



## RELIGIOUS LIBERTY IN HEALTH CARE

### INTRODUCTION

Two sessions ago, 2009 Wisconsin Act 28 (the state budget act) created Wis. Stat. s. 632.895(17), a provision that requires all health insurance policies sold in Wisconsin to provide coverage for prescribed contraceptives and the services necessary to administer those items. The Wisconsin Catholic Conference (WCC) strongly opposes this state mandate as an infringement of religious liberty.

### DISCUSSION

The state mandate requiring coverage for contraceptive services is directly affected by the recently-instituted federal mandate requiring that nearly all health plans offer no-cost contraceptive coverage.

**Federal Law.** As part of the changes instituted under the Patient Protection and Affordable Care Act (ACA), the U.S. Department of Health and Human Services (HHS) chose to mandate that all health plans nationally provide no-cost coverage of contraceptive services, including sterilizations and abortifacients. These federal provisions apply to self-insured plans.

The federal government exempts certain religious employers from the mandate. The HHS has recently announced that it will define “religious employer” as non-profit organizations recognized by the Internal Revenue Code as places of worship or their affiliated entities. In addition, non-exempt religious entities that object to the coverage are given “safe harbor” from compliance until August 1, 2013, and may invoke an accommodation.

**State Law.** Wisconsin, unlike the federal government and most other states with similar mandates, fails to provide an exemption for religious groups that oppose artificial contraception and abortifacients on moral grounds. However, the state mandate does not apply to self-insured health benefit plans. Therefore, the only manner in which a Wisconsin employer can avoid the state mandate is to self-insure.

At the time the state mandate was signed into law, only two Wisconsin dioceses (Superior and La Crosse) were self-insured. Since then, the Archdiocese of Milwaukee, the Diocese of Green Bay, and several other Catholic entities have converted to self-insurance in order to be free of the mandate. The Diocese of Madison continues to purchase insurance with the objectionable coverage under protest.

### CATHOLIC TEACHING

No one should be forced to choose between civic participation and fidelity to their faith. Forcing people to provide for something that violates their moral convictions and religious beliefs is not only unjust, it also violates the natural law and the First Amendment. Civil society is served best when the conscience rights of all are protected and when all citizens are free to make contributions to the common good.

Nor should the state determine a church's identity or define its ministries. Jesus' Gospel mandate – to feed the hungry, care for the sick, welcome strangers, visit prisoners – is why Catholic charities, hospitals, and schools are central to Catholic identity. They are as much a part of the Church as parishes or diocesan offices. As Pope Benedict XVI has written, "For the Church, charity is not a kind of welfare activity which could equally well be left to others, but it is a part of her nature, an indispensable expression of her very being." (*Deus Caritas Est* #25)

The United States Conference of Catholic Bishops (USCCB) has stated that the recent federal proposal redefining religious employers for purposes of the federal mandate "shows some movement by the Administration but falls short of addressing U.S. bishops' concerns." The USCCB has four principal objections:

1. The mandate is unchanged.
2. The religious employer exemption still excludes most religious organizations (e.g., schools, colleges and universities, hospitals, charitable agencies, etc.).
3. These religious organizations, which can self-certify for the "accommodation," will still have to fund and/or facilitate the objectionable coverage.
4. Many individuals and organizations (e.g., individual purchasers, for-profit entities, or non-profit/non-religious entities) with moral and religious objections remain ineligible for any exemption or accommodation.

For updated information on the federal mandate, visit [www.usccb.org/conscience](http://www.usccb.org/conscience).

## **WCC POSITION**

Both the state and federal mandates are unjust and should be removed or at least modified to accommodate religious beliefs. Here in Wisconsin, self-insurance is not an acceptable solution. Not only is it expensive to implement for employers, it can also result in reduced coverage and increased costs for employees.

## **ACTION REQUESTED**

### **Please urge legislators to remove the state mandate.**

- Both mandates are an unwarranted infringement on religious liberty.
- The state mandate is more stringent than the federal mandate, which at least exempts or accommodates certain religious organizations.
- Employers should not have to choose between their beliefs and a desire to be generous to their employees.

*For more information, please contact Kim Wadas at 608-257-0004.*

To find contact information for your State Representative or Senator, visit the Wisconsin State Legislature website at <http://legis.wisconsin.gov> and click on "Who Represents Me," or call the State Legislative Hotline, 1-800-362-9472.