



# NEWS

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## **HHS PROPOSAL FALLS SHORT IN MEETING CHURCH CONCERNS; BISHOPS LOOK FORWARD TO ADDRESSING ISSUES WITH ADMINISTRATION**

### **Bishops look forward to finding acceptable solutions to shortcomings Concerned that first-rate charities still given second-class status Seek clarification on confusing finance plan**

WASHINGTON—The Feb. 1 Notice of Proposed Rulemaking from the U.S. Department of Health and Human Services related to the Patient Protection and Affordable Care Act (PPACA) shows some movement by the Administration but falls short of addressing U.S. bishops' concerns.

“Throughout the past year, we have been assured by the Administration that we will not have to refer, pay for, or negotiate for the mandated coverage. We remain eager for the Administration to fulfill that pledge and to find acceptable solutions—we will affirm any genuine progress that is made, and we will redouble our efforts to overcome obstacles or setbacks,” said Cardinal Timothy Dolan of New York, president of the U.S. Conference of Catholic Bishops (USCCB), in a February 7 statement. “Thus, we welcome and will take seriously the Administration’s invitation to submit our concerns through formal comments, and we will do so in the hope that an acceptable solution can be found that respects the consciences of all. At the same time, we will continue to stand united with brother bishops, religious institutions, and individual citizens who seek redress in the courts for as long as this is necessary.”

He listed three key areas of concern: the narrow understanding of a religious ministry; compelling church ministries to fund and facilitate services such as contraceptives, including abortion-inducing drugs, and sterilization that violate Catholic teaching; and disregard of the conscience rights of for-profit business owners. These are the same concerns articulated by the USCCB Administrative Committee in its March 2012 statement, *United for Religious Freedom*.

Cardinal Dolan said the new proposal seemed to address one part of the church’s concern over the definition of a church ministry but stressed that “the Administration’s proposal maintains its inaccurate distinction among religious ministries.

“It appears to offer second-class status to our first-class institutions in Catholic health care, Catholic education and Catholic charities. HHS offers what it calls an ‘accommodation’ rather than accepting the fact that these ministries are integral to our church and worthy of the same exemption as our Catholic churches.”

Cardinal Dolan highlighted problems with the proposed “accommodation.”

“It appears that the government would require all employees in our ‘accommodated’ ministries to have the illicit coverage—they may not opt out, nor even opt out for their children—under a separate policy,” he said.

He also noted that “because of gaps in the proposed regulations, it is still unclear how directly these separate policies would be funded by objecting ministries, and what precise role those ministries would have in arranging for these separate policies. Thus, there remains the possibility that ministries may yet be forced to fund and facilitate such morally illicit activities.”

Cardinal Dolan also said the proposal refuses to acknowledge conscience rights of business owners who operate their businesses according to their faith and moral values.

“In obedience to our Judeo-Christian heritage, we have consistently taught our people to live their lives during the week to reflect the same beliefs that they proclaim on the Sabbath,” Cardinal Dolan said. “We cannot now abandon them to be forced to violate their morally well-informed consciences.”

The statement is attached.

## Statement of Cardinal Timothy Dolan Responding to Feb. 1 Proposal from HHS

For almost a century, the Catholic bishops of the United States have worked hard to support the right of every person to affordable, accessible, comprehensive, life-affirming healthcare. As we continue to do so, our changeless values remain the same. We promote the protection of the dignity of all human life and the innate rights that flow from it, including the right to life from conception to natural death; care for the poorest among us and the undocumented; the right of the Church to define itself, its ministries, and its ministers; and freedom of conscience.

Last Friday, the Administration issued a Notice of Proposed Rulemaking (NPRM) regarding the HHS mandate that requires coverage for sterilization and contraception, including drugs that may cause abortions. The Administration indicates that it has heard some previously expressed concerns and that it is open to dialogue. With release of the NPRM, the Administration seeks to offer a response to serious matters which have been raised throughout the past year. We look forward to engaging with the Administration, and all branches and levels of government, to continue to address serious issues that remain. Our efforts will require additional, careful study. Only in this way can we best assure that healthcare for every woman, man and child is achieved without harm to our first, most cherished freedom.

In evaluating Friday's action regarding the HHS mandate, our reference remains the statement of our Administrative Committee made last March, *United for Religious Freedom*, and affirmed by the entire body of bishops in June 2012.

In that statement, we first expressed concern over the mandate's "exceedingly narrow" four-part definition of "religious employer," one that exempted our houses of worship, but left "our great ministries of service to our neighbors, namely, the poor, the homeless, the sick, the students in our schools and universities, and others in need" subject to the mandate. This created "a 'second class' of citizenship within our religious community," "weakening [federal law's] healthy tradition of generous respect for religious freedom and diversity." And the exemption effectuated this distinction by requiring "among other things, [that employers] must hire and serve primarily those of their own faith."

On Friday, the Administration proposed to drop the first three parts of the four-part test. This might address the last of the concerns above, but it seems not to address the rest. The Administration's proposal maintains its inaccurate distinction among religious ministries. It appears to offer second-class status to our first-class institutions in Catholic health care, Catholic education, and Catholic charities. HHS offers what it calls an "accommodation," rather than accepting the fact that these ministries are integral to our Church and worthy of the same exemption as our Catholic churches. And finally, it seems to take away something that we had previously—the ability of an exempt employer (such as a diocese) to extend its coverage to the employees of a ministry outside the exemption.

Second, *United for Religious Freedom* explained that the religious ministries not deemed "religious employers" would suffer the severe consequence of "be[ing] forced by government to violate their own teachings within their very own institutions." After Friday, it appears that the government would require all employees in our "accommodated" ministries to have the illicit

coverage—they may *not* opt out, nor even opt out for their children—under a separate policy. In part because of gaps in the proposed regulations, it is still unclear how directly these separate policies would be funded by objecting ministries, and what precise role those ministries would have in arranging for these separate policies. Thus, there remains the possibility that ministries may yet be forced to fund and facilitate such morally illicit activities. Here, too, we will continue to analyze the proposal and to advocate for changes to the final rule that reflect these concerns.

Third, the bishops explained that the "HHS mandate creates still a third class, those with no conscience protection at all: individuals who, in their daily lives, strive constantly to act in accordance with their faith and moral values." This includes employers sponsoring and subsidizing the coverage, insurers writing it, and beneficiaries paying individual premiums for it. Friday's action confirms that HHS has no intention to provide any exemption or accommodation at all to this "third class." In obedience to our Judeo-Christian heritage, we have consistently taught our people to live their lives during the week to reflect the same beliefs that they proclaim on the Sabbath. We cannot now abandon them to be forced to violate their morally well-informed consciences.

Because the stakes are so high, we will not cease from our effort to assure that healthcare for all does not mean freedom for few. Throughout the past year, we have been assured by the Administration that we will not have to refer, pay for, or negotiate for the mandated coverage. We remain eager for the Administration to fulfill that pledge and to find acceptable solutions—we will affirm any genuine progress that is made, and we will redouble our efforts to overcome obstacles or setbacks. Thus, we welcome and will take seriously the Administration's invitation to submit our concerns through formal comments, and we will do so in the hope that an acceptable solution can be found that respects the consciences of all. At the same time, we will continue to stand united with brother bishops, religious institutions, and individual citizens who seek redress in the courts for as long as this is necessary.

Cardinal Timothy Dolan of New York  
February 7, 2013

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