.

Religious Liberty and Conscience Protections, Meant for the Individual

Protecting the freedom of conscience for all Americans, no matter what their beliefs may be, is indeed the job of the government. Public policy should be implemented to further the common good and to enable people to exercise their conscience-based healthcare decisions. Refusal clauses, such as the exemption included in the proposed rules, would sacrifice these rights.

Additionally, the administration has stated that the proposed accommodation for "religious organizations" will both ensure contraceptive access for employees and acquiesce to certain employers' wishes to remain uninvolved in providing contraceptive coverage. If this is the case, then it is particularly disappointing that the new proposed rules do not extend this access to the employees of churches and other "religious institutions" who were left behind by the existing exemption. The gardeners, secretaries, cleaners, cooks and all others who work for churches around the country will continue to face discrimination.

Indeed, the very example of Catholic school teachers mentioned in the previous ANPRM¹⁹ illustrates just how arbitrary the discrimination against these individuals is. Under the ANPRM, it would seem that a Catholic school teacher's religious liberty matters only if her school happens to provide its own healthcare insurance, but her rights are abrogated if the school receives healthcare coverage through its local diocese.

These regulatory acrobatics serve only the interests of institutions and demonstrate a profound disregard for individual employees, who, unlike institutions, have tangible healthcare needs and religious liberty rights—and who deserve government protection for both. If it is true that workers whose employers are "accommodated" will receive timely, complete coverage of all contraceptive services, then we submit that the Departments should grant those at organizations eligible for the exemption the equal opportunity to access affordable contraception. Ensuring such access avoids the untenable position of allowing the Departments to determine which employees' consciences, health and liberties matter and which do not, simply on the basis of the organization's tax status.

Employees with Contraceptive Coverage Deserve to Keep It with No Additional Cost Burden

One of the foundational promises of the Affordable Care Act (ACA) was that people would be able to keep the insurance that they liked. Therefore, regarding the Departments' request for additional comments regarding the intersection of state and federal laws, we hope that this commitment to ensuring that individuals can keep the insurance plans they like will not be abandoned in the cases of those employees who are already accessing contraception through insurance plans by virtue of state laws that demonstrate respect for their individual consciences.²⁰ We hope that the Departments will

protect the consciences and religious liberty of individual employees in those states that already ensure greater protections and access for employees than current federal proposals.

Maintaining federal requirements as a floor rather than a ceiling will at least guarantee that those employees who live in states that require contraceptive access regardless of employer or insurer will not have their contraceptive coverage disrupted or, worse, eliminated, by more restrictive and onerous federal proposals. Unlike the state protections, which address only coverage requirements overall, the benefit guaranteed by the ACA is no-cost coverage. This additional benefit should also be in effect when and where state coverage requirements are applied.

In keeping with this respect for continuity of care, we are therefore troubled by an omission in the current NPRM regarding which employers qualify for an accommodation. In previous guidance on the temporary enforcement safe harbor for certain employers issued on February 10, 2012, and reissued on August 15, 2012, the Departments stated that organizations were eligible to apply for a temporary accommodation if, among other requirements, their plans had “consistently not covered all or the same subset of contraceptive services for religious reasons at any point from the original issuance date of this bulletin onward”²¹ (emphasis added).

We are concerned that the current NPRM’s failure to include this requirement of “consistently not cover[ing]” contraception opens the door to allowing employers at religiously-affiliated organizations that have historically covered some or all contraceptive services to drop this critical access for their employees for any reason, at any time. Should such organizations be allowed to do so, the rules will fail to adequately address the gap between the point when that coverage is dropped, and the point when employees who have depended on that coverage for critical healthcare services will be able to regain access through a third-party administrator.

By neglecting to require in the current NPRM that organizations eligible for the accommodation must have consistently refused to cover contraceptive services, the rule yet again leaves employees dependent on the whims of their employers, unable to follow their own consciences in making their healthcare decisions and unable to rest assured that the prescription that they filled one month will still be available to them the next.

Every Employee’s Right to Religious Liberty and Freedom from Discrimination

There is legal precedent for protecting individuals’ freedom from government intrusion in matters of contraceptive access. In both *Griswold v. Connecticut* and *Eisenstadt v. Baird*, courts found that the government should not be in the business of abrogating or limiting individuals’ access to contraception. We therefore maintain that the Departments should not reject this important court-sanctioned respect for individual privacy and equal access by requiring increased coverage for some people and not for others. If it is discriminatory, as those cases determined in sum, to prevent single women from accessing contraception when married women are allowed access, then we submit that preventing workers at certain religiously-affiliated organizations from accessing contraceptive coverage, when those at secular organizations are allowed full, unfettered access, is equally wrong.

