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2 RPTS MEYERS

3 HIF306.140

4 DO NEW HEALTH LAW MANDATES THREATEN CONSCIENCE RIGHTS AND

5 ACCESS TO CARE?

6 WEDNESDAY, NOVEMBER 2, 2011

7 House of Representatives,

8 Subcommittee on Health

9 Committee on Energy and Commerce

10 Washington, D.C.

11 The Subcommittee met, pursuant to call, at 10:05 a.m.,

12 in Room 2123 of the Rayburn House Office Building, Hon.

13 Joseph R. Pitts [Chairman of the Subcommittee] presiding.

14 Members present: Representatives Pitts, Burgess,

15 Shimkus, Murphy, Blackburn, Gingrey, Latta, McMorris Rodgers,

16 Lance, Cassidy, Guthrie, Pallone, Dingell, Towns, Engel,

17 Capps, Schakowsky, Gonzalez, Baldwin, Matheson, Christensen,

18 and Waxman (ex officio).

19           Staff present: Carl Anderson, Counsel, Oversight; Marty  
20   Dannenfelser, Senior Advisor, Health Policy & Coalitions;  
21   Brenda Destro, Professional Staff Member, Health; Andy  
22   Duberstein, Special Assistant to Chairman Upton; Paul  
23   Edattel, Professional Staff Member, Health; Ryan Long, Chief  
24   Counsel, Health; Nika Nour, NewMedia Specialist; John O'Shea,  
25   Professional Staff Member, Health; Heidi Stirrup, Health  
26   Policy Coordinator; Phil Barnett, Democratic Staff Director;  
27   Alli Corr, Democratic Policy Analyst; Ruth Katz, Democratic  
28   Chief Public Health Counsel; Karen Lightfoot, Democratic  
29   Communications Director, and Senior Policy Advisor; Elizabeth  
30   Letter, Assistant Press Secretary; Anne Morris Reid,  
31   Professional Staff Member; and Tim Westmoreland, Consulting  
32   Counsel.

|  
33           Mr. {Pitts.} The subcommittee will come to order. The  
34 chair recognizes himself for 5 minutes for an opening  
35 statement.

36           On August 3, 2011, the Department of Health and Human  
37 Services issued an interim final rule that would require  
38 nearly all private health plans to cover contraception and  
39 sterilization as part of their preventive services for women.

40           While the rule does include a religious exemption, many  
41 entities feel that it is inadequate and violates their  
42 conscience rights by forcing them to provide coverage for  
43 services for which they have a moral or ethical objection.

44           The religious employer exemption allowed under the  
45 preventive services rule--at the discretion of the HRSA--is  
46 very narrow. And the definition offers no conscience  
47 protection to individuals, schools, hospitals, or charities  
48 that hire or serve people of all faiths in their communities.  
49 It is ironic that the proponents of the healthcare law talked  
50 about the need to expand access to services but the  
51 administration issues rules that could force providers to  
52 stop seeing patients because to do so could violate the core  
53 tenets of their religion.

54           I am also concerned about the process HHS used to issue  
55 the rule. The interim final rule was promulgated before the

56 proposed rulemaking and the formal comment period were  
57 conducted by HHS. In issuing the rule, HHS acknowledged that  
58 it bypassed the normal rulemaking procedures in order to  
59 expedite the availability of preventive services to college  
60 students beginning the school year in August. HHS argued  
61 that there would be a year's delay in the receipt of the new  
62 benefit if the public comment period delayed the issuance of  
63 HRSA guidance for over a month.

64 I believe that on such a sensitive issue there should  
65 have been a formal comment period so that all sides could  
66 weigh in on the issue and HHS could benefit from a variety of  
67 views. When the healthcare law was being debated last  
68 Congress, the proponents adamantly refuted claims that this  
69 would be a Federal Government takeover of our healthcare  
70 system.

71 Now, we have the federal Department of Health and Human  
72 Services forcing every single person in this country to pay  
73 for services that they may morally oppose. Groups who have  
74 for centuries cared for the sick and poor will now be forced  
75 to violate their religious beliefs if they want to continue  
76 to serve their communities. Whether one supports or opposes  
77 the healthcare law, we should universally support the notion  
78 that the Federal Government should be prohibited from taking  
79 coercive actions to force people to abandon their religious

80 principles.

81 I look forward to hearing from our witnesses. Thank you  
82 all for being here and yield the balance of my time to Dr.  
83 Gingrey from Georgia.

84 [The prepared statement of Mr. Pitts follows:]

85 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
86 Dr. {Gingrey.} Well, I thank the chairman for yielding  
87 to me.

88 And absolutely the point that he is making in regard to  
89 conscience clause, surely, no matter how one may feel about  
90 Patient Protection and Affordable Care Act that was passed in  
91 March of 2010, whether you are strongly for it, as most  
92 Democrats on the committee were and strongly opposed to it,  
93 as most Republicans on our committee were, it seems to me  
94 that we should agree that conscience clauses should be  
95 protected.

96 Each year, one in six patients in the United States are  
97 cared for in a Catholic hospital, and approximately 725,000  
98 individuals work in Catholic hospitals. These hospitals take  
99 all who are in need; it doesn't matter their religious  
100 background or their ability to pay. Come one, come all. But  
101 now, ObamaCare would actually require with the rulemaking  
102 Catholic hospitals to primarily serve persons who share its  
103 religious beliefs or force them to provide benefits like  
104 abortion drugs to employees that contradict their faith.

105 Let me rephrase. The White House is telling Catholic  
106 hospitals to deny care for those of other faiths or be forced  
107 as employers to provide coverage for services that they  
108 object to on religious and moral grounds. Why must President

109 Obama insist that the price for healthcare reform be given up  
110 the civil liberties through an individual mandate and the  
111 religious liberties that our Founding Fathers guaranteed us  
112 under the Constitution. This Congress can do better than  
113 that. ObamaCare can do better than that.

114 And I thank the chairman for yielding and I yield back.

115 [The prepared statement of Dr. Gingrey follows:]

116 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
117           Mr. {Pitts.} The chair thanks the gentleman and now  
118 recognizes the ranking member of the Subcommittee on Health,  
119 Mr. Pallone, for 5 minutes for an opening statement.

120           Mr. {Pallone.} Thank you, Mr. Chairman.

121           Today's hearing will focus on the implementation of the  
122 Affordable Care Act's prohibition of cost-sharing for  
123 preventive health services, which will include prescription  
124 birth control methods. The rule released by the Department  
125 of Health and Human Services would permit certain religious  
126 employers to opt out of the requirement of providing  
127 contraception. But unfortunately, this is more than an  
128 examination of HHS's rule and whether or not it protects  
129 conscience rights. It is simply the latest in a series of  
130 attacks this year on the healthcare reform and women's  
131 health.

132           The federal health reform law represents unprecedented  
133 efforts to improve women's health and women's access to  
134 comprehensive healthcare. In fact, women will gain the most  
135 from healthcare reform. First, we must not forget that the  
136 ACA makes health insurance a reality for 19 million women in  
137 this country who were uninsured.

138           In addition, it seeks to protect women from many  
139 insurance abuses. In the individual insurance market, women

140 were being denied coverage for such preexisting conditions as  
141 pregnancy, having had a C-section, or in some cases, breast  
142 cancer. The ACA outlaws such a practice. Women were also  
143 often being charged substantially higher premiums than men  
144 for the same healthcare coverage, and the ACA outlaws these  
145 gender-rating practices.

146 In many cases, women and children with insurance had not  
147 been receiving key preventive care from mammograms to well  
148 baby and well childcare visits to family planning services  
149 such as birth control because they could not afford the  
150 copays. Now, the Affordable Care Act is making  
151 groundbreaking strides in care for women by eliminating these  
152 copays and deductibles for preventive services.

153 The new preventative coverage rules announced by HHS  
154 remove significant financial obstacles for women seeking  
155 preventive reproductive healthcare. These provisions ensure  
156 that a woman has access to all preventative services,  
157 regardless of who her employer is. And this is critical  
158 because it is well known that almost all women--99 percent in  
159 fact, including religious devotees--will use contraception at  
160 some point during their reproductive lives. Meanwhile, 3  
161 recent studies have found that lack of insurance is  
162 significantly associated with reduced use of prescription  
163 contraceptives.

164           But I absolutely support an individual's right to  
165 express their religious convictions. Today's hearing has  
166 nothing to do with religious rights and conscience  
167 protections. In my opinion, this hearing is about women's  
168 access to comprehensive healthcare coverage. And whether my  
169 colleagues admit it or not, their attempts here today are  
170 meant to turn back the clock on the great strides the  
171 Affordable Care Act has and will continue to make for women's  
172 health. We can't continue to allow obstacles to prevent us  
173 from insuring the affordability of family planning service  
174 for millions of women.

175           I would now like to yield 2 minutes from the time I have  
176 left, Mr. Chairman, to the gentlewoman from Illinois, Ms.  
177 Schakowsky.

178           [The prepared statement of Mr. Pallone follows:]

179 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
180 Ms. {Schakowsky.} Thank you for yielding.

181 The attention this committee has focused on and  
182 continues to focus on the private lives of women makes it  
183 clear that one of the goals of the majority is to end access  
184 not just to abortions but to family planning. I fought for  
185 and will continue to fight for the guidelines adopted by the  
186 administration.

187 After an exhaustive and thorough scientific review by  
188 the Institutes of Medicine to ensure insurance coverage of  
189 preventive services for women, it is no secret that  
190 substantial public health benefits and cost savings emerge  
191 when preventive services, including family planning, are  
192 accessible and affordable.

193 As patients, caregivers, and as workers who still earn  
194 less than men, women have a particular stake in ensuring  
195 insurance coverage of prescription contraceptives and other  
196 preventive services. The new guidelines on insurance  
197 coverage of preventive services for women should apply to all  
198 women, regardless of where they work.

199 Allowing employers to exempt themselves in providing  
200 prescription contraceptives for their employees is  
201 counterproductive, unfair, and paternalistic. Why should the  
202 conscience of an employer trump a woman's conscience? Why

203 should an employer decide for a woman whether she can access  
204 the healthcare services that she and her doctor decide are  
205 necessary? Why are we talking about allowing some employers  
206 to put up a barrier to access at a time when woman are  
207 struggling to afford and access healthcare?

208         It never used to be that family planning was considered  
209 a partisan issue and it never used to be that family planning  
210 was equated with abortion. My, how things have changed.  
211 Today, the full continuum of reproductive healthcare is under  
212 assault. Believe me, these conversations are heard far and  
213 wide among women out in the public, women of all ages and  
214 races and parties, political parties, who understand that  
215 these kinds of assaults on women's right to make a choice  
216 about a lot of things, including contraceptive care, and men,  
217 too, who want to be able to plan their families.  
218 Unacceptable.

219         I yield back.

220         [The prepared statement of Ms. Schakowsky follows:]

221 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
222           Mr. {Pitts.} The chair thanks the gentlelady and now  
223 recognize the vice chair of the Subcommittee on Health, Dr.  
224 Burgess, for 5 minutes.

225           Dr. {Burgess.} I thank the chairman for the  
226 recognition. And once again, we are here learning that those  
227 who are driving the regulatory train are in fact making the  
228 practice of medicine more difficult through their lack of  
229 thought. And we are left with consequences. The decision by  
230 Health and Human Services to issue an interim final rule,  
231 while that sounds like arcane Washington-speak, what that  
232 means is that the transparency and accountability of the  
233 normal federal rulemaking process has now been circumvented,  
234 and as a consequence, we have got a rule being put forward  
235 that now has the force of law as if it were legislation  
236 passed by Congress and signed by the President.

237           Now, we have got a rule that has the force of law that  
238 is unworkable, yeah, for faith-based facilities but also was  
239 going to have dramatic cost implications across the board for  
240 all Americans. A good thing or bad thing, problem is we  
241 don't know because we never had the opportunity to explore  
242 the possibilities.

243           So the administration now has singlehandedly rendered  
244 faith-based facilities fearful of their ability to continue

245 to serve their patients. The lack of consideration for these  
246 organizations has manifested in an extremely narrow and in  
247 fact an unworkable exemption.

248         The interim final rule further expands the power and  
249 reach of the Federal Government into the realm of private  
250 health insurance without regard for conscience rights to be  
251 sure, but also without regard to the bill that must be footed  
252 by the taxpayer. The requirement that all, underscore  
253 ``all,'' prevent FDA-approved contraceptives must be offered  
254 at no copay to all women was never examined for its cost or  
255 its practical implications. This policy considers both  
256 generic and brand name contraceptives the same, so how in the  
257 world do we expect there to be any price sensitivity in the  
258 marketplace if we have simply removed that obligation from  
259 the marketplace itself?

260         The interim final rule does violate the conscience  
261 protections many healthcare providers rely upon and  
262 ultimately leads to diminished access of care--as Dr. Gingrey  
263 so eloquently pointed out--and also importantly, a rising a  
264 monthly premium for all Americans.

265         I yield now to the gentlelady from Tennessee.

266         [The prepared statement of Dr. Burgess follows:]

267 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
268 Mrs. {Blackburn.} Thank you, Mr. Burgess.

269 And I want to welcome all of our witnesses. We are so  
270 pleased that you have taken the time to be here with us  
271 today.

272 President Obama came before Congress and made a  
273 statement, ``under our plan, no federal dollars will be used  
274 to fund abortions and federal conscience laws will remain in  
275 place.'' Then, at Notre Dame he said, ``let us honor the  
276 conscience of those who disagree with abortion.'' But the  
277 truth is this administration, by its actions, calls abortion  
278 essential care. ObamaCare discriminates against hospitals,  
279 insurance plans, and healthcare professionals who don't want  
280 to violate what they know in their hearts to be true.

281 HHS has published this new rule--we have all spoken  
282 about this--to force America's doctors and nurses to do the  
283 things that otherwise they would not do. Maybe it should be  
284 called coercion backed by the taxpayer dollars and that is a  
285 little bit of a poisonous medicine to swallow. It is  
286 unconstitutional and unethical and cheapens the civil rights  
287 of our medical professionals.

288 Smuggling abortion into PPACA was destructive and it is  
289 another big reason why I think we need to repeal ObamaCare.

290 With that, I would like to yield the balance of the time

291 to Dr. Murphy.

292 [The prepared statement of Mrs. Blackburn follows:]

293 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
294 Mr. {Murphy.} Thank you. And thank you, Chairman  
295 Pitts.

296 Since this rule was released, I have heard an outpouring  
297 of concern not only from religious leaders like Bishop David  
298 Zubik of the Diocese of Pittsburgh, but from over 1,000  
299 individual constituents and a range of employers from the  
300 CEOs of multibillion dollar companies to small business  
301 owners. I have a hard time explaining to them that the  
302 Federal Government is forcing them to choose between their  
303 faith and providing health insurance to their employees.

