



## Secretariat of Pro-Life Activities

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Dear Senator:

As we have stated many times, the Catholic bishops of the United States strongly support authentic reform of our ailing health care system – reform that will respect the life, health, and consciences of everyone. We have especially focused on three moral criteria for reform: respect for life and conscience; affordability for the poor; and access to much-needed basic health care for immigrants.

Thus far the Senate reform bill, in our view, has fallen short of the example set by the House version of this legislation in each of these areas. But perhaps the most contentious issue has been that of abortion coverage, with the Senate on December 8 voting to table (set aside) an amendment by Senator Ben Nelson (D-NE) that was virtually identical to language already overwhelmingly approved by the House on this issue.

The central argument against the Nelson amendment, voiced during floor debate by many Senators, was that this amendment goes too far by barring federal subsidies to entire health plans that include abortion coverage. The three-decades-long precedent of the Hyde amendment and similar provisions governing all other federal health programs, it was claimed, is this: Federal funds may not be used “directly” for an elective abortion, but non-Federal funds such as private premium dollars may be used in the same health plan for such abortions.<sup>1</sup> The underlying health care reform bill was said to respect this tradition by “segregating” funds with plans to allow “private” funding of abortion. It was chiefly on the basis of this argument that the Nelson amendment was tabled (see attached sheet of quotes from Senate floor debate).

However, yesterday’s overwhelming vote to approve the Consolidated Appropriations Act creates a new situation. **In that vote, almost all Democrats, including almost every Senator who claimed the Nelson amendment’s policy goes too far, voted in favor of that exact policy.** For these Senators voted to retain the **actual current language** of the Hyde amendment, and of the parallel provision governing abortion in the Federal Employees Health Benefits Program – and that language clearly requires a policy in all other federal health programs that is identical to that of the Nelson amendment.

Here is the language of the Nelson amendment that Senators claimed was new and unprecedented:

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<sup>1</sup> No abortion provision at issue forbids funding abortions (or plans including abortion) when the mother’s life is endangered or in cases of rape or incest; these exceptions are not at issue and will not be included in quotes from the provisions. Abortions not covered by these exceptions are here called “elective” abortions.

*No funds authorized or appropriated by this Act (or an amendment made by this Act) may be used to pay for any abortion or to cover any part of the costs of any health plan that includes coverage of abortion.*

Here is the Hyde amendment, governing all current programs funded by the Labor/HHS appropriations bill, which the Senate just voted to reaffirm:

*None of the funds appropriated in this Act, and none of the funds in any trust fund to which funds are appropriated in this Act, shall be expended for any abortion.... None of the funds appropriated in this Act, and none of the funds in any trust fund to which funds are appropriated in this Act, shall be expended for **health benefits coverage that includes coverage of abortion**.... The term "health benefits coverage" means the **package of services** covered by a managed care provider or organization pursuant to a contract or other arrangement.*

(H.R. 3288 as approved by the Senate on December 13, Division D, sec. 508; emphasis added)

The Hyde amendment states further that it does not prevent use of state, local or private funds for abortions, as long as these are separate from the state matching funds that combine with federal funds to purchase a benefits package. In other words, not only federal funds, but other funds used to purchase the same package, may not pay for elective abortions.

Here is the parallel provision governing the Federal Employees Health Benefits Program, which the Senate also approved yesterday:

*No funds appropriated by this Act shall be available to pay for an abortion, **or the administrative expenses in connection with any health plan under the Federal employees health benefits program which provides any benefits or coverage for abortions.***

(H.R. 3288 as approved by the Senate on December 13, Division C, sec. 613; emphasis added)

Neither of these longstanding provisions says anything about “segregating” private and federal funds within a health plan or benefits package. Attempts to achieve such segregation are **irrelevant** to current policy, which bars federal funds from being used for any part of a package that covers elective abortions.

Literally the only substantive difference between these noncontroversial and widely supported provisions and the Nelson amendment is that the latter explains at length that (a) it does not prevent purchasers who do not receive federal subsidies from buying a health plan including elective abortions, even on the Exchange created by the health care reform bill, and (b) it does not prevent purchasers receiving federal subsidies from buying *separate* supplemental abortion coverage with their own funds.

The Consolidated Appropriations Act also maintains important current laws protecting conscience rights: The Hyde/Weldon amendment (Sec. 508 (d) of Division D), to prevent governmental bodies from discriminating against health care providers that decline involvement in abortion; and two provisions to respect moral and religious objections to mandated contraceptive coverage (in the federal employees' health program and in the District of Columbia). The first of these is included in the House-passed health care reform bill (Sec. 259 of H.R. 3962); the Senate bill does not yet include any of them.

From the outset of the health care reform debate, we have not sought to use this legislation as a vehicle for advancing the pro-life cause – and we have urged others not to use it to advance the pro-abortion cause. The current Senate bill fails to achieve this balance. While its abortion language has been called a “compromise,” it is only a compromise *between* current law and a broader policy on abortion funding, as it explicitly authorizes the use of federal funds to subsidize health plans covering elective abortions for the first time in history. Health care reform is too urgently needed to be placed at risk by one lobbying group's insistence on changing the law. Before the Senate considers final votes on its health care reform legislation, please incorporate into this bill the longstanding and widely supported policies of current law, acknowledged and reaffirmed by the Senate itself only yesterday. Please give the American people health care reform that respects the life, health and consciences of all.

Sincerely,

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

Daniel Cardinal DiNardo  
Archbishop of Galveston-Houston  
Chairman, Committee on Pro-Life Activities  
United States Conference of Catholic Bishops