As Catholics, there is also an historical precedent in our faith tradition for respecting the rights of individuals to follow their own consciences when making critical moral decisions such as whether and when to use contraception. As written, the NPRM does not allow individuals to self-identify—to self-certify—what they believe their faith to be, what living out that faith means to them and how they apply that faith tradition to the decisions about their healthcare needs. Instead, the proposed rule allows employers to define employee’s faiths for them.

Rather than asking an employee if she “holds herself out to be a religious person,” the proposed rule takes her employer’s word for it, whether or not she agrees, whether or not she shares her employer’s religion and whether or not her faith compels her to use contraception. The decision to act as a “ministerial agent,” as we saw in Diocese of Santa Rosa, is not one that employees wish to see foisted upon them by either their boss or by the government. Whether an institution is allowed to avoid filing certain tax forms and whether an individual checks the ministerial box on his or her own tax returns should not dictate individuals’ healthcare access. The only proper determinants of an individual’s decision to utilize or not utilize contraception should be his or her own conscience and healthcare needs—not the contortions of a government attempting to please those whose goals run contrary to its own stated healthcare missions, and not the policy lines of organizations that have proven time and time again that they do not have employees’ healthcare needs, religious liberty or conscience rights in mind.

In light of this respect for individual conscience, we frankly find it insulting that the Departments assume that those who work for certain “religious institutions” are more likely to object to birth control than those at other organizations. Further, we wholeheartedly reject the idea that some employees’ objections should be used as justification for denying coverage to all of their coworkers. This is, at best, a dubious foundation upon which to base public policy decisions affecting thousands of workers.

When 98 percent of sexually experienced Catholic women have used a form of birth control of which the bishops disapprove, a number that has remained consistent for years; when polling for decades has demonstrated that Catholics reject the bishops’ ban on modern contraception and believe that contraception can be a moral option;²² and when Catholic theologians, members of the clergy and hierarchy, organizations, and tens of thousands of laity have spoken out in favor of the use and accessibility of contraception for decades, it is clear that even those who share an objecting Catholic employer’s faith most often disagree with the organization’s policy line. If the Departments meant to assert merely that some organizations hire many individuals of other faiths and others do not, we remind the Departments that religious institutions of any kind should not be given a free pass to use religion to discriminate. Accepting a job, particularly in today’s difficult economic climate, does not automatically mean rescinding one’s right to follow one’s own religious beliefs or relinquishing the right to determine whether and when to have children. Nor should one’s choice of employer mean that federally-guaranteed benefits should be lessened at the behest of that employer.

Regardless of whether or not an individual worker shares her employer’s faith, accepting or rejecting a theological dictate is a decision that must be left to individuals. It would be a troubling transgression

of the line between church and state indeed if the government became the final arbiter of that decision by lending its weight behind one interpretation of a faith tradition. Rather, allowing individuals to come to their own conclusions about how they choose to exercise their faith is true freedom of religion.

Requests of the Departments

We cannot accept the idea that some women are somehow more deserving of healthcare coverage, their consciences more important than some others', simply because of where they work. This is unjust. In keeping with our Catholic tradition's commitment to the dignity of all people, we cannot accept a second-class citizenship for any woman, or any worker.

Out of respect for the consciences and dignity of all individuals, including all workers, we urge the Departments not to continue the dangerous trend of allowing organizational policies to trump employees' rights to conscience, religious liberty and equal access to healthcare.

The exemption for "religious institutions" included in the NPRM leaves too many women without affordable access to the healthcare they need. It continues to constitute state-sponsored discrimination against certain employees; represents an affront to religious freedom; and is anathema to our Catholic ideals of conscience, workers' rights and social justice. We request that this exemption be eliminated altogether.

Furthermore, the Departments should not compound earlier mistakes by extending refusal clauses to leave behind even more employees of religious organizations, secular institutions, religious insurers or other entities. Instead, they should take care to ensure that any proposed "accommodation" prioritizes individuals' privacy, religious liberty and healthcare rights.

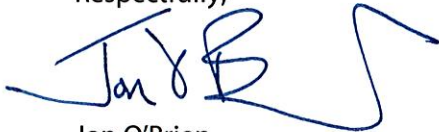
Expanding access to preventive health services by making contraception more affordable will make a difference in the lives of many women and their families. Our Catholic faith's dedication to workers' rights leads us to believe it is unethical and morally bankrupt, however, to leave any woman out of this equation simply because of where she works. Each woman's ability to prevent unintended pregnancies, to manage her health conditions, to prevent sexually transmitted diseases and, in some cases, to avoid potentially life-threatening pregnancies, matters. There is no acceptable religious or political justification to the contrary.