304 This mandate stands in stark contrast to the stated  
305 purpose of healthcare reform expanding access to healthcare.  
306 Instead, this mandate will strip countless Americans of their  
307 health insurance calling into question President Obama's  
308 president that if you like your health insurance you can keep  
309 it. To that I would add a question. If you like your  
310 religion, can you keep it?

311 Almost exactly a month ago, I sent a letter to Secretary  
312 Sebelius expressing my concern and that of the thousands I  
313 represent in Congress with the blatant disregard for the  
314 religious and moral beliefs of millions of Americans  
315 displayed in this new ``preventative services'' mandate. I  
316 am still waiting for Secretary Sebelius to respond.

317 Mr. Chairman, toward that end, I ask for unanimous  
318 consent that my letter to Secretary Sebelius be included in  
319 the official record. And with that, I yield back.

320 [The prepared statement of Mr. Murphy follows:]

321 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|

322 Mr. {Pitts.} Without objection, so ordered.

323 [The information follows:]

324 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
325           Mr. {Pitts.} The chair recognizes the ranking member of  
326 the full committee, Mr. Waxman, for 5 minutes for opening  
327 statement.

328           Mr. {Waxman.} Mr. Chairman, this is not a hearing about  
329 abortion. This is not a hearing about whether people can  
330 adhere to their religious beliefs and follow their own  
331 individual consciences. This is a hearing about whether the  
332 Republicans can have the government intrude to the point  
333 where people who buy health insurance could be denied  
334 insurance coverage for the preventive service of family  
335 planning. Preventing conception is what family planning is  
336 all about and it is a legitimate medical service. In fact,  
337 the Institute of Medicine made recommendations to the  
338 Department for what would be covered under preventive  
339 services and they recommended that this be a covered  
340 preventive service.

341           So the question is if somebody doesn't want to provide  
342 contraception because it violates their religion or their  
343 conscience, would they be required to? Absolutely not. The  
344 question then comes down to what is the scope of the  
345 exception that church-provided insurance need not cover  
346 family planning. Well, I don't know why that should be even  
347 an exception. I disagree with the administration in

348 providing that exception. But the Republicans would like to,  
349 first of all, extend that exception to all church-related  
350 groups whether it means that the people who are covered are  
351 of the same faith or not. But we are going to hear from a  
352 witness who would like to have no insurance coverage for  
353 contraceptives services because it violates her point of  
354 view.

355 Now, we hear a lot from the other side of the aisle  
356 about government intrusion in our private lives. There can  
357 be no intrusion more significant than government telling  
358 people they cannot get contraception, they cannot get  
359 insurance to cover contraception, it should not be a provided  
360 service. Well, that is part of what the Republican agenda  
361 appears to be, but it is much more than that because what we  
362 have is a hearing today that purports to be about the  
363 conscience protection, but it is another attempt by the  
364 Republicans to undermine and undo the Affordable Care Act's  
365 provisions related to women's health. And no single piece of  
366 legislation in recent memory has done more to advance women's  
367 health and women's access to health services than the  
368 Affordable Care Act.

369 It provides coverage for millions of Americans including  
370 19.1 million women who are uninsured. It makes health  
371 insurance coverage more affordable through premium

372 assistance. It stops gender rating. It would no longer be  
373 legal to do that where women are charged higher premiums than  
374 men for the same insurance coverage. It will be illegal for  
375 insurance companies to discriminate against women and others  
376 on the basis of preexisting conditions, which by the way may  
377 even include history of breast cancer, pregnancy, or  
378 experience of domestic violence. And then the cost-sharing  
379 requirements under Medicare have been eliminated for women's  
380 preventive health services such as mammograms and well women  
381 visits. For new private health insurance coverage that  
382 prohibition against cost-sharing extends to breastfeeding  
383 counseling, screening, and counseling for domestic violence.  
384 And it would include FDA-approved contraceptives in addition  
385 to mammograms and well women checkups.

386 Now, the Republicans would like to take all this away,  
387 not just the access to contraceptive services. They would  
388 like to repeal the Affordable Care Act. And if they succeed,  
389 newly established health benefits and health coverage for  
390 women would disappear. And what would they do to replace  
391 this? Nothing. They would leave the status quo in place.

392 Now, let me be clear. I support policies that recognize  
393 and protect the right of individuals to express and act on  
394 their religious and moral convictions. If you have moral  
395 convictions, you can keep them, just don't try to impose them

396 on everybody else. We cannot turn the clock back. We  
397 shouldn't let the Republicans confuse the issue.

398 Deny health insurance coverage that includes  
399 contraceptive services to millions of American women, that is  
400 wrong. Women who don't want that service don't have to  
401 access it if it violates their conscience. A doctor does not  
402 have to provide it if it violates his or her conscience. But  
403 tell me less about the conscience of the employer or the  
404 insurance company and why that should take precedence over  
405 all the people who are to be covered that do not share that  
406 particular point of view. The Department's position on  
407 insurance coverage for family planning is in keeping with  
408 this goal and should move forward without delay.

409 I am going to yield back my time and express a strong  
410 support for this preventive service which is now being used  
411 widely by people who even are members of a church that in  
412 theory and religious doctrine disapprove of the service.

413 [The prepared statement of Mr. Waxman follows:]

414 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
415           Mr. {Pitts.} The chair thanks the gentleman. That  
416 concludes the opening statements of the members. The chair  
417 has UC request to submit for the record a statement by  
418 Congressman Jeff Fortenberry; a statement by the Catholic  
419 University of America president, John Garvey; some letters  
420 from the U.S. Conference of Catholic Bishops; and a letter  
421 from the Family Research Council. These have all been  
422 provided. Without objection, these will be entered into the  
423 record.

424           [The information follows:]

425           \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
426 Ms. {Schakowsky.} Mr. Chairman?

427 Mr. {Pitts.} Yes?

428 Ms. {Schakowsky.} I don't know if this is an  
429 appropriate time, but I have some things I would like to  
430 submit for the record.

431 Mr. {Pitts.} All right. If you would--

432 Ms. {Schakowsky.} Thank you. This is testimony from  
433 NARAL Pro-Choice America, Center for Reproductive Rights,  
434 National Women's Law Center, ACLU, National Partnership for  
435 Women and Families, National Health Law Program, Physicians  
436 for Reproductive Choice and Health, and then a letter  
437 organized by Advocates for Youth. These have all been  
438 submitted previously and would appreciate if they could be  
439 part of the record.

440 Mr. {Pitts.} All right. We have received these.  
441 Without objection, so ordered.

442 [The information follows:]

443 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
444           Mr. {Pitts.} The chair now is pleased to welcome the  
445 panel of witnesses to our hearing today. We would ask them  
446 to please take their seats at the witness table. And I will  
447 introduce them at this time.

448           Today, our witness panel includes David Stevens, CEO of  
449 the Christian Medical Association; Mark Hathaway, Director of  
450 OB/GYN Outreach Services for Women's and Infants' Services at  
451 Washington Hospital Center, and Title X Medical Director at  
452 the Unity Healthcare, Inc.; Jane Belford, Chancellor and  
453 General Counsel of the Archdiocese of Washington; John  
454 O'Brien, President of Catholics for Choice; and Bill Cox,  
455 President and CEO of the Alliance of Catholic Health Care.

456           We are happy to have each of you here today and ask that  
457 you summarize your statements in 5 minutes. We will enter  
458 your written testimony into the record.

459           And at this point, we will start with Dr. Stevens. You  
460 are recognized for 5 minutes.

|  
461 ^STATEMENTS OF DR. DAVID STEVENS, CEO, CHRISTIAN MEDICAL  
462 ASSOCIATION; DR. MARK HATHAWAY, DIRECTOR OF OBSTETRICS AND  
463 GYNECOLOGY, OUTREACH SERVICES FOR WOMEN'S AND INFANTS'  
464 SERVICES, WASHINGTON HOSPITAL CENTER; JANE G. BELFORD,  
465 CHANCELLOR, ARCHDIOCESE OF WASHINGTON, D.C.; JON O'BRIEN,  
466 PRESIDENT, CATHOLICS FOR CHOICE; AND WILLIAM J. COX,  
467 PRESIDENT AND CEO, ALLIANCE FOR CATHOLIC HEALTH CARE

|  
468 ^STATEMENT OF DR. DAVID STEVENS

469 } Dr. {Stevens.} I am testifying on behalf of the over  
470 16,000 members of the Christian Medical Association, a  
471 professional membership organization that helps healthcare  
472 professionals to integrate their faith and their  
473 professional. I am a diplomat of the American Board of  
474 Family Medicine and hold a master's degree in bioethics.

475 Our members include physicians who hold a range of  
476 conscience convictions on controversial ethic and moral  
477 issues, including contraception, healthcare reform,  
478 participation in the death penalty, and other conscience  
479 issues that span the political spectrum.

480 Virtually all medical professionals and student members  
481 we recently surveyed say it is ``important to personally have

482 the freedom to have the freedom to practice healthcare in  
483 accordance with the dictates of his or her conscience.''  
484 Over 9 of 10 say they would not prescribe FDA-approved  
485 contraceptives that might cause death of a developing human  
486 embryo.

487 Many physicians today conscientiously profess allegiance  
488 to life-affirming ethical standards such as the Hippocratic  
489 Oath. Pro-life physicians want to retain the freedom to  
490 choose physicians whose professional judgments reflect their  
491 own life-affirming values.

492 The Health and Human Services interim final regulation  
493 would force insurance plans nationwide to cover all Food and  
494 Drug Administration-approved contraceptive methods and  
495 sterilization procedures. This mandate does not exempt  
496 controversial drugs such as Ella and the morning-after pill,  
497 which according to the FDA have post-fertilization effects  
498 that may inhibit implantation of a living human embryo.

499 The potential religious exemption in the contraception  
500 mandate--exempting only a nano-sector of religious employers  
501 from the guidelines--is meaningless to conscientiously  
502 objecting healthcare professionals, insurers, and patients.  
503 The contraception mandate can potentially trigger a decrease  
504 in access to healthcare by patients in medically underserved  
505 regions and populations.

506           The administration's policies on the exercise of  
507 conscience in healthcare, including the gutting of the only  
508 federal conscience-protecting regulation, actually threaten  
509 to worsen a growing physician shortage. A national survey of  
510 over 2,100 faith-based physicians revealed that over 9 of 10  
511 are prepared to leave medicine over conscience rights.  
512 Eighty-five percent of our medical professionals and students  
513 say that the policies that restrict the exercise of  
514 conscience in healthcare make it less likely they will  
515 practice healthcare in the future.

516           The contraception mandate further contributes to an  
517 increasingly hostile environment in which pro-life  
518 physicians, residents, and medical students face  
519 discrimination, job loss, and ostracism. Seventy-nine  
520 percent of our members surveyed said the new contraception  
521 mandate will have a negative impact on their freedom to  
522 practice medicine in accordance with the dictates of their  
523 conscience. One out of five faith-based medical students  
524 surveyed said they will not go into OB/GYN as a specialty  
525 because of abortion-related pressures.

526           The contraception mandate creates a climate of coercion  
527 that can prompt pro-life healthcare professionals to limit  
528 the scope of their medical practice. Over half of the  
529 medical professionals and students we surveyed said the new

530 contraception mandate might cause them to restrict their  
531 practice of medicine.

532         The contraception mandate can potentially cause a  
533 decrease in the provision of health insurance for employees  
534 of pro-life healthcare employers who want to avoid conflicts  
535 of conscience regarding controversial contraceptives. Sixty-  
536 five percent of the medical professionals and students we  
537 surveyed said the contraception mandate will make them less  
538 likely to provide insurance for their employees.

539         The contraceptive mandate rule sweepingly tramples  
540 conscience rights, which have provided a foundation for the  
541 ethical and professional practice of medicine. The  
542 administration should rescind this mandate entirely for the  
543 ethical and practical reasons I have noted and also for the  
544 constitutional and statutory reasons outlined in our official  
545 comment letter of September 29 to HHS, which I am submitting  
546 separately and ask to be included in the record.

547         We encourage Members of Congress to uphold conscience  
548 rights by passing the Respect for Right of Conscience Act.  
549 Upholding a respect for conscience and our First Amendment  
550 freedoms protects all Americans, conservatives and liberals,  
551 capitalists and socialists, atheists and people of faith.

552         Thank you for consideration of these views.

553         [The prepared statement of Dr. Stevens follows:]

554 \*\*\*\*\* INSERT 1 \*\*\*\*\*

|  
555           Mr. {Pitts.} The chair thanks the gentleman and  
556 recognizes Dr. Hathaway for 5 minutes.

|  
557 ^STATEMENT OF DR. MARK HATHAWAY

558 } Dr. {Hathaway.} Chairman Pitts, Ranking Member Pallone,  
559 and members of the committee, thank you for the opportunity  
560 to testify before you today.

561 Good morning. My name is Dr. Mark Hathaway. I am a  
562 board-certified OB/GYN. I am the director of OB/GYN Outreach  
563 Services for Women's and Infants' Services at the Washington  
564 Hospital Center. I am also the Title X director at Unity  
565 Health Care, Washington, D.C.'s, largest federally qualified  
566 health center.

567 I work in several medical facilities here in Washington,  
568 D.C. My patients tend to be women of color, primarily  
569 African American and Latina, and of lower socioeconomic  
570 status. Many of the patients I see are uninsured,  
571 underinsured, and seeking prenatal care or family planning  
572 services. Despite these obstacles, they desire to improve  
573 their lives and to have and raise healthy children.

574 I see every day how increasing women's ability to plan  
575 their pregnancies makes a difference in their lives. And by  
576 the same token, I also see the negative consequences of  
577 unintended and unplanned pregnancy, late prenatal care,  
578 uncontrolled medical problems, poor nutrition, and sometimes

579 depression. I see firsthand how cost can be a barrier. That  
580 is why the Institute of Medicine's recommendation is so  
581 critically important. Contraceptive counseling and methods  
582 should be covered under the Affordable Care Act without cost-  
583 sharing. Any attempts to broaden exemptions to that coverage  
584 requirement would mean leaving in place insurmountable  
585 obstacles to contraceptive services for far too many women.

586 I know from my day-to-day experience what it means for  
587 patients who cannot afford to pay for their health services.  
588 The cost of a birth control method is frequently prohibitive  
589 for many of my patients. This is especially true for the  
590 more cost-effective, long-acting reversible contraceptive  
591 methods, also known as LARC.

