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Upholding the Principles of the Catholic Faith in the Science and Practice of Medicine

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September 17, 2010

PUBLIC COMMENT RE: Requirement for Group Health Plans and Health Insurance Issuers to Provide Coverage of Preventive Services under the Patient Protection and Affordable Care Act (Document ID IRS-2010-0017-0001)

The Catholic Medical Association (CMA) is the largest association of Catholic physicians in the United States. CMA members are dedicated to upholding the principles of the Catholic faith in the science and practice of medicine. CMA members have a particular interest in defending human life, human dignity, and the authentic health of all patients, as well as the profession of medicine and the conscience rights of health care providers.

The CMA would like to take this opportunity to express its concern to the Departments of Health and Human Services, Labor, and the Treasury as they prepare to finalize the "Interim Final Rules for Group Health Plans and Health Insurance Issuers Relating to Coverage of Preventive Services under the Patient Protection and Affordable Care Act" (the "Rule"). The Rule requires group health plans and health insurers to cover certain preventive health services and to eliminate cost-sharing requirements for such services.

Most of actual preventive services mandated, and the standards for determining preventive services, are not ethically problematic. However, Section 2713 of the Public Health Service Act ("PHSA"), as added by the Patient Protection and Affordable Care Act ("PPACA" or the "Act") requires group health plans and insurers offering group or individual health insurance to provide "with respect to women, such additional preventive care and screenings . . . as provided for in comprehensive guidelines supported by the Health Resources and Services Administration . . ." There are two potential problems with this provision which we request the departments to prevent and/or avoid:

First, to the extent that the PPACA requires group health plans and health insurance issuers to offer "preventive services," if at any time HRSA or the Secretary of Health and Human Services decides that contraceptives or sterilization procedures or devices should be included among the "additional preventive care and screenings" of Section 2713, such a decision would lead to a violation of the religious freedom of many Catholic (and other) faith-based health care providers and insurers, who hold such

services and procedures to be unethical. Unfortunately, the Guttmacher Institute already has been advocating for such an inclusion and there will undoubtedly be strong financial and cultural pressures to do so.

Second, on August 13, 2010, the U.S. Food & Drug Administration (FDA) approved HRA Pharma's "ella" as an advanced form of "emergency contraception," for sale and distribution in the United States. However, this approval constitutes mislabeling and misrepresentation, since "ella" (ulipristal acetate) is similar in chemical structure and modes of efficacy to RU-486. (The CMA has already protested this flawed decision in another document available at www.cathmed.org.) If this flawed decision is allowed to stand, and "ella" and other abortifacient drugs are eventually recognized by HRSA or the Secretary of Health and Human Services as "contraceptives" and included among mandated "preventive services," this would substantially exacerbate the problem noted above. To force health care providers opposed to abortion to provide, pay and/or refer for abortifacient drugs would be a gross violation of the conscience rights and professional judgment of many individuals and institutions. The Departments of Health and Human Services, Labor, and the Treasury have a grave responsibility to ensure that these abuses are avoided and prevented.

Thank you.

Sincerely,

Leonard P. Rybak, M.D., Ph.D.
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Catholic Medical Association

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