



## Secretariat of Pro-Life Activities

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May 20, 2010

Dear Member of Congress:

With the passage of the Patient Protection and Affordable Care Act (PPACA), our country took an important step toward ensuring access to health coverage for all Americans. However, as the U.S. Conference of Catholic Bishops has explained in past letters and analyses, the final Act approved on March 22 was profoundly flawed in its treatment of abortion, conscience rights, and fairness to immigrants (see [www.usccb.org/healthcare](http://www.usccb.org/healthcare)). Efforts to ensure that our health care system truly serves the life, health and conscience of all will be a legislative goal of the Catholic bishops in the months to come.

Reps. Joseph Pitts (R-PA) and Dan Lipinski (D-IL) with 91 other House members have made a significant contribution to this important task, by co-sponsoring bipartisan legislation to remedy PPACA's serious problems on abortion. This legislation (H.R. 5111), based on the health care reform bill approved by the House last fall, will bring PPACA into line with policies on abortion and conscience rights that have long prevailed in other federal health programs.

H.R. 5111 will do the following:

(1) Ensure that all funds authorized or appropriated by PPACA are covered by the longstanding policy of the Hyde amendment against funding abortions except in cases of life endangerment or rape/incest. The Act currently appropriates billions of dollars in new funds for health services without limiting use of these funds for elective abortions.

(2) Prevent federal funds from subsidizing health plans that cover abortions beyond the Hyde exceptions, so PPACA will follow the policy that already governs Medicaid and Medicare, Children's Health Insurance Program, Federal Employees Health Benefits Program, and other programs where federal funds combine with other funds to support health coverage. Like the Stupak amendment approved by the House last fall, this will not prevent anyone from purchasing a health plan covering abortions (or separate coverage for abortion itself) with nonfederal funds.

(3) Restore the conscience provision on abortion approved by the House last November (sec. 259 of H.R. 3962), modeled on the Weldon amendment that has been part of the annual Labor/HHS appropriations bills since 2004. This will ensure that federal, state and local governmental entities receiving federal funds under PPACA may not discriminate against health care providers who decline involvement in abortion. PPACA's clause allowing states to require provision of services in some cases (sec. 1303(d)) will also be subject to this conscience clause.

(4) Close a loophole in the Act's non-preemption clause on state laws (sec. 1303(c)(1) of PPACA), so state laws restricting abortion or protecting conscience rights will not be preempted by PPACA. Currently the Act only protects state laws related to abortion coverage or procedural requirements for abortions.

(5) Clarify PPACA's clause on preserving other federal laws (sec. 1303(c)(2)) so laws restricting abortion or abortion coverage as well as laws on conscience rights are preserved.

Some may assume these goals are already achieved through President Obama's executive order of March 21 on abortion funding in PPACA. To the extent that this is so, of course, it is not an argument against H.R. 5111, because it would merely codify those elements of the President's policy. However, the executive order does not address, or claim to address, several of the problems cited above. On other issues it even reinforces problematic aspects of the Act, such as its providing federal subsidies for health plans that cover abortions. Of course the Act's policy of merely "segregating funds" within such plans violates the federal abortion policy governing every other federal program, and still forces every American who purchases such plans to pay for other people's abortions.

The executive order also claims to apply the Hyde Amendment to the funds that PPACA authorizes and appropriates for Community Health Centers, although the Act clearly does not apply the Hyde Amendment to these funds. The question here is whether the President has the legal authority to do so, given a long line of federal court decisions construing similar statutes to fund abortion services unless *Congress* has explicitly stated otherwise. When courts have handed down such decisions, it has sometimes taken years of litigation and debate to resolve the issue – years during which federal funds were used for hundreds of thousands of abortions a year. Given this history, we should not gamble these lives on a guess as to how a federal judge will respond to the first lawsuit seeking a federally funded abortion at a Community Health Center. This serious problem requires a statutory solution.

With the enactment of PPACA, the task of keeping the federal government out of the abortion business can now be pursued with less distraction from other issues and agendas. Problems of abortion and conscience in the legislation can be addressed on their own merits, not greeted by false charges that any such effort must be aimed at preventing passage of the Act. To the contrary: If these genuine problems are not addressed in their own right, they will be taken up and used as ammunition by those who favor repealing PPACA outright, which would eliminate the positive as well as negative aspects of the new law. In short, to support this legislation, members of Congress need not agree that these changes are essential to make the Act acceptable – though that is our conviction. They need only agree that the changes are worthwhile.

I therefore urge members of both parties who support rights of conscience and the policy of the Hyde amendment to support and co-sponsor H.R. 5111. Please help give us a reformed health care system that respects the life, health and conscience of all.

Sincerely,

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

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