592 Women face many challenges in using contraception  
593 successfully. Too many women using methods like birth  
594 control pills, condoms and even injectables will experience  
595 an unplanned pregnancy during their first year of ``typical  
596 use.'' Long-acting reversible contraceptive methods,  
597 including intrauterine contraceptives and implants, are the  
598 most cost-effective methods because they have an extremely  
599 low failure rate and are effective at preventing pregnancy  
600 for several years. The up-front costs of these methods,  
601 however, are several hundred dollars, placing them out of the  
602 reach of millions of women who would otherwise use them.

603           Three recent studies have found that lack of insurance  
604 is significantly associated with reduced use of prescription  
605 contraceptives. In St. Louis, researchers at Washington  
606 University have recently found that over 70 percent of women  
607 will choose a longer-acting method if cost and barriers are  
608 eliminated.

609           There are those who assert that unintended pregnancy is  
610 not a health condition and therefore prevention of unintended  
611 pregnancy is not a preventive healthcare. From my personal  
612 practice I can say that I cannot disagree more. Just last  
613 week I met ``Sarah.'' She is 22 years old, has 2 children  
614 under the age of 3, one a recent newborn. She came in for a  
615 pregnancy test. Her diabetes had gone unchecked, which would  
616 put her in a category of a high-risk pregnancy. She was  
617 visibly shaking waiting for her pregnancy test results. She  
618 is working over 40 hours a week at 2 different jobs and was  
619 told by her primary care clinic that she would need to pay a  
620 copay of \$40 and a \$300 fee for the intrauterine device that  
621 she so desperately wants. She would have been devastated by  
622 a positive pregnancy test. She was incredibly relieved to  
623 learn she was not pregnant. She was also uninsured but we  
624 used our rapidly shrinking safety-net resources to provide  
625 her with long-acting contraception lasting up to 7 years.

626           The evidence is also conclusive regarding pregnancy

627 spacing. It is directly linked to improved maternal and  
628 child health. Numerous U.S. and international studies have  
629 found a direct causal relationship between birth intervals,  
630 low birth weight, as well as preterm births. In other words,  
631 we need to help women plan their pregnancies for their health  
632 as well as their children's.

633 Using contraception is the most effective way to prevent  
634 unintended pregnancy. Again, I have seen the success of  
635 contraceptive services in my own practice, and again the  
636 evidence on this is clear. Ninety-five percent of all  
637 unintended pregnancies occur among women who use  
638 contraception inconsistently or use no method at all.  
639 Indeed, couples who do not practice contraception have an 85  
640 percent chance of experiencing an unintended pregnancy within  
641 the first year.

642 For all these reasons, the Institute of Medicine's  
643 recommendations are groundbreaking. Finally, all women will  
644 gain access to insurance coverage of family planning services  
645 regardless of income. All women will be able to get the  
646 counseling, education, and access to the most effective and  
647 medically appropriate contraceptive for them. This  
648 breakthrough has the potential to bring about major benefits  
649 for the health and well being of women and their families.

650 Most women will contracept for approximately 3 decades

651 during their reproductive years. The adoption of the IOM's  
652 recommendations holds so much promise for millions of women  
653 who currently lack basic resources like health insurance  
654 coverage. All of my training and experience tells me that  
655 what we are striving for is healthy women. We are also  
656 working to ensure that if and when they are ready to have a  
657 child that they have a healthy pregnancy. The best way to  
658 achieve this is to help women and couples become as healthy  
659 as possible before pregnancy. This includes financial  
660 health, emotional health, and physical health. We should  
661 trust women and empower women to make the appropriate  
662 decisions for themselves. Therefore, I hope we can agree  
663 that guaranteeing contraceptive coverage and removing cost  
664 barriers should be at the forefront of preventive care so  
665 that women can achieve their own goals.

666 Thank you very much.

667 [The prepared statement of Dr. Hathaway follows:]

668 \*\*\*\*\* INSERT 2 \*\*\*\*\*

|  
669           Mr. {Pitts.} The chair thanks the gentleman and now  
670 recognizes Ms. Belford for 5 minutes.

|  
671 ^STATEMENT OF JANE G. BELFORD

672 } Ms. {Belford.} Mr. Chairman and distinguished members  
673 of the subcommittee, thank you for the opportunity to testify  
674 before you today on an issue of vital importance to religious  
675 organizations like the one I serve.

676 My name is Jane Belford, and I serve as chancellor of  
677 the Catholic Archdiocese of Washington, which includes 600  
678 Catholics and includes 140 parish church communities in the  
679 District of Columbia and portions of Maryland.

680 The Archdiocese is one of 195 diocese of the Catholic  
681 Church in the United States which represents more than 70  
682 million Catholics. Throughout this country's history, the  
683 Catholic Church has been one of the leading private providers  
684 of charitable educational and medical services to the poor  
685 and vulnerable. The Archdiocese continues that tradition of  
686 service today through its Catholic schools, medical clinics,  
687 maternal and pregnancy resource programs, social service  
688 agencies, senior and low-income housing, job training  
689 programs, and a vast number of other programs and services  
690 for persons in need regardless of their faith or no faith,  
691 without question, without exception.

692 The late former Archbishop of Washington, Cardinal

693 Hickey, once said, ``we serve them not because they are  
694 Catholic but because we are Catholic. If we don't care for  
695 the sick, educate the young, care for the homeless, then we  
696 cannot call ourselves the Church of Jesus Christ.'' Until  
697 now, federal law has never prevented religious employers like  
698 the Archdiocese of Washington from providing for the needs of  
699 their employees with a health plan that is consistent with  
700 the Church's teachings on life and procreation. The  
701 Archdiocese provides excellent health benefits to its nearly  
702 4,000 employees, consistent with Catholic teaching, and  
703 subsidizes most of the cost.

704 We would lose this freedom of conscience under the  
705 mandate from the Department of Health and Human Services that  
706 the health plans of religious organizations like ours cover  
707 sterilization, contraceptive services, and drugs that in some  
708 cases act as abortifacients. This is not in line with the  
709 policy that has governed other federal health programs.

710 The HHS mandate provides a radically narrow test to be  
711 eligible for exemption. Essentially, under this test  
712 Catholic organizations like ours would be considered  
713 religious enough only if we primarily served Catholics, only  
714 if we primarily hired Catholics, and only if the whole  
715 purpose of our service was to inculcate our religious values.  
716 Under this analysis, organizations like ours would be only

717 free to follow Catholic teaching on life and procreation if  
718 we stopped hiring and serving non-Catholics. However, as in  
719 the parable of the Good Samaritan, Catholic organizations  
720 serve people of all different faiths without question or  
721 condition and without knowing their faith.

722 Just last year, Catholic charities of the Archdiocese  
723 served over 100,000 people. I could not tell you what their  
724 faith is. Our 98 Catholic schools educate 28,000 students in  
725 the District of Columbia and Maryland, and in some locations,  
726 more than 80 percent of the students are non-Catholic.

727 HHS has drafted an exemption that is so narrow that it  
728 will exclude virtually all Catholic hospitals; Catholic  
729 schools, colleges, and universities; and charitable  
730 organizations, none of which impose a litmus test on those  
731 they serve. Why does the government want to have us do that?

732 In my written testimony, I allude to the vast array of  
733 services being provided right now in the Archdiocese of  
734 Washington--the medical care, educational services, and  
735 social services that are made available. This narrow  
736 religious exemption drafted as it has would burden our deeply  
737 held belief not only in life and procreation but in the  
738 belief that God calls us to serve our neighbors. Both those  
739 beliefs--our beliefs in life and procreation and our belief  
740 in service--are grounded in a fundamental teaching that

741 upholds the dignity of human life of whatever race, status,  
742 or creed from the beginning of life to the end.

743         It is part of our central mission and religious identity  
744 to be a witness in the world through acts of service to all  
745 who are in need, regardless of religion or creed. When we  
746 are fortunate enough to be able to partner with the  
747 government in providing these services, our devotion to the  
748 cause and our institutional resources can make each dollar of  
749 funding go further. Unfortunately, the mandate poses a  
750 threat to our rights of conscience in our services for our  
751 neighbors. At a time when local, state, and federal  
752 governments have had to consider drastic cuts to their  
753 healthcare and social service programs and when our citizens'  
754 need for support is so great, it is difficult to understand  
755 why the Federal Government would impose requirements that are  
756 designed to undermine and restrict access to these services.

757         We believe in the value and dignity of all human life  
758 from beginning to end, and we believe that we are called to  
759 serve our neighbors, all of them. We will continue to honor  
760 these beliefs. We have served, we serve now, and we will  
761 continue to serve, but I urge the committee to consider our  
762 Nation's historical commitment to religious liberty and the  
763 value and importance of the Church's service to the poor and  
764 vulnerable and to permit us to practice our faith consistent

765 with the teachings of our church.

766           Mr. Chairman and members of the committee, thank you for  
767 the opportunity to address you.

768           [The prepared statement of Ms. Belford follows:]

769 \*\*\*\*\* INSERT 3 \*\*\*\*\*

|  
770           Mr. {Pitts.} Thank you. The chair thanks the  
771 gentlelady, recognizes Mr. O'Brien for 5 minutes.

|  
772 ^STATEMENT OF JON O'BRIEN

773 } Mr. {O'Brien.} Mr. Chairman, Member Pallone, and  
774 members of the subcommittee, thank you for this opportunity  
775 to present testimony on this important question of conscience  
776 rights and access to comprehensive healthcare.

777 For nearly 40 years, Catholics for Choice has served as  
778 a voice for Catholics who believe that Catholic teaching  
779 means that every individual must follow his or her own  
780 conscience and respect the rights of others to do the same.  
781 This hearing seeks to answer the question: Do new health law  
782 mandates threaten conscience rights and access to care? I  
783 firmly believe the requirements under the Affordable Care Act  
784 and the slate of regulations being created to implement it  
785 infringe on no one's conscience, demand no one change his or  
786 her religious beliefs, discriminate against no man or woman,  
787 put no additional economic burden on the poor, interfere with  
788 no one's medical decisions, compromise no one's health--that  
789 is, if you consider the law without refusal clauses.

790 When the question is asked in light of these unbalanced  
791 and ever-expanding clauses, the answer becomes yes, it would  
792 do all those things. When burdened by such refusal clauses,  
793 the new health law absolutely threatens the conscience rights

794 of every patient seeking care for these restricted services  
795 and of every provider who wishes to provide comprehensive  
796 healthcare to patients. These restrictions go far beyond  
797 their intent of protecting conscience rights for all by  
798 eliminating access to essential healthcare for many, if not  
799 most patients, especially in the area of reproductive health  
800 services. This will make it harder for many working  
801 Americans to get the healthcare they need at a cost they can  
802 afford.

803         Like many Catholics, I accept that conscience has a role  
804 to play in providing healthcare services, but recent moves to  
805 expand conscience protections beyond the simple right for  
806 individual healthcare providers to refuse to provide services  
807 to which they personally object to go too far. It is  
808 incredible to suggest that a hospital or an insurance plan  
809 has a conscience. Granting institutions--or entities like  
810 these--legal protection for the rights of conscience that  
811 properly belong to individuals is an affront to our ideals of  
812 conscience and religious freedom.

813         Respect for individual conscience is at the core of  
814 Catholic teaching. Catholicism also requires deference to  
815 the conscience of others in making one's own decisions. Our  
816 faith compels us to listen to our consciences in matters of  
817 moral decision-making and to respect the rights of others to

818 do the same. Our intellectual tradition emphasizes that  
819 conscience can be guided, but not forced, in any direction.  
820 This deference for the primacy of conscience extends to all  
821 men and women and their personal decisions about moral  
822 issues.

823         Today, the 98 percent of sexually active Catholic women  
824 in the United States who have used a form of contraceptive  
825 banned by the Vatican have exercised their religious freedom  
826 and followed their consciences in making the decision to use  
827 contraception. Such they are in line with the totality of  
828 Catholic teaching if not with the views of the hierarchy.  
829 Having failed to convince Catholics in the pews, the United  
830 States Conference of Catholic Bishops and other conservative  
831 Catholic organizations are now attempting to impose their  
832 personal beliefs on all people by seeking special protection  
833 for their conscience rights. They claim to represent all  
834 Catholics when in truth theirs is a minority view. The  
835 majority of Catholics support equal access to contraceptive  
836 services and oppose policies that impede upon that access.

837         Two-thirds of Catholics, 65 percent, believe that  
838 clinics and hospitals that take taxpayer money should not be  
839 allowed to refuse to provide procedures or medications based  
840 on religious belief. A similar number, 63 percent, also  
841 believes that all health insurance, whether private or

842 government-run, should cover contraception. Sweeping refusal  
843 clauses and exemptions allow a few to dictate what services  
844 many others may access. They disrespect the individual  
845 capacities of women to act upon their individual conscience-  
846 based decision. They impede the rights of women and men to  
847 make their own decisions about what is best for them, their  
848 health and their families.

849         Lawmakers of all political hues can come together to  
850 support a balanced approach to individual conscience rights  
851 and access to comprehensive healthcare. It makes sense for  
852 all those who want to provide more options to women seeking  
853 to decide when and whether to have a child. It makes sense  
854 for those who want to keep the government's involvement in  
855 healthcare to a minimum. Above all, it makes sense for a  
856 society that believes in freedom of religion, a right one  
857 can't claim for oneself without extending it to one's  
858 neighbor.

859         The bottom line is that protecting conscience rights and  
860 preserving access to care shouldn't just be about protecting  
861 those who seek to dictate what care is and is not available,  
862 nor should it be for those who would dismiss the conscience  
863 of others by imposing their view of which consciences are  
864 worth protecting. Protecting individual conscience and  
865 ensuring access to affordable, quality care is not just an

866 ideal, it is a basic tenet of our society and it is the right  
867 thing to do.

868 I thank the subcommittee for inviting me today.

869 [The prepared statement of Mr. O'Brien follows:]

870 \*\*\*\*\* INSERT 4 \*\*\*\*\*

|  
871           Mr. {Pitts.} The chair thanks the gentleman and  
872 recognizes Mr. Cox for 5 minutes for an opening statement.

|  
873 ^STATEMENT OF WILLIAM J. COX

874 } Mr. {Cox.} Good morning, Mr. Chairman and members of  
875 the committee, and thank you for convening a hearing on this  
876 critically important matter. My name is Bill Cox and I am  
877 president and CEO of the Alliance of Catholic Health Care,  
878 which is based in Sacramento, California. We represent 4  
879 Catholic systems in California that operate 54 hospitals.

880 My testimony focuses on the exceedingly narrow  
881 definition of religious employer in HHS's interim final rule.  
882 You have a copy of my extended remarks, so I will summarize  
883 them by making four brief points about the definition and the  
884 mandate.

