

September 24, 2008

The Honorable Michael Leavitt
U.S. Department of Health and Human Services
Hubert H. Humphrey Building
Attn: Ms. Brenda Destro
200 Independence Avenue, SW, Room 728E
Washington, DC 20201



Re: Notice of Proposed Rulemaking on Conscience Clauses
RIN 0991-AB48

Dear Secretary Leavitt:

I am writing on behalf of the Catholic Health Association of the United States in support of the proposed rule to implement, enforce and promote awareness of existing federal law protecting the conscience rights of individual and institutional health care providers.

The Catholic Health Association of the United States (CHA) is the national leadership organization of the Catholic health ministry, representing more than 2,000 Catholic health care sponsors, systems, hospitals, long-term care facilities, and related organizations. CHA represents the largest not-for-profit provider of health care services in the nation:

- 1 in 6 patients in the United States are cared for in a Catholic hospital each year.
- All 50 states and the District of Columbia are served by Catholic health care organizations.
- More than 2,000 sponsors, systems, facilities, and related organizations serve the full continuum of health care.
- Approximately 725,000 individuals are employed in Catholic hospitals.

The Catholic health ministry in the United States traces its history to 1727 when French Ursuline sisters arrived in New Orleans to serve the city's sick and poor and to educate its children. Almost 80 years later, the same congregation of sisters asked whether they would be allowed to continue their ministry in service to the community and fidelity to their faith when Louisiana joined the United States. The answer came by letter on May 15, 1804 when President Thomas Jefferson reassured them:

... that your institution will be permitted to govern itself according to its [sic] own voluntary rules, without interference from the civil authority, whatever diversity of shade may appear in the religious opinions of our fellow citizens, the charitable objects of your institution cannot be indifferent to any; and its [sic] furtherance of the wholesome purposes of society...cannot fail to ensure it the patronage of the government it is under. be [sic] assured it will meet all the protection which my office can give it.

Today, as in 1804, the Catholic health care ministry works in "furtherance of the wholesome purposes of society" by serving persons of all ages, races and religious faiths. Our deeply held religious and moral convictions are the source of both the work we do and the limits on what we will do. In recent years, these limits, particularly as they affect health care, have increasingly become a focus of vigorous public debate. While many important constitutional, legal and social theories and arguments are involved, ultimately the central question is whether organizations and individuals should be required to participate in, pay for, provide coverage for or refer for services that directly contradict their deeply held religious or moral beliefs and convictions.

For Catholic health care institutions and professionals, such requirements would put them in an untenable position. We also believe that, for society as a whole, such requirements would undermine a long tradition of pluralism and accommodation, and could result in an overall diminution of access to health care services. Neither outcome is desirable or necessary.

Our society's commitment to pluralism lies at the heart of our diverse and vibrant nation. For this pluralism to flourish the health care system should allow and encourage involvement of the public and private sectors including voluntary, religious and not-for-profit organizations, and it should respect the religious and ethical values of patients and health care providers alike. Catholics and other with deep respect for the sanctity of life must not be forced to perform procedures – such as the taking of the life of the unborn – that are contrary to their deeply held moral beliefs and principles. The Catholic health care ministry remains committed to serving the health needs of all, and to achieving genuine health care reform in a context that respects the contributions and rights of conscience of religiously affiliated health care providers.

For this reason, CHA has long supported and worked for the enactment of conscience clause protections such as the Church Amendments, provisions in the Public Health Service Act, and the Weldon Amendment. We view these existing legal protections as essential for the continuation of both our own ministry and our nation's commitment to freedom of religion and of conscience. Recent events, however, demonstrate a lack of awareness of and respect for these protections.

Over the past few years, we have seen a variety of efforts to force Catholic and other health care providers to perform or refer for abortions and sterilizations, including national advocacy campaigns targeting Catholic hospitals; efforts by state governments to undermine the conscience rights of health care providers; and the American College of Obstetricians and Gynecologists proposing to redefine the standards for ethical practice to force doctors to provide

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or refer for abortions or sterilizations. In light of these attacks on the health care providers' conscience rights, your department's regulatory proposal to implement existing federal conscience law is welcome.

We suggest that the regulation be clarified in two areas, to strengthen it and ensure effective compliance and enforcement. The regulation should clarify that federal conscience protections extend to those who understand abortion to include the destruction of an embryo prior to implantation. In addition, the regulation as currently drafted is difficult to follow with respect to which requirements and certifications apply to, and are appropriate for, which individuals, institutions and governmental entities.

CHA's mission and ministry are grounded in the values that drive each of our organizations. Our ethical standards in health care flow from the Catholic Church's teachings about the dignity of the human person and the sanctity of human life from conception to natural death. These values form the basis for our steadfast commitment to the compelling moral implications of our health care ministry, from insisting on the right of all to accessible, affordable health care, to caring for persons at the end of life, to defending and preserving the conscience rights of health care providers, including but not limited to Catholic facilities and individuals.

Once again, thank you for promulgating regulations to ensure the continued enforcement and viability of federal conscience protections.

Sincerely,

A handwritten signature in cursive script that reads "Sr. Carol Keehan". The signature is written in black ink and is positioned above the typed name and title.

Sr. Carol Keehan, DC
President and CEO