Equal access to coverage for contraceptive services and counseling demonstrates sound judgment about the common good and complements our faith's social justice tradition. As Catholics, we are called to show solidarity with and compassion for the poor. Expanding access to critical preventive health services will significantly improve the health and well-being of women of lower income and their families. By eliminating copayments for family planning and making these services more affordable, working women in the United States will have greater access to the healthcare services that are best for themselves and for their families.

We ask that the Departments not grant institutions a free pass to trample employees' consciences and religious freedom; instead, we hope that the Departments will demonstrate a commitment to the

common good by protecting the individuals who stand to lose the most. We ask for the complete rescission of the exemption for “religious institutions.” As to the accommodation for “religious organizations,” we hope that you will indeed ensure that contraceptive access is “affordable, accessible, meaningful and stable,” as iterated in the previous ANPRM,²³ and that religious liberty is protected for employees. What must not get lost is the human impact on employees across the nation—on individuals like “Sandra,” the Catholic school teacher in the Midwest whom we described in earlier comments submitted in June 2012; the professor at Marquette University who does have contraception coverage because of the institution’s policy based on its Catholic foundation; or the night attendant who works at a Catholic hospital in a state without exemptions for coverage. We hope their health needs and rights to conscience and religious liberty will be considered first and foremost when the Departments are writing the final rules to implement this important benefit and bring this critical preventive health services to all.

Respectfully,



Jon O'Brien
President

¹ Belden, Russonello & Stewart, “Catholic Voters’ Views on Health Care Reform and Reproductive Health Care Services: A National Opinion Survey of Catholic Voters,” September 2009.

² Gallup News Service, “Gallup Poll Social Series: Values and Beliefs,” May 3-6, 2012.

³ Federal Register, Vol. 77, No. 55, March 21, 2012, 16502.

⁴ Coverage of Certain Preventive Services Under the Affordable Care Act, 78 Fed. Reg. 8456 at 8461 (Feb. 6, 2013).

⁵ P.J. Kennedy & Sons, “The Official Catholic Directory,” 2012.

⁶ Dale McDonald and Margaret M. Shultz on behalf of the National Catholic Education Association, “United States Catholic Elementary and Secondary Schools 2011-2012,” 2012.

⁷ Center for Applied Research in the Apostolate (CARA) on behalf of School Reach Instant Parent Contact and National Center for Catholic Education Association, “Financing the Mission: A Profile of Catholic Elementary Schools in the United States,” 2011.

⁸ McDonald and Shultz, op. cit.

⁹ Ibid.

¹⁰ Ibid.

¹¹ Dan Morris-Young, “California Bishop Temporarily Withdraws Belief Requirement for School Contracts,” *National Catholic Reporter*, March 25, 2013.

¹² Association of Catholic Colleges and Universities, “FAQs: Catholic Higher Education,” April 2013.

¹³ Richard Conklin, “How Catholic the Faculty?,” *Notre Dame Magazine*, Winter 2006-2007.

¹⁴ Belden Russonello & Stewart, “American Attitudes on Religious Exemptions,” October 2012.

¹⁵ Catholic Health Association of the United States of America, “Catholic Health Care in the United States,” January 2013.

¹⁶ Catholic Charities USA, “Catholic Charities At a Glance,” 2013.

¹⁷ Federal Register, Vol. 77, No. 55, March 21, 2012, 16502.

¹⁸ Mary Garrigan, “Avera health plans move to comply with HHS mandate,” *Rapid City Journal*, March 11, 2013.

¹⁹ Federal Register, Vol. 77, No. 55, March 21, 2012, 16502.

²⁰ “Generally, Federal health insurance coverage regulation creates a floor to which States may add consumer protections, but may not subtract. This means that, in States with broader religious exemptions than that in the final regulations, the exemptions will be narrowed to align with that in the final regulations because this will help more

consumers. Organizations that qualify for an exemption under State law but do not qualify for the exemption under the final regulations may be eligible for the temporary enforcement safe harbor. During this transition period, State laws that require contraceptive coverage with narrower or no religious exemptions will continue.” Federal Register, Vol. 77, No. 55, March 21, 2012, 16508.

²¹ Center for Consumer Information and Insurance Oversight (CCIIO), Centers for Medicare & Medicaid Services (CMS), “Guidance on the Temporary Enforcement Safe Harbor for Certain Employers, Group Health Plans and Group Health Insurance Issuers with Respect to the Requirement to Cover Contraceptive Services Without Cost Sharing Under Section 2713 of the Public Health Service Act, Section 715(a)(1) of the Employee Retirement Income Security Act, and Section 9815(a)(1) of the Internal Revenue Code,” August 15, 2012, 3.

²² Catholics for Choice, “What the Catholic Bishops Won’t Tell You,” 2012.

²³ Federal Register, Vol. 77, No. 55, March 21, 2012, 16507.