885 First, in order to benefit from the definition of  
886 religious institution must primarily employ and serve its  
887 coreligionists and it must prosthelytize. As an essential  
888 element of the religious missions Catholic hospitals,  
889 universities, and social services hire and provide services  
890 to a broad array of people and they do not prosthelytize  
891 those they serve. Thus, the definition, together with the  
892 mandate, will require Catholic hospitals, universities, and  
893 social service agencies to cover in their health insurance  
894 plans contraceptives, abortifacients, and sterilizations in

895 direct violation of their religious beliefs.

896           Mr. Chairman, Catholics have been providing healthcare  
897 services in California since 1854 when eight Sisters of Mercy  
898 arrived in San Francisco from Ireland. The following year, a  
899 cholera epidemic broke out and the Sisters went to work in  
900 the county hospital. According to San Francisco's ``The San  
901 Francisco Daily News'' of that time, ``the Sisters of Mercy  
902 did not stop to inquire whether the poor sufferers of cholera  
903 were Protestant or Catholic, American or foreigners, but with  
904 the noblest devotion, applied themselves to their relief.''

905           Mr. Chairman, had HHS's definition of religious employer  
906 been in effect in 1854, the ministry of the Sisters of Mercy  
907 in San Francisco would not have been considered by the  
908 Federal Government to be a religious ministry.

909           Second, I think it is very important to emphasize this  
910 morning that neither the propriety nor the wisdom of nor the  
911 government's authority to impose a contraceptive mandate on  
912 all employers is at issue here. The question is actually a  
913 very narrow one related to the First Amendment, and that is  
914 whether the HHS definition of religious employer contravenes  
915 the First Amendment by putting the Federal Government in the  
916 position of determining what parts of a bona fide religious  
917 organization are religious and what parts are secular.

918           In particular, it allows the government to make such

919 distinctions in order to infringe the religious freedom of  
920 that portion of the organization the government declares to  
921 be secular. This is exactly what the founders of this  
922 country sought to avoid by adopting the First Amendment to  
923 the Constitution.

924         Third, the definition is discriminatory in that it  
925 attracts identical language first enacted in a California  
926 statute that was deliberately designed to contravene the  
927 religious conduct of religious organizations such as Catholic  
928 hospitals, universities, and social services. At the time,  
929 one of the principle proponents of that definition of  
930 religious liberty said our purpose and intent here is to  
931 close the Catholic gap. That is, we want to compel these  
932 religious institutions by force of law to provide these  
933 services regardless of what they may think of them in terms  
934 of their religious belief.

935         Fourth, there is no escape from the HHS mandate. Unlike  
936 most state contraceptive mandates that have a similar  
937 definition of religious employer, religious employers cannot  
938 avoid the HHS mandate by either dropping coverage of  
939 prescription drugs or by self-insuring through an ERISA plan.

940         In conclusion, I would just like to note that Catholic  
941 hospitals provide a broad array of services not always  
942 available in other institutions. For example, in California

943 86 percent of our hospitals have palliative care programs  
944 compared to only 43 percent of all California hospitals. Our  
945 palliative care programs address the physical, emotional, and  
946 spiritual needs of chronically ill and dying patients and  
947 their families.

948         Moreover, a recent Thomson Reuters study found that on 8  
949 key metrics Catholic healthcare systems in the United States  
950 were significantly more likely to outperform their nonprofit  
951 and investor-owned counterparts on quality, efficiency, and  
952 patient satisfaction. It would be a great loss to the Nation  
953 and the communities we serve if our hospitals were compelled  
954 by federal law to forgo their religious mission and  
955 consciences in order to comply with the HHS contraceptive  
956 mandate.

957         I would be happy to answer any questions.

958         [The prepared statement of Mr. Cox follows:]

959 \*\*\*\*\* INSERT 5 \*\*\*\*\*

|  
960           Mr. {Pitts.} The chair thanks the gentleman and thanks  
961 all the witnesses for their opening statements.

962           I will now begin the questioning and recognize myself  
963 for 5 minutes for that purpose.

964           Mr. Cox, the church amendment which became part of the  
965 Public Health Service Act in 1973 declares that hospitals or  
966 individuals receipt of federal funds in various health  
967 programs will not require them to participate in abortion and  
968 sterilization procedures if they object based on moral or  
969 religious convictions. Also, no State in the country except  
970 Vermont requires insurance coverage of sterilization. How is  
971 the interim final rule on preventive services issued by HHS  
972 subsequent to passage of the healthcare law different in  
973 respect to conscience protections and sterilization mandates?  
974 And what are the implications for Catholic healthcare  
975 providers?

976           Mr. {Cox.} Well, these are requirements that would  
977 force Catholic healthcare providers, Catholic universities,  
978 and social service agencies to include contraceptive  
979 services, sterilization, and other things in their health  
980 insurance plans in violation of their religious beliefs. And  
981 that is how it would affect them.

982           Under most state laws there are options that we have

983 available to us. One, if for instance in California a  
984 religious employer can drop prescription drug benefits  
985 entirely in their health insurance plan and get out from  
986 under California's contraceptive mandate. We have chosen not  
987 to do that because that would make absolutely everyone else  
988 worse off in our employ. But what we have done is moved to  
989 ERISA plans in order to self-insure and get out from under  
990 the mandate.

991 Now, under the HHS mandate and definition of religious  
992 employer, as I said in my testimony, there is no escape.  
993 ERISA plans will be covered. All employers are required,  
994 regardless of religious views, to cover these services.

995 Mr. {Pitts.} The supporters of the interim final rule  
996 on preventive benefits argue the substance of the rule is  
997 similar to contraceptive mandates imposed by States on health  
998 plans operating within their State. Just as you said, the  
999 question was do state contraceptive mandates apply to self-  
1000 insured plans governed under ERISA? And does HHS rule differ  
1001 in this respect? You spoke to that.

1002 Do state contraceptive mandates typically require  
1003 coverage of sterilization procedures?

1004 Mr. {Cox.} They do not. I think Vermont is the only  
1005 State that does.

1006 Mr. {Pitts.} Do state contraceptive mandates force

1007 plans to cover such products even if they do not provide  
1008 coverage for prescriptive drugs generally?

1009 Mr. {Cox.} I think the laws in the various States  
1010 differ with respect to that, and many of the States that have  
1011 a contraceptive mandate also have pretty strong and effective  
1012 conscience legislation that allows religious employers and  
1013 providers with a moral perspective on this to opt out of the  
1014 mandates.

1015 Mr. {Pitts.} Thank you.

1016 Let me go to Dr. Stevens. You said that the  
1017 contraceptive mandate ``violates the religion and free speech  
1018 clauses of the First Amendment of the Constitution by  
1019 coercing faith-based healthcare ministry to not only violate  
1020 their very faith-based tenets that have motivated patient  
1021 care for millennia but also to pay for that violation. Such  
1022 conscience-violating mandates will ultimately reduce  
1023 patients' access to faith-based medical care, especially  
1024 depriving the poor and medically underserved population of  
1025 such care.'' Do you believe that the particular mandate  
1026 could contribute to faith-based providers leaving the medical  
1027 profession, reducing access to medical care, and are you  
1028 concerned that faith-based providers might leave certain  
1029 areas of medical?

1030 Dr. {Stevens.} We are seeing a pattern from this

1031 administration to restrict conscience rights, including  
1032 stripping regulations, deregulation. We actually surveyed  
1033 our membership and 88 percent of them say the problem is  
1034 getting much worse. The issues we are talking about today I  
1035 never talked about during my training. And we are also  
1036 seeing people coming under increasing discrimination in the  
1037 workplace.

1038         One of my staff member's wife, a family practice doc,  
1039 worked in Texas. She did not distribute contraceptives to  
1040 single women, referred them across the hallway to another  
1041 physician, and it wasn't even an inconvenience for them, and  
1042 she was told she was going to lose her job and she had to go  
1043 find other employment within a week. We have seen this with  
1044 anesthesiologists; we have seen this with the family practice  
1045 docs. Just this week, 12 nurses in New Jersey have been  
1046 forced to participate in abortion in the workplace and there  
1047 is a suit being brought at the medical school there. This is  
1048 a pattern that concerns all of us because we have 16,000  
1049 members. They have over 125,000 doctors that we are in  
1050 regular communication with. They are very concerned about  
1051 this and it could affect healthcare in this country.

1052         Mr. {Pitts.} Thank you. My time has expired.

1053         The chair recognizes the ranking member, Mr. Pallone,  
1054 for 5 minutes for questions.

1055 Mr. {Pallone.} Thank you, Mr. Chairman.

1056 I would ask unanimous consent to insert in the record  
1057 statements from the following organizations: Concerned Clergy  
1058 for Choice; National Council of Jewish Women; Religious  
1059 Institute; United Church of Christ--Justice and Witness  
1060 Ministries; Women's Alliance for Theology, Ethics, and  
1061 Ritual, or WATER; Physicians for Reproductive Choice;  
1062 Religious Coalition for Reproductive Choice; General Board of  
1063 Church and Society of the United Methodist Church. I believe  
1064 you have all these.

1065 Mr. {Pitts.} Without objection, so ordered.

1066 [The information follows:]

1067 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

1068 Mr. {Pallone.} Thank you.

1069 I am going to start with Mr. O'Brien. Your testimony  
1070 discusses use of contraceptive services among both Catholic  
1071 and non-Catholic women. Is it your understanding that  
1072 surveys and studies have shown virtually all Catholic women  
1073 have used contraceptive services at some point in their  
1074 lifetimes?

1075 Mr. {O'Brien.} Yes, Congressman, that is correct.

1076 Mr. {Pallone.} Thank you. Is it true that the use of  
1077 contraceptive services among Catholic women mirrors that of  
1078 non-Catholics?

1079 Mr. {O'Brien.} It is.

1080 Mr. {Pallone.} And I am going to go to Dr. Hathaway. I  
1081 saw a recent poll of registered voters about their views on  
1082 contraceptive services. I want to ask you a few questions  
1083 about public support for contraception. Do the vast majority  
1084 of Americans support access to contraceptive services?

1085 Dr. {Hathaway.} Yes.

1086 Mr. {Pallone.} And is this same view also held by  
1087 people who are opposed to abortion?

1088 Dr. {Hathaway.} Yes, indeed.

1089 Mr. {Pallone.} And back to Mr. O'Brien if you would  
1090 chime in. Does research indicate that the majority of

1091 Catholic support access to contraceptive services?

1092 Mr. {O'Brien.} Yes, during the health insurance reform  
1093 debate, Catholics were surveyed and 6 in 10 Catholics believe  
1094 that contraception should be covered as part of health  
1095 insurance.

1096 Mr. {Pallone.} Thank you. For both gentlemen, your  
1097 answers underscore an important point and that is that  
1098 improved access to contraceptive services is supported by the  
1099 majority of Americans, and I certainly agree with some of the  
1100 comments made by my colleagues and the witnesses about  
1101 ensuring that individual health providers not be compelled to  
1102 act against their conscience, but the subject of today's  
1103 hearing is regulations that address what plans are required  
1104 to do. Given what we have heard today, I think we should  
1105 support coverage for contraceptive services and make these  
1106 services available to the millions of women who would benefit  
1107 from it.

1108 Now, I want to go to Dr. Hathaway again. In your  
1109 testimony, you discuss the importance of making sure that  
1110 women have access to contraceptive services and information  
1111 that will help them better plan and space their pregnancies.  
1112 Can you briefly describe the benefits of using contraceptive  
1113 services?

1114 Dr. {Hathaway.} Briefly would be difficult. There is

1115 multiple, multiple benefits towards contraception. A woman's  
1116 ability to maintain and get herself healthy before pregnancy  
1117 is incredibly important--taking folate to reduce anomalies,  
1118 getting her medical conditions under control. Many women  
1119 have multiple medical conditions that are out of control  
1120 before they get pregnant.

1121 Mr. {Pallone.} What about in terms of babies' health?

1122 Dr. {Hathaway.} Also. Birth spacing is incredibly  
1123 important. We know from research that birth spacing, the  
1124 shorter the interval, the greater likelihood of low weight  
1125 births as well as preterm births, an incredible burden to  
1126 both the family as well as society and the health industry.

1127 Mr. {Pallone.} Well, you know there are over 60 million  
1128 women of reproductive age in the country but there are many  
1129 women who do not use contraception regularly or at all.  
1130 Could you elaborate on the extent to which cost is a barrier  
1131 to the use of contraceptive services?

1132 Dr. {Hathaway.} It is an incredible barrier. Many  
1133 women have to jump hoops to get contraceptives. If they have  
1134 some insurance, perhaps it doesn't cover all of their  
1135 contraceptive methods. And as I pointed out in my testimony,  
1136 the longer-acting methods are the most cost-effective and yet  
1137 the most cost-prohibitive up front and those are the methods  
1138 that we ought to be turning towards to provide better

1139 contraception in our country.

1140 Mr. {Pallone.} And what about when you have insurance  
1141 coverage for contraception? I mean does that impact the  
1142 ability of women to access those health services?

1143 Dr. {Hathaway.} In many cases, yes. Even insurance  
1144 there are restrictions regarding copays, as well as  
1145 additional fees for these, as I said, most effective methods.

1146 Mr. {Pallone.} And based on your clinical experience,  
1147 do you believe that elimination of out-of-pocket costs for  
1148 birth control pills and other forms of contraception would  
1149 increase their use?

1150 Dr. {Hathaway.} Most definitely. Most definitely.

1151 Mr. {Pallone.} All right. I just want to thank you,  
1152 Dr. Hathaway. I mean it is clear from your testimony and  
1153 responses that there are compelling policy reasons why we  
1154 should promote access to contraception and also limit cost-  
1155 sharing associated with those services.

1156 Thank you and thank you to Mr. O'Brien.

1157 I yield back, Mr. Chairman.

1158 Mr. {Pitts.} The chair thanks the gentleman and  
1159 recognizes the vice chair of the subcommittee, Dr. Burgess,  
1160 for 5 minutes.

1161 Dr. {Burgess.} Thank you, Mr. Chairman.

1162 Dr. Hathaway, along the lines as Mr. Pallone was just

1163 exploring, they said that there are valid policy reasons to  
1164 consider providing contraception, but you also allude to the  
1165 fact that in your world cost is a consideration. Is that  
1166 correct?

1167 Dr. {Hathaway.} I am not sure I understand the  
1168 question. Cost as a consideration for an individual patient?

1169 Dr. {Burgess.} You talk about the individual in your  
1170 clinic who wanted a long-term method of contraception but it  
1171 nearly exhausted your safety net dollars--

1172 Dr. {Hathaway.} Right.

1173 Dr. {Burgess.} --and cost is an issue whether we like  
1174 it or not. Money has got to come from somewhere, has it not?

1175 Dr. {Hathaway.} Indeed. And yet if you look at a lot  
1176 of the research, including Guttmacher Institute's research on  
1177 cost savings for contraception overwhelmingly--

1178 Dr. {Burgess.} Yeah, let us hold that. We will get to  
1179 that in a minute because I am not quite sure we have  
1180 delivered on the promise of the cost savings. And of course,  
1181 we are Members of the House of Representatives. We live  
1182 under the rule of the Congressional Budget Office and as all  
1183 of us on both sides of the dais know, we are not allowed to  
1184 score savings. We can only talk about cost. That is an  
1185 important point; I do want to get to it.

1186 But here is my beef with this thing. I mean it came to

1187 us as an interim final rule. There was obviously a rush.  
1188 There were some calendar considerations. We have got to get  
1189 it done within some certain time constraints, but it didn't  
1190 really allow for the proper input and transparency of the  
1191 normal federal agency process. The Affordable Care Act is a  
1192 lot of pages of very densely worded instructions to federal  
1193 agencies, and whether you agree with or not, going through  
1194 the process at the federal agency, there is a reason that it  
1195 does that because it allows the public to comment. Before  
1196 the rule is put forward, it allows for the people to weigh in  
1197 on it.

1198 But in an interim final rule, that is kind of a  
1199 different world because although it sounds like, well, it is  
1200 only interim. Either you come back and do--you really can't.  
1201 I mean this thing comes out of the agency with the force of  
1202 law and you see right now in this environment how difficult  
1203 it is for Congress, the House and Senate to get together and  
1204 pass any law that the President will sign, but this thing can  
1205 come out with the force of law in a relatively condensed  
1206 period of time with maybe public input but maybe it ignores  
1207 public input.

1208 Now, I worked my residency with Parkland Hospitals--a  
1209 long time ago I grant you--but we provided a lot of  
1210 healthcare to women who were very, very poor and I never

1211 wrote a prescription for an oral contraceptive except Ortho-  
1212 Novum 1/50 for 4 years' time because that was the formulary  
1213 that Parkland Hospital used. In order to provide the  
1214 services for the vast numbers of people that they had to  
1215 serve, they got a deal with the contraceptive manufacturer,  
1216 and that was the birth control pill. It was a learning  
1217 experience for me to be out in private practice and see all  
1218 of the choices that were out there.

1219 But those choices come with a cost, don't they?

1220 Dr. {Hathaway.} Yes. Yes, indeed.

1221 Dr. {Burgess.} Can you give us an idea of what kind of  
1222 the range of cost? Let us just stick with oral  
1223 contraceptives for right now. I know you are interested in  
1224 long-term contraception, but just for oral contraceptives  
1225 right now, there is a pretty wide variation of cost, is there  
1226 not?

1227 Dr. {Hathaway.} Yeah, the brand name contraceptives  
1228 probably run in the neighborhood of upwards of \$50 per month.  
1229 The generics have probably in the neighborhood of 30 or  
1230 somewhere in that neighborhood.

1231 Dr. {Burgess.} Well, through the miracle of the iPad  
1232 and Leslie's List, I can tell you that there is a cost  
1233 differential of about \$20 a month for a generic Ortho-Novum  
1234 1/35, Necon--funny name for that pill--and there is another

1235 one called Seasonique that is, according to research done by  
1236 my staff, \$1,364 a year, so about \$110 a month. So that is a  
1237 pretty wide discrepancy, isn't it?

1238 Dr. {Hathaway.} Indeed, and yet if we were able to help  
1239 a woman with a longer-acting method for that year, you would  
1240 save--

1241 Dr. {Burgess.} Let us not go there just yet because--

1242 Dr. {Hathaway.} --a lot of dollars right there--

1243 Dr. {Burgess.} --the Institute of Medicine and the  
1244 interim final rule says without regard to cost, we have to  
1245 provide all methods now across the board. And this is the  
1246 problem with having an interim final rule. I didn't get to  
1247 go to the federal agency and say you know what? This is a  
1248 pretty wide cost discrepancy here. You can provide 5 women  
1249 with the same type of oral contraceptive protection that one  
1250 woman gets for Seasonique. And there are reasons that  
1251 patients want to take that. I get that. Perhaps it should  
1252 be available with a copay or paying a little extra for that  
1253 premium contraceptive coverage. This would be something that  
1254 I think would have been useful to the federal agency. But  
1255 unfortunately, we didn't get to have input on that because it  
1256 was promulgated as an interim final rule.

1257 Mr. Chairman, you have been generous with my time. If  
1258 we have time for a second round, I do want to talk about the

1259 cost-benefit stuff.

1260 Mr. {Pitts.} The chair thanks the gentleman and now  
1261 recognizes the ranking member emeritus, Mr. Dingell, for 5  
1262 minutes.

1263 Mr. {Dingell.} And the questions here I direct at Mr.  
1264 O'Brien, and I hope that the answers will be by yes or no.

1265 The interim rule issued by HHS on August 3, 2011,  
1266 regarding coverage of preventive services under ACA included  
1267 language that exempted certain religious employers from  
1268 covering contraceptive services without cost sharing. A  
1269 religious employer is defined by one that has religious  
1270 values as the purpose of the organization, primarily employs  
1271 and serves persons who share the religious tenets of the  
1272 organization, and is a nonprofit organization. Isn't it true  
1273 that this definition of religious employer is set forth by  
1274 HRSA and the interim rule is not wholly a new definition of a  
1275 religious employer? Yes or no?

1276 Mr. {O'Brien.} Yes, Congressman.

1277 Mr. {Dingell.} Now, isn't it also true that the 20  
1278 States that exempt certain religious employers from having to  
1279 cover contraceptives that they allow them to be exempt from  
1280 providing contraceptive services, and at least half of these  
1281 States use a definition of a religious employer similar to  
1282 that in the definition used by HRSA in the interim final

1283 rule? Yes or no?

1284 Mr. {O'Brien.} Yes.

1285 Mr. {Dingell.} Isn't it also true that 2 State Supreme  
1286 Courts in California and New York upheld a definition of  
1287 religious employer similar to the definition of a religious  
1288 employer in the legislation as constitutional? Yes or no?

1289 Mr. {O'Brien.} Yes.

1290 Mr. {Dingell.} So I think everybody in this room should  
1291 agree that individuals have the right to decline to provide  
1292 certain medical treatment if they conscientiously object to  
1293 their religious beliefs. That is not interfered with under  
1294 the regulations, is it?

1295 Mr. {O'Brien.} Yes.

1296 Mr. {Dingell.} The answer is it is not interfered with.

1297 Mr. {O'Brien.} No.

1298 Mr. {Dingell.} Thank you. And under current healthcare  
1299 professionals who conscientiously object to providing certain  
1300 medical services or procedures due to their religious beliefs  
1301 are allowed to again not to provide those services, is that  
1302 right?

1303 Mr. {O'Brien.} That is right.

1304 Mr. {Dingell.} But isn't it true that the broadening  
1305 definition of a religious employer would allow an employer,  
1306 say a hospital or health insurer, to deny coverage for

1307 contraceptives or other preventive services based on their  
1308 religious beliefs? Yes or no?

1309 Mr. {O'Brien.} Yes.

1310 Mr. {Dingell.} Now, isn't it also true that the  
1311 broadening of the religious exemption would limit access to  
1312 contraceptives to nearly 1 million people and their  
1313 dependents who work at religious hospitals and nearly 2  
1314 million students and workers at universities with a religious  
1315 affiliation? Yes or no?

1316 Mr. {O'Brien.} Yes.

1317 Mr. {Dingell.} One of the ways the Affordable Care Act  
1318 works to address the need of lowering costs in our health  
1319 system is by putting renewed emphasis on prevention and  
1320 wellness programs to help American families to live healthier  
1321 lives and reduce the need for more costly treatments later in  
1322 life. The Affordable Care Act does this by eliminating  
1323 copays and cost-sharing for preventive service. Is that  
1324 correct?

1325 Mr. {O'Brien.} Yes. Yes.

1326 Mr. {Dingell.} And he doesn't have a nod button so you  
1327 have got to answer yes or no. HHS has asked the Institute of  
1328 Medicine, an independent organization who is convening a  
1329 panel of experts to make recommendations about what  
1330 preventive services for women would qualify for no cost-

1331 sharing. The Institute of Medicine identified 8 preventive  
1332 services as being necessary to improving women's health and  
1333 well being, including all FDA-approved contraceptive methods  
1334 and patient education counseling, amongst other benefits.  
1335 HHS adopted these recommendations in full, is that correct?

1336 Mr. {O'Brien.} Yes.

1337 Mr. {Dingell.} Now, wouldn't you agree that--by the  
1338 way, is that yes or no?

1339 Mr. {O'Brien.} Yes.

1340 Mr. {Dingell.} Wouldn't you agree that broadening the  
1341 religious exemption would limit or prevent access to critical  
1342 preventive services that are intended to improve the health  
1343 and well being of women? Yes or no?

1344 Mr. {O'Brien.} Yes, absolutely.

1345 Mr. {Dingell.} Now, wouldn't you also agree that the  
1346 limiting or preventing of access to critical preventive  
1347 services is counter to the goal of the Affordable Care Act to  
1348 help make prevention affordable and accessible to all  
1349 Americans? Yes or no?

1350 Mr. {O'Brien.} Yes, that is true.

1351 Mr. {Dingell.} Now, I note in the testimony that I have  
1352 heard this morning, I have heard no complaints that what we  
1353 have done here is to expand the right to abortion or to  
1354 change the basic language of the legislation in the

1355 Affordable Care Act on that point. Am I correct in that  
1356 understanding?

1357 Mr. {O'Brien.} You are correct.

1358 Mr. {Dingell.} Thank you.

1359 Mr. Chairman, I note I yield back 2 seconds.

1360 Mr. {Pitts.} The chair thanks the gentleman and  
1361 recognizes the gentleman, Mr. Shimkus, for 5 minutes for  
1362 questions.

1363 Mr. {Shimkus.} Thank you, Mr. Chairman.

1364 About a year ago, we had some theologians here on  
1365 climate change and I quoted some scripture, got myself in  
1366 trouble, made myself a name. But I mean if we are going to  
1367 go down the right and talk about safe--and especially for  
1368 Christians, God's word is the final arbiter of truth.  
1369 Jeremiah 1:5, ``before I formed you in the womb, I knew  
1370 you.'' Psalm 71:6, ``you brought me forth from my mother's  
1371 womb.'' Those are just a few of numerous scripture  
1372 references on the pro-life debate for confessional  
1373 Christians, and this is where I really appreciate my fellow  
1374 Christians in the Catholic Church. I am Lutheran by faith  
1375 tradition, so hold a really distinct close bond. But there  
1376 is a strong position on the right to life.

1377 And what we have done in the national healthcare law has  
1378 attacked the very providers of healthcare and social services

1379 for the poor in this country, which are church, faith-based  
1380 institutions. And Mr. O'Brien, what we are doing is we are  
1381 depriving them of their choice. That is what we are doing.  
1382 And Illinois as aside has just done this in the adoption  
1383 realm where now the Catholic Church is suing the State of  
1384 Illinois because of now the Illinois legislation that grants  
1385 same-sex couples under the state law all the rights of  
1386 married couples. So when a faith-based institution like a  
1387 Christian denomination--and in this case, Catholic charity  
1388 does 20 percent of all adoptions in the State of Illinois--  
1389 you take the other faith-based, I think it is up to 33  
1390 percent, they now have to make a moral decision of whether  
1391 they are going to continue adoption services or comply with  
1392 their faith-based teachings. So that is going on in  
1393 Illinois. That is exactly what is going on here with the  
1394 healthcare law. So I will follow up with these questions.

1395 To Ms. Belford, Mr. Cox, Mr. Stevens, should individuals  
1396 or institutions lose their rights to follow their moral and  
1397 religious beliefs once they decide to enter a healthcare  
1398 profession? Ms. Belford?

1399 Ms. {Belford.} No, they should not lose that right.

1400 Mr. {Shimkus.} Mr. Cox?

1401 Mr. {Cox.} Absolutely not.

1402 Mr. {Shimkus.} Mr. Stevens?

1403 Dr. {Stevens.} We shouldn't be asking our medical  
1404 schools to ethically neuter healthcare professionals based  
1405 upon only what the State decides is right.

1406 Mr. {Shimkus.} To the same three, should we compel  
1407 providers to act in violation of their conscience?

1408 Mr. {Cox.} Absolutely not. It is a violation of the  
1409 First Amendment to the Constitution.

1410 Mr. {Shimkus.} Okay. That was Mr. Cox. Ms. Belford?

1411 Ms. {Belford.} No. No, we shouldn't. That is a right  
1412 enshrined in our history, in our Constitution, in our laws  
1413 the right not to violate our firmly held, sincerely held  
1414 religious beliefs.

1415 Mr. {Shimkus.} And Dr. Stevens?

1416 Dr. {Stevens.} I agree. We cannot ask people to take  
1417 professional license and lay aside their personal morality.

1418 Mr. {Shimkus.} Another question. When a provider makes  
1419 a conscious objection, is there anything that prevents a  
1420 patient from going to another willing healthcare provider for  
1421 service? Dr. Stevens?

1422 Dr. {Stevens.} Absolutely not.

1423 Mr. {Shimkus.} Ms. Belford?

1424 Ms. {Belford.} No.

1425 Mr. {Shimkus.} Mr. Cox?

1426 Mr. {Cox.} No.

1427           Mr. {Shimkus.} Ms. Belford, in order to qualify for the  
1428 religious employer exemption to HHS's interim final rule on  
1429 preventive services, an employer would have to meet all 4  
1430 criteria delineated in the rule, including that it primarily  
1431 serves persons who share its religious tenets. What would be  
1432 the impact on sick and needy people in the Archdiocese in  
1433 Washington if the Archdiocese organizations had to limit the  
1434 provision of their services in such a manner?

1435           Ms. {Belford.} Well, Congressman, let me just say right  
1436 at the outset we have served, we are serving, and we will  
1437 continue to serve the people who need help. We would hope  
1438 that our government would recognize the value of those  
1439 services and the importance of those services and the right  
1440 that has been granted to us under the Constitution and the  
1441 laws of this country to be able to provide those services  
1442 without violating our religious beliefs. But we will serve.  
1443 We have been here for hundreds of years in this country  
1444 serving. One of our oldest agencies in the Archdiocese is  
1445 St. Ann's Infant and Maternity Home. It was chartered by  
1446 President Lincoln and it is still here serving. We will be  
1447 here.

1448           Mr. {Shimkus.} And let me personally thank you for your  
1449 service.

1450           And I yield back.

1451 Mr. {Pitts.} The chair thanks the gentleman and  
1452 recognizes the gentlelady from Illinois, Ms. Schakowsky, for  
1453 5 minutes for questions.

1454 Ms. {Schakowsky.} I just wanted to note the number of  
1455 religious organizations that Mr. Pallone inserted testimony  
1456 into the record, and I note that one of them was the National  
1457 Council of Jewish Women, which I am a proud member of.

1458 So let me understand from Dr. Stevens and Ms. Belford  
1459 and Mr. Cox. We are not talking about--as my colleague from  
1460 Illinois was saying--individual healthcare providers. You  
1461 are talking about healthcare systems, am I right?  
1462 Institutions and networks of institutions that would be  
1463 exempted from having to provide contraception, is that true,  
1464 Dr. Stevens?

1465 Dr. {Stevens.} Yes.

1466 Ms. {Schakowsky.} Ms. Belford?

1467 Ms. {Belford.} In the case of the Archdiocese of  
1468 Washington, we conduct our ministries through separate  
1469 organizations, but in addition to what we as church do--

1470 Ms. {Schakowsky.} In your testimony are you asking to  
1471 expand it?

1472 Ms. {Belford.} Excuse me?

1473 Ms. {Schakowsky.} In your testimony are you saying that  
1474 the narrow exemption should be broadened if not dropped and

1475 to include systems as well and broader--

1476 Ms. {Belford.} It should include religious  
1477 organizations that operate in accordance with their teachings  
1478 and beliefs, yes.

1479 Ms. {Schakowsky.} And Mr. Cox, hospital systems as well  
1480 and hospitals?

1481 Mr. {Cox.} The definition puts HHS in the position of  
1482 trolling through the religious beliefs and practices of  
1483 religious organizations--

1484 Ms. {Schakowsky.} So that would include institutions?

1485 Mr. {Cox.} --and determining, Congresswoman, which ones  
1486 it agrees with and which ones it doesn't agree with, and if  
1487 it doesn't agree with them, then it uses the force of law to  
1488 compel that organization to follow its beliefs.

1489 Ms. {Schakowsky.} And let me ask the three of you,  
1490 then, if this regulation were not changed, would you drop  
1491 your health insurance coverage? Dr. Stevens?

1492 Dr. {Stevens.} I think it would be something we would  
1493 have to consider because it is a problem when you are  
1494 dispensing an abortifacient and paying for it. It is called  
1495 moral complicity.

1496 Ms. {Schakowsky.} Okay. Ms. Belford?

1497 Ms. {Belford.} It is unthinkable that we would drop our  
1498 health insurance coverage but we would not provide coverage

1499 for contraception and sterilization as required by this law.

1500 Ms. {Schakowsky.} Mr. Cox?

1501 Mr. {Cox.} We will have to challenge it in court if it  
1502 isn't dropped.

1503 Ms. {Schakowsky.} Okay. So I just want to make sure  
1504 that the word goes forth into the country that this is about  
1505 depriving women of contraception by large hospital systems,  
1506 smaller organizations, and potentially even all healthcare  
1507 coverage for the employees of those organizations despite the  
1508 fact, as it was pointed out, that all but perhaps 5 percent  
1509 of Catholic women also use contraception, that virtually all  
1510 Americans in recent surveys--women--use contraception.

1511 Mr. O'Brien, this issue of conscience is so important  
1512 because I perceive that as an individual right of conscience,  
1513 can you elaborate on the difference between individuals and  
1514 institutions and the right of conscience that you mentioned  
1515 before?

1516 Mr. {O'Brien.} You are absolutely correct,  
1517 Congresswoman. I think one of the things that is interesting  
1518 about this is the Catholic Church is not actually asking for  
1519 an exemption. The Catholic Church is all of the people in  
1520 the Church, which includes the 98 percent of Catholic women  
1521 who use a contraceptive. The consciences of these women, of  
1522 the people in the Church, are absolutely essential. The

1523 Catholic hierarchy, the United States Conference of Catholic  
1524 Bishops, represents about 350 bishops. It is the bishops and  
1525 the people involved in the Catholic healthcare industry who  
1526 are asking for these exemptions. The conscience of an  
1527 individual within Catholicism and St. Thomas Aquinas told us  
1528 very clearly that it is a mortal sin not to follow your  
1529 conscience, your individual conscience, even if you have to  
1530 go against church teaching. I think that Catholics do that  
1531 every day on an individual basis. The idea that an  
1532 institution or a health insurance plan in some way has a  
1533 conscience and there is no tradition of that and the reality  
1534 is that conscience is applied to real people and individuals.

1535 Ms. {Schakowsky.} And since we are getting into very  
1536 personal and private matters dealing with women, I am just  
1537 curious from Dr. Stevens, Ms. Belford, and Mr. Cox, do you  
1538 have any problem with the insurance companies providing  
1539 prescription drugs for erectile dysfunction, Cialis or  
1540 Viagra? Just curious.

1541 Dr. {Stevens.} I don't have any problem at all. I also  
1542 don't have any trouble with contraceptives, most of them, but  
1543 that doesn't mean I am going to prescribe all of them or that  
1544 my Catholic brothers and sisters should not have the right to  
1545 decide they are not going to pay for them.

1546 Mr. {Cox.} Our plans don't cover those services.

1547 Ms. {Belford.} I think as I indicated, Congresswoman,  
1548 in my testimony, our plan does not cover contraceptive  
1549 coverage, sterilization, and the drugs that are mandated  
1550 here.

1551 And if I would just add I recognize that the teachings  
1552 of the Catholic Church on procreation and life may not be the  
1553 majority view and may not be popular, but I also understand  
1554 from all the testimony that I have just heard this morning  
1555 that contraception is widely available and universally used.  
1556 So the issue here is not whether or not women are using it or  
1557 have access to it. The issue for me and why I came here  
1558 today is because Catholic Church has a teaching about  
1559 procreation and life and we are talking about whether us as  
1560 an employer, the Archdiocese of Washington, would be required  
1561 to provide coverage for something that we teach is morally  
1562 wrong. I know not everyone--

1563 Ms. {Schakowsky.} And I hope you would inform all of  
1564 your women employees of that policy. Thank you.

1565 Mr. {Pitts.} The chair thanks the gentlelady and  
1566 recognizes the gentleman from Pennsylvania, Dr. Murphy, for 5  
1567 minutes.

1568 Mr. {Murphy.} Thank you, Mr. Chairman.

1569 Dr. Hathaway, in your testimony you spoke of your many  
1570 uninsured patients and the cost they face to excess

1571 contraceptives, just to be clear, because this interim final  
1572 rule is directed at those providing insurance, nothing in  
1573 this rule would actually change your uninsured patients'  
1574 ability to access contraceptives, is that correct?

1575 Dr. {Hathaway.} I am not a legal scholar and I can't  
1576 truly point to that, but I do know--

1577 Mr. {Murphy.} They would still have access to that?

1578 Dr. {Hathaway.} Access and copays and coverage for some  
1579 of the most effective methods are prohibitive for many, many,  
1580 many insured and uninsured women in our country. It is--

1581 Mr. {Murphy.} I am asking under this interim rule,  
1582 would nothing that would change the uninsured patient's  
1583 ability to access contraceptives in this?

1584 Dr. {Hathaway.} I think it would.

1585 Mr. {Murphy.} Excuse me. Now, there are many business  
1586 owners in my district guided by their faith who are  
1587 struggling with whether or not they can continue to provide  
1588 health insurance to their employees in light of this new  
1589 rule. Do you honestly think that thousands of individuals  
1590 and families in my district who could lose their health  
1591 insurance altogether are really better off as a result of  
1592 this rule?

1593 Dr. {Hathaway.} I feel that this rule, in the Institute  
1594 of Medicine's evidence-based looking into this issue is

1595 pretty clear that removing copays, removing cost barriers  
1596 will have a dramatic positive impact on reducing unintended--

1597       Mr. {Murphy.} And the issue before us here is also one  
1598 of people's ability to practice their faith, that the  
1599 government is not saying that people cannot access these at  
1600 all, but the question really before us is whether or not  
1601 government has the right to force faith-based hospitals or  
1602 clinics or providers or employers certain services that  
1603 violate their church teachings. And the question is whether  
1604 the Secretary of HHS can act unilaterally to force employers,  
1605 medical providers, hospitals, clinics, and others to act in  
1606 ways that violate their faith and conscience.

1607       And to that, Mr. O'Brien, I strongly disagree with your  
1608 analysis of the Catholic Church. Conscience is at the core  
1609 of Catholic teaching, you said, but slavery was not left to  
1610 personal decisions and conscience, thank goodness.

1611       Conscience, according to Father Anthony Fisher, tells us  
1612 that ``it is the inner core of human beings whereby,  
1613 compelled to seek the truth, they recognize there is an  
1614 objective standard of moral conduct and they make a practical  
1615 judgment of what is to be done here and now in applying those  
1616 standards.'' That and I think, too, it teaches us the moral  
1617 character of actions is determined by objective criteria not  
1618 merely by the sincerity of intentions or the goodness of

1619 motives. And the church of the modern world and all people  
1620 are called to form their conscience accordingly and to fit  
1621 with it as opposed to rewrite their image of the church and  
1622 of the Lord's teachings. It is not--I repeat--it is not our  
1623 duty as Catholics to tell God what he should do or the image  
1624 that he should adhere to or what he should think, but it is  
1625 up to us to shape our conscience to conform with the  
1626 teachings he has given us.

1627         When Moses came down with the 10 Commandments, he didn't  
1628 put it up for a vote or ask for a referendum or say to  
1629 people, so what do you think, folks? Our life is spent in  
1630 continuous struggle to learn that which is good and  
1631 conscience is not merely to declare it in terms of humanism  
1632 and then form some image of God based upon some desires.  
1633 Conscience, sir, is not convenience.

1634         Father Fisher goes on to say that ``deep within their  
1635 conscience, human persons discover a law which they have not  
1636 themselves made but which they must obey. Conscience goes  
1637 astray through ignorance and the key here is to shape our  
1638 conscience to conform to the laws of God, not to practicality  
1639 or solecism.'' ``Conscience,'' he goes on to say, ``is  
1640 formed through prayer, attention to the sacred, and adhering  
1641 to certain teachings of the church and the authority of  
1642 Christ teachings in the church.'' Conscience is not that

1643 which described by Shakespeare when he says in Hamlet  
1644 ``nothing is either good or bad but thinking makes it so.''  
1645       So asking a group in a survey whether or not they have  
1646 ever acted or thought of acting a certain way that runs  
1647 counter to the church's teachings is no more a moral code  
1648 than asking people if they ever drove over the speed limit as  
1649 a foundation for eliminating all traffic laws.

1650       With that, I end with a quote from John Adams, which he  
1651 said in 1776 when he was writing our Declaration of  
1652 Independence of the United States. He said, ``it is the duty  
1653 of all men in society, publicly and at stated seasons, to  
1654 worship the Supreme Being, the Creator and Preserver of the  
1655 universe, and no subject shall be hurt, molested, or  
1656 restrained in his person, liberty, or estate for worshipping  
1657 God in the manner most agreeable to the dictates of his own  
1658 conscience or for his religious profession, or sentiments  
1659 provided he doth not disturb the public peace or obstruct  
1660 others in their religious worship.''  
1661 The foundation of our  
1662 Nation is not to impose laws which restrict a person's  
1663 ability to practice their faith, sir.

1663       With that, I yield back.

1664       Mr. {Pitts.} The chair thanks the gentleman and  
1665 recognizes the gentlelady from California, Ms. Capps, for 5  
1666 minutes.

1667 Mrs. {Capps.} Thank you, Mr. Chairman.

1668 One thing that does trouble me in today's testimony is  
1669 some confusion about what the preventive service rule applies  
1670 to and what it doesn't. I would like to set the record  
1671 straight as I understand it. The rule we are discussing  
1672 today is whether or not an employer--as in a hospital or  
1673 university system--can ban the coverage of a medical service  
1674 but it would not mandate that any individual prescriber's  
1675 control or that any woman or man take birth control. Period.  
1676 Today's hearing is yet another example of how out of touch  
1677 the majority side is with the American people. My  
1678 constituents tell me that we should be spending our time here  
1679 considering jobs and the economy, not blocking women's access  
1680 to contraceptive services. But instead here we are again  
1681 poised to attack another important piece of the healthcare  
1682 law to rile up an extremist constituency at women's expense.

1683 The Institute of Medicine report illustrates the strong  
1684 evidence and sound science that proper birth spacing and  
1685 planning of pregnancies does improve the health of a woman  
1686 and her future children. The HHS rule then translates the  
1687 science into provisions to give women options to choose if,  
1688 when, and how to space their pregnancies, something they  
1689 should be discussing with their medical provider, not with  
1690 their boss. As we have heard, especially in these tough

1691 economic times, women are sometimes forced to choose between  
1692 paying for their birth control prescription or paying for  
1693 other necessities. These economic concerns are the threat to  
1694 public health we should be discussing, not whether or not  
1695 your boss' conscience is more important than your own.

1696 Now, Mr. Cox, I want to praise the good work of your  
1697 institutions in California because many of them are serving  
1698 my constituents in my congressional district--

1699 Mr. {Cox.} Thank you.

1700 Mrs. {Capps.} --on the central coast. In your  
1701 testimony you say that you represent Catholic healthcare  
1702 organizations in California, including 54 hospitals. Is that  
1703 correct?

1704 Mr. {Cox.} That is correct.

1705 Mrs. {Capps.} So to be clear, you are not speaking for  
1706 or representing the views of all Catholic hospitals or  
1707 nursing homes in the United States?

1708 Mr. {Cox.} No, but I would believe that my views would  
1709 be consistent--

1710 Mrs. {Capps.} Right, but you do not represent any other  
1711 than the ones in California.

1712 Mr. {Cox.} That is correct.

1713 Mrs. {Capps.} As I understand it, California has a  
1714 requirement for coverage of contraception that is very much

1715 like the one that HHS has now proposed, and that includes the  
1716 religious exemption that you are now saying is too narrow. I  
1717 also understand that this coverage requirement has been  
1718 reviewed by the California Supreme Court and found not to be  
1719 religious discrimination and that the United States Supreme  
1720 Court refused to review that decision. So my question to  
1721 you, I assume that your hospitals in their role as employers  
1722 comply with the California law and do provide insurance  
1723 coverage for your employees for contraceptive services. Is  
1724 that correct?

1725 Mr. {Cox.} Most of our members have moved or are moving  
1726 towards self-insurance under ERISA, which would be denied to  
1727 us by the HHS rule.

1728 Mrs. {Capps.} But they do now?

1729 Mr. {Cox.} Pardon?

1730 Mrs. {Capps.} They do now?

1731 Mr. {Cox.} Yeah, they either have or are moving  
1732 towards--

1733 Mrs. {Capps.} But they do now use it?

1734 Mr. {Cox.} --self-insured ERISA plans in order to get  
1735 out from under--

1736 Mrs. {Capps.} But they do provide insurance coverage  
1737 now as required?

1738 Mr. {Cox.} Yes, of course, we do.

1739 Mrs. {Capps.} Okay. I wondered if you would tell us  
1740 all have any of your hospitals closed as the result of this  
1741 requirement? Yes or no, please.

1742 Mr. {Cox.} We have other options.

1743 Mrs. {Capps.} So they have not.

1744 Mr. {Cox.} They have not.

1745 Mrs. {Capps.} Have any of your hospitals dropped  
1746 insurance coverage for its employees as a result of this  
1747 requirement?

1748 Mr. {Cox.} No.

1749 Mrs. {Capps.} Have any of the Catholic bishops severed  
1750 ties with your hospitals over this requirement?

1751 Mr. {Cox.} No.

1752 Mrs. {Capps.} Thank you.

1753 Now, I would like to address Mr. Hathaway. I only have  
1754 a few seconds left, but if there was an expansion of refusal  
1755 provisions for employers, in some estimates that would affect  
1756 over a million employees and their families. Where would  
1757 these women go for their care?

1758 Dr. {Hathaway.} My guess is they would end up in a  
1759 safety net system somehow and struggle to make ends meet.

1760 Mrs. {Capps.} Like a Title X?

1761 Dr. {Hathaway.} Right.

1762 Mrs. {Capps.} And a clinic like the one you describe

1763 with certain patients that you serve gets Title X funding to  
1764 provide these services for women who can afford them?

1765 Dr. {Hathaway.} Correct.

1766 Mrs. {Capps.} Thank you.

1767 Dr. {Hathaway.} I think it should be pointed out that  
1768 the areas of the United States where there is less access to  
1769 healthcare are also the areas where there is higher epidemic  
1770 rates of unintended pregnancies, and those are the  
1771 population--if I am here representing anyone, I am  
1772 representing the thousands of women that I have seen daily  
1773 that just don't have access to good healthcare. And I truly  
1774 hope we can move forward on this Preventive Care Act.

1775 Mrs. {Capps.} That is exactly what I wanted to allow  
1776 you the opportunity to say because as a former public health  
1777 nurse in a school system I see those faces before me every  
1778 single day as I serve here in Congress. Thank you very much.

1779 Dr. {Hathaway.} Thank you.

1780 Mrs. {Capps.} I yield back.

1781 Mr. {Pitts.} The chair thanks the gentlelady and  
1782 recognizes the gentlelady from Tennessee, Ms. Blackburn, for  
1783 5 minutes.

1784 Mrs. {Blackburn.} Thank you, Mr. Chairman, and thank  
1785 the panel for their time.

1786 Dr. Stevens, I want to talk with you for a couple of

1787 minutes, but before I do, the gentlelady from California  
1788 mentioned that we should be talking about jobs. I would like  
1789 to say that straightening out this ObamaCare bill is a way  
1790 for us--to repeal it, to replace it is a way to deal with  
1791 jobs because we heard from CBO that passage of this bill  
1792 would cost us about 800,000 jobs. So I appreciate that we  
1793 are looking at the dynamic that this has.

1794 But Dr. Stevens, I want to talk with you. Since you are  
1795 from Tennessee and you are familiar with the impact that  
1796 TennCare program had on Tennesseans, I want to look at this  
1797 access-to-care issue because as I have told my colleagues  
1798 here in this committee many times over the past few years  
1799 that what we saw happen in Tennessee was individuals had  
1800 access to the queue but they didn't have access to the care.  
1801 And there is an enormous difference that is there. On the  
1802 contraceptive mandate, I want to be certain that I am quoting  
1803 you right. And your quote was, ``it violates the religion  
1804 and free speech clauses of the First Amendment of the  
1805 Constitution by coercing faith-based healthcare ministries to  
1806 not only violate the very faith-based tenets that have  
1807 motivated patient care for millennia but also to pay for that  
1808 violation. Such conscious violating mandates will ultimately  
1809 reduce patients' access to faith-based medical care,  
1810 especially depriving the poor and medically underserved

1811 populations of such care.''

1812           Dr. {Stevens.} That is very much the case. You know,  
1813 the intention may be to expand coverage, but actually what  
1814 this is going to do I believe if it is carried forward will  
1815 reduce care as faith-based professionals, because they are  
1816 forced into a situation, begin not providing those services  
1817 or not providing insurance for the staff that are working  
1818 with them. So that is a great concern because the bottom  
1819 line is we want to take care of the poor, we want to provide  
1820 good services, but we cannot violate our conscience.

1821           Mrs. {Blackburn.} Okay. And you also noted a national  
1822 survey at FreedomToCare.org of over 2,100 faith-based  
1823 physicians revealed that 9 of 10 are prepared to leave the  
1824 practice of medicine if pressured to compromise their ethical  
1825 and moral commitments. So do you believe that this  
1826 particular mandate could contribute to more faith-based  
1827 providers leaving the medical profession and thereby reducing  
1828 patients' access to medical care? And are you concerned that  
1829 faith-based providers might leave certain or particular areas  
1830 of medical care in especially large numbers?

1831           Dr. {Stevens.} I know that is happening. We work on  
1832 222 medical and dental campuses across the country where we  
1833 have student chapters and I remember meeting with 5 students  
1834 down at the University of Texas, 5 girls, and I said what are

1835 you guys interested in? And they all said OB/GYN. How many  
1836 of you are going into it? Only one. Why not? Because of  
1837 right-of-conscience issues, because of pressures in  
1838 residency, coercion to participate in abortions or do things  
1839 that violate their conscience. So we are already beginning  
1840 to change the face of healthcare. The sad thing,  
1841 Congresswoman, is that I think that is what some people want.

1842 I was debating a Planned Parenthood lawyer on National  
1843 Public Radio on right of conscience; he said you have no  
1844 business being in healthcare if you are not willing to  
1845 provide legal services. And I think there are some that  
1846 would love to see faith-based people out of the whole  
1847 healthcare equation.

1848 Mrs. {Blackburn.} Okay. Let me go to Mr. Cox and Dr.  
1849 Stevens and Ms. Belford with this one. And Dr. Stevens,  
1850 starting with you and working across. Let me just ask you--  
1851 this is a yes or no--and then you can explain if you would  
1852 choose. We only have a minute and 45 seconds left. Does  
1853 this preventive services rule adequately protect freedom of  
1854 conscience?

1855 Dr. {Stevens.} Absolutely not. It is the most  
1856 constrictive thing we have had in federal law in history.

1857 Mrs. {Blackburn.} So the fears of the students would be  
1858 realized under that?

1859 Dr. {Stevens.} Absolutely.

1860 Mrs. {Blackburn.} Okay. Ms. Belford?

1861 Ms. {Belford.} I agree.

1862 Mrs. {Blackburn.} Okay.

1863 Mr. {Cox.} Completely agree.

1864 Mrs. {Blackburn.} Thank you. Thank you very much.

1865 And with that, I will yield back my time so that we can  
1866 move through the rest of the panel.

1867 Mr. {Pitts.} The chair thanks the gentlelady,  
1868 recognizes the gentleman, Mr. Towns, for 5 minutes for  
1869 questions.

1870 Mr. {Towns.} Thank you very much, Mr. Chairman. Let me  
1871 thank you and the ranking member for holding this hearing.

1872 The Supreme Court and lower courts throughout this land  
1873 have repeatedly ruled that a law that is applied generally is  
1874 enforceable even if some religious groups oppose the action  
1875 or the inaction that it requires. Let me give you a few  
1876 examples. The Quakers must pay taxes that support wars.  
1877 Native Americans may not use traditional drugs. Mormon men  
1878 may not have multiple wives. Some courts have ruled that the  
1879 Muslim women must remove their veils for photo identification  
1880 cards and et cetera, et cetera, going on and on and on.

1881 The question for the court is whether the government is  
1882 pursuing a legitimate goal. Family planning is a legitimate

1883 goal. We have reams of data and medical consensus that  
1884 family planning improves health outcomes for mother and  
1885 child. We have shelves of studies that show that unintended  
1886 pregnancies are likely to result in worse health and are much  
1887 more likely to result in abortion. The government, of  
1888 course, cannot require individuals to use family planning, it  
1889 cannot require individuals to provide family planning, but it  
1890 can require employers to pay for insurance that covers family  
1891 planning, and it should.

1892 Let me go to you, I guess, Dr. O'Brien. I fully respect  
1893 the rights of an individual provider to exercise his or her  
1894 conscience. However, I believe that this right must be  
1895 carefully balanced by the rights of patients' access to safe,  
1896 legal healthcare. We must be certain that any right of  
1897 refusal provided is solely granted to an individual and not  
1898 to an institution to ensure that we strike the right balance.

1899 Dr. O'Brien, do you believe that the Affordable Care Act  
1900 refusal clauses have the potential to compromise the health  
1901 of women?

1902 Mr. {O'Brien.} I believe the Affordable Care Act is an  
1903 absolutely marvelous initiative that would greatly improve  
1904 the lives and the healthcare of women, men, and families. I  
1905 think the difficulty really comes about when what we are  
1906 hearing all the time is trying to bestow conscience rights on

1907 institutions. I fully agree with you that with regards to  
1908 doctors, nurses, pharmacists, individuals have a right of  
1909 conscience. They have a right to refuse to provide services.  
1910 If they find themselves in that situation, obviously the onus  
1911 is to ensure that somebody can access those services.  
1912 Because in Catholicism--and also I believe within fair play  
1913 in the United States of America--the idea that someone cannot  
1914 access services, there is something wrong with that. I think  
1915 there is a real difficulty that we didn't hear a lot today  
1916 from some members about the conscience rights of those  
1917 individuals who would be denied service. What these refusal  
1918 clauses are really intending to do would be to have the State  
1919 sanction discrimination against individual workers just  
1920 because they happen to work in an institution that is a  
1921 Catholic institution. The idea that an employer can decide  
1922 what services you do or do not get, I think there is  
1923 something very wrong with that, something very un-American  
1924 about it.

1925 Mr. {Towns.} Right. Thank you very much. I much admit  
1926 that I agree.

1927 Dr. Hathaway, why do you as a medical professional  
1928 support the ACA preventative coverage provision? As a doctor  
1929 who specializes in women's health, could you please explain  
1930 why unintended pregnancies are considered by doctors a health

1931 condition? And I only have a few seconds left because I want  
1932 to make a statement in reference to I know we keep using the  
1933 word ObamaCare. I am going to suggest for this committee,  
1934 which is the Health Committee, refer to it as President  
1935 ObamaCare. Thank you.

1936 Dr. {Hathaway.} Yes. Thank you, Chairman.

1937 Mr. {Towns.} Thank you.

1938 Dr. {Hathaway.} After I had been practicing in a public  
1939 health clinic for several years, I took some time to go to  
1940 public health school and it was for the exact reason as we  
1941 are speaking about today that I found many, many, many women,  
1942 my patients, coming in with unplanned, unintended  
1943 pregnancies. And I felt as though we need to be doing  
1944 something about that. And when this recommendation came out  
1945 from the Institute of Medicine, many of my colleagues  
1946 throughout the country, OB/GYNs, family, nurse practitioners,  
1947 midwives, family medicine doctors, pediatricians all to my  
1948 knowledge are overwhelmingly supportive of this  
1949 recommendation that preventive healthcare should include  
1950 contraception care, family planning care, as well as the  
1951 multitude, 7 or 8 other points that they recommend. Public  
1952 health is an incredibly important issue for our country and  
1953 preventive health is paramount.

1954 Mr. {Towns.} I yield back.

1955 Mr. {Pitts.} The chair thanks the gentleman and  
1956 recognizes the gentleman from Georgia, Dr. Gingrey, for 5  
1957 minutes.

1958 Dr. {Gingrey.} Mr. Chairman, thank you for yielding,  
1959 and I thank our witnesses. I want them to know if they don't  
1960 already know that prior to Congress I spent 26 years  
1961 practicing obstetrics and gynecology in Marietta, Georgia, my  
1962 hometown.

1963 I am going to address my first questions to Dr. Stevens,  
1964 Ms. Belford, and Mr. Cox, and I will get each of you to  
1965 quickly answer these questions. They are pretty  
1966 straightforward yes or no.

1967 Are you aware that President Obama promised every  
1968 American that they could ``keep what they have if they liked  
1969 it'' when referring to health insurance?

1970 Dr. {Stevens.} Yes.

1971 Ms. {Belford.} Yes.

1972 Mr. {Cox.} Yes.

1973 Dr. {Gingrey.} And the second question for the same  
1974 three, I referenced the Catholic hospitals in my opening  
1975 statement. Does this interim rule in your opinion support  
1976 President Obama's promise that workers, including the 750,000  
1977 of the Catholic Hospital Association, could keep what they  
1978 have if they like it?

1979 Dr. {Stevens.} No.

1980 Ms. {Belford.} No.

1981 Mr. {Cox.} No.

1982 Dr. {Gingrey.} Thank you. The next question I want to  
1983 address to Mr. O'Brien. Mr. O'Brien, you stated that you  
1984 believe in choice and Mr. Waxman referenced in his statement  
1985 the need for employees to have the choice to access services.  
1986 I am glad to hear that because I basically agree with the two  
1987 of you. I also believe that choice is a two-way street, both  
1988 to do and not to do.

1989 In 2014, according to supporters of the new health law  
1990 President ObamaCare, every single person will have numerous  
1991 choices in the health plans through these exchanges. So  
1992 instead of forcing every person to pay for a service they may  
1993 have a moral conscience objection to, Mr. O'Brien, don't you  
1994 agree it would be better to allow them to choose whether they  
1995 want these services and if they want to pay for them?

1996 Mr. {O'Brien.} I think that there is a lot of people in  
1997 the United States of America who have problems with taxes,  
1998 problems paying taxes, the amount of taxes they pay. But we  
1999 don't get to pick and choose what we pay and what we don't  
2000 pay for. Some people disagree with the wars, some people  
2001 disagree with the incarceration system in the United States.  
2002 Other people feel that as regards to welfare that they don't

2003 feel like paying for it. But we do. As a society, this is  
2004 an important way for society to be constructed so that it can  
2005 actually operate. So we don't always get to pick and choose.  
2006 I think the idea that one religious group would receive a  
2007 free pass, I think that that is very unfair and I don't think  
2008 that that is right.

2009 Dr. {Gingrey.} Well, I am going to interrupt you  
2010 because I think that your answer is no. And no matter how  
2011 long you talk, the answer is going to be no. It seems to me  
2012 quite honestly the only choice you believe people should have  
2013 are choices that fit with your own philosophical views. The  
2014 views that you espouse are not choices but rather imposing of  
2015 those views on people regardless of their moral or religious  
2016 views or convictions. Quite honestly, Mr. O'Brien, that  
2017 doesn't sound very American to me.

2018 I am going to go back to Dr. Stevens and Ms. Belford and  
2019 Mr. Cox in the remaining time that I have. In looking at  
2020 this interim rule, I guess that Catholic hospitals and  
2021 providers could limit their hires to Catholics and of course  
2022 only deliver care to Catholics. Is that the healthcare  
2023 system that we ultimately want, one in which Catholics treat  
2024 Catholics, Protestants treat Protestants, Muslims treat  
2025 Muslims, or should this government instead encourage  
2026 hospitals and providers, the doctors, to treat all patients?

2027 Dr. {Stevens.} Should encourage to treat all patients.

2028 Ms. {Belford.} That is a fundamental tenet of our  
2029 faith, that we care for our neighbor and love our neighbor as  
2030 ourselves. So yes, we should care for all.

2031 Mr. {Cox.} It would be inconsistent with our religious  
2032 mission to limit our services only to Catholics.

2033 Dr. {Gingrey.} Well, I thank the three of you. I  
2034 certainly agree with that.

2035 Mr. Cox, I am going to conclude with you in the half-  
2036 minute I have left. Going back to previous questions, can  
2037 you explain the difference between California's law on  
2038 benefits and the impending HHS rule that we are discussing  
2039 here today?

2040 Mr. {Cox.} They are very similar and particularly with  
2041 respect to the definition of religious employers. HHS  
2042 borrowed or utilized the definition that was first developed  
2043 by California in its contraceptive mandate statute. They  
2044 differ in this regard: that you can get out from under the  
2045 mandate in California if you decide not to cover those  
2046 prescription drug benefits in your health insurance plan, and  
2047 our members are also able to self-insure under ERISA. They  
2048 have been able to up until now self-insure under ERISA and  
2049 get out from under the mandate. Also, the California statute  
2050 does not cover sterilization, which the HHS rule does and

2051 will compel us to cover in our health insurance plans.

2052 Dr. {Gingrey.} Thank you, Mr. Cox.

2053 Mr. Chairman, I yield back. Thank you for your  
2054 patience.

2055 Mr. {Pitts.} The chair thanks the gentleman and  
2056 recognizes the gentlelady from Wisconsin, Ms. Baldwin, for 5  
2057 minutes for questions.

2058 Ms. {Baldwin.} Thank you, Mr. Chairman.

2059 I have a few questions for our witnesses but I would  
2060 like to first point out that here we are again, once again in  
2061 the middle of what has been described as the Republican war  
2062 on women. At a time when our committee and our Congress  
2063 should be coming together to put America back to work,  
2064 putting partisan divisions aside in the interest of the  
2065 people, once again our committee is advancing issues that  
2066 divide Americans, and in this case, issues that infringe on  
2067 women's rights.

2068 Today, the majority is focusing on yet another effort to  
2069 limit women's access to essential and medically necessary  
2070 treatment options. And in particular, my colleagues would  
2071 like to limit the number of new group or individual health  
2072 insurance plans that will be required to provide preventative  
2073 services for women without cost-sharing requirements. The  
2074 Affordable Care Act makes significant strides in expanding

2075 access and making healthcare affordable for women. Thanks to  
2076 this law, being a woman can no longer be considered a  
2077 preexisting condition, and thanks to a provision in the  
2078 Affordable Care Act that we are discussing today, women will  
2079 now have access to preventative services that have been too  
2080 costly for so many up until now. That is unless Republicans  
2081 succeed in their efforts to limit the number of health plans  
2082 that are required to cover such preventative services.

2083 I would like to explore this issue further and ask our  
2084 witnesses some questions. Dr. Stevens, Mr. Cox, and Ms.  
2085 Belford, as you know, I believe Congressman Fortenberry has  
2086 introduced a bill, H.R. 1179, the Respect for Rights of  
2087 Conscience Act. This bill would amend the Affordable Care  
2088 Act such that health plans would not be required to provide  
2089 coverage or pay for coverage for any service that is  
2090 ``contrary to the religious or moral convictions of the  
2091 sponsor or issuer or the plan.'' Just so the record is  
2092 clear--and this question is for each of you--do you support  
2093 this legislation? Dr. Stevens?

2094 Dr. {Stevens.} I do support that legislation.

2095 Ms. {Baldwin.} Mr. Cox?

2096 Mr. {Cox.} We support it.

2097 Ms. {Baldwin.} Ms. Belford?

2098 Ms. {Belford.} Yes.

2099 Ms. {Baldwin.} Thank you. Now, Ms. Belford, as the  
2100 attorney on the panel, I want to ask you some questions  
2101 related to the provision of H.R. 1179. As I read it, an  
2102 employer can exclude from its insurance coverage for its  
2103 employees coverage of any service that is contrary to the  
2104 religious or moral convictions of that employer. So if you  
2105 can answer the following with a yes or no, that would be  
2106 greatly appreciated with our time constraints. Under this  
2107 language that I quoted, could a plan exclude coverage for  
2108 certain infertility services because the plan sponsor has a  
2109 religious objection to such services?

2110 Ms. {Belford.} I can only speak to what our plan  
2111 provides and what our--

2112 Ms. {Baldwin.} No, the quoted provision of Mr.  
2113 Fortenberry's bill if it were to be passed into law, I am  
2114 wondering if under that language I quoted could a plan  
2115 exclude coverage for certain infertility services because the  
2116 plan's sponsor has a religious objection to such services?

2117 Ms. {Belford.} Hypothetically, I think it probably  
2118 could.

2119 Ms. {Baldwin.} Thank you. Under that language, could a  
2120 plan exclude coverage for alcohol and drug addiction services  
2121 because a plan's sponsor believes that use of alcohol or  
2122 drugs is sinful?

2123 Ms. {Belford.} I honestly don't know the answer to that  
2124 question because these are all services that we provide under  
2125 our health plan.

2126 Ms. {Baldwin.} But under the language of the  
2127 Fortenberry bill, health plans would not be required to  
2128 provide coverage or pay for coverage of any service that is  
2129 contrary to the religious or moral convictions of the sponsor  
2130 or issuer. So under that language could a plan exclude  
2131 coverage for alcohol and drug addiction because the plan's  
2132 sponsor believes that the use of alcohol or drugs is sinful?

2133 Ms. {Belford.} Theoretically. I am not aware of  
2134 religions that do and I guess I would have to look with  
2135 reference to what our federal laws and constitutional cases  
2136 have indicated with regard to what our moral and religious--

2137 Ms. {Baldwin.} So you don't know the answer to that  
2138 question.

2139 Ms. {Belford.} I really don't.

2140 Ms. {Baldwin.} Okay. Under the language I quoted,  
2141 could a plan exclude coverage for HIV and AIDS patients  
2142 because the plan's sponsor expresses moral objections to  
2143 homosexuality?

2144 Ms. {Belford.} This is a hypothetical question but I  
2145 just have to say in our church we care for all people and we  
2146 don't--

2147 Ms. {Baldwin.} That is not the question.

2148 Ms. {Belford.} We don't decline services--

2149 Ms. {Baldwin.} We are considering legislation that will  
2150 have impacts if passed. Mr. Chairman, would I be able to be  
2151 granted an additional 30 seconds?

2152 Mr. {Pitts.} Without objection.

2153 Ms. {Baldwin.} Under the language that I quoted could a  
2154 plan exclude coverage for blood transfusions because the  
2155 plan's sponsor is religiously opposed to this medical service  
2156 even in an emergency situation?

2157 Ms. {Belford.} I don't know the answer to that.

2158 Ms. {Baldwin.} Under this language could a plan exclude  
2159 coverage for unmarried pregnant women because the plan's  
2160 sponsor has a religious objection to premarital sex?

2161 Ms. {Belford.} We don't exclude such coverage so I  
2162 don't--

2163 Ms. {Baldwin.} I am not asking about your plan.

2164 Ms. {Belford.} --know whether that would be the case.

2165 Ms. {Baldwin.} Well, I hope that you see the point that  
2166 I am trying to make here. The scope of H.R. 1179 is broad  
2167 enough to exclude anything to which an employer decides it is  
2168 religiously or morally opposed. There is absolutely no  
2169 standard, no guidelines in place for making such a decision.  
2170 This bill would also undo state law and it would completely

2171 undermine the Affordable Care Act.

2172 Dr. {Gingrey.} Would the gentlelady yield to me when  
2173 she has a little time?

2174 Dr. {Cassidy.} I would point out she is way over 30  
2175 seconds.

2176 Mr. {Pitts.} The gentlelady's time has expired.

2177 Ms. {Baldwin.} Thank you, Mr. Chairman.

2178 Mr. {Pitts.} The chair thanks the gentlelady, recognize  
2179 Dr. Cassidy for 5 minutes for questions.

2180 Dr. {Cassidy.} Folks, I got 5 minutes so if I interrupt  
2181 you, it is not to be rude. It is just because I have 5  
2182 minutes.

2183 Now, Mr. O'Brien, Dr. Stevens raised an interesting  
2184 point of moral complicity, but it appears and frankly if we  
2185 view the employer as merely an extension of the State, we can  
2186 take Representative Baldwin's point and extend it to terrible  
2187 things where the State might demand something terrible and  
2188 the employer is merely an extension, a puppet being dictated  
2189 by a law who would have to comply. So I think this cuts both  
2190 ways, but I gather that you feel as if moral complicity is  
2191 not an issue if an employer is mandated to cover a service  
2192 which he particularly finds objectionable.

2193 Mr. {O'Brien.} We think Catholicism and we think--

2194 Dr. {Cassidy.} No, no, no, just in general.

2195 Mr. {O'Brien.} In general fairness I think that a  
2196 properly formed conscience requires us to have respect for  
2197 the consciences of others. So I think that--

2198 Dr. {Cassidy.} That said, we also are responsible for  
2199 ourselves, so if the employer finds something objectionable,  
2200 again, if you say that it is incredible to suggest that a  
2201 healthcare plan has a conscience, but it is not really the  
2202 healthcare plan; it is the purchaser of the healthcare plan  
2203 that has a conscience. I gather that you think it is  
2204 incredible that the purchaser of that healthcare plan would  
2205 manifest her conscience through the benefits covered. Is  
2206 that correct?

2207 Mr. {O'Brien.} I believe that due deference to the  
2208 consciences of others is an essential element--

2209 Dr. {Cassidy.} No, but is it correct that you would  
2210 find it incredible that the purchaser of a healthcare plan  
2211 would manifest her conscience as regards with services she  
2212 would elect to cover for employees?

2213 Mr. {O'Brien.} I think if you are talking about  
2214 individuals, I believe in the right of individual conscience.

2215 Dr. {Cassidy.} So I am thinking of a small business  
2216 owner, she has got 35 employees and she is making a decision  
2217 as to what benefits to cover. It is she that is making it,  
2218 she is an individual, and you find it I gather incredible

2219 that she would reflect her values through the services  
2220 provided.

2221 Mr. {O'Brien.} I think an employer, a company, an  
2222 institution, I think that the job of an institution is to  
2223 give due deference to the consciences of all--

2224 Dr. {Cassidy.} So she is also filing as an S corp. so  
2225 she is actually taking income from the business as her own  
2226 income. If you will there is an identity that is respected  
2227 in other aspects of the law that is recognized by the IRS and  
2228 others. But again, you seem to find it incredible--I am not  
2229 quite getting the yes or no. In fact let me do what Ms.  
2230 Baldwin did or Mr. Pitts, which is a yes or no.

2231 Do you find it incredible that that small business  
2232 owner--

2233 Mr. {O'Brien.} No.

2234 Dr. {Cassidy.} --would attempt to reflect her values in  
2235 the services she covers.

2236 Mr. {O'Brien.} I don't think that an employer has a  
2237 right to insist that their values--for example, if an  
2238 employer--

2239 Dr. {Cassidy.} Okay. That is fine. You know, you have  
2240 made your point. You don't think so. Again, I have only 5  
2241 minutes.

2242 Mr. {O'Brien.} Sorry.

2243 Dr. {Cassidy.} So at that point, the employer's  
2244 conscience merely becomes an extension of what the majority  
2245 party is able to put through without an open hearing through  
2246 HHS. Ultimately, that is it, correct? Yes, no?

2247 Mr. {O'Brien.} I believe that it is the job of the  
2248 institution to facilitate the consciences of all people.

2249 Dr. {Cassidy.} So again all people is interesting  
2250 because we are not really facilitating the conscience of that  
2251 small business owner who would like her values to be  
2252 reflected in the benefits she provides. And you also reject  
2253 moral complicity. So if that small business owner puts out a  
2254 product, somehow you have divorced her from the actions of  
2255 her company. So if she puts out a product which is harmful,  
2256 there is no moral complicity there?

2257 Mr. {O'Brien.} I don't think that it is speaking to  
2258 what the actual issue is.

2259 Dr. {Cassidy.} No, the question is--

2260 Mr. {O'Brien.} The issue is whether--

2261 Dr. {Cassidy.} I only have 5 minutes.

2262 Mr. {O'Brien.} Okay.

2263 Dr. {Cassidy.} And so again if we are going to take a  
2264 holistic viewpoint of what this small business owner is  
2265 doing, if she put out something which was known to be  
2266 harmful, we would call that--in terms of a product--we would

2267 call that morally reprehensible and we would ask her  
2268 conscience to be sharper. But then we can turn around and  
2269 say she has no right to judge what products should be covered  
2270 by her insurance that she provides for her employees. That  
2271 is a cognitive dissonance.

2272 That said, let us also make the point, Dr. Hathaway,  
2273 that this is really not about access for preventive services  
2274 for those who are poor. They are currently covered through  
2275 Medicaid and SCHIP, that I have been told IUDs can be placed  
2276 right after delivery, which is a long-term form of birth  
2277 control. I am not an OB/GYN; I am a gastroenterologist, you  
2278 know, so whatever that is worth. But that said, this is not  
2279 about access for the poor, and for those who have coverage, I  
2280 see that the generic birth control pill can cost \$14 a month  
2281 through 340(b) pricing. If we are going to say through  
2282 legislation that everything has to be covered equally, then  
2283 really we are saying to people don't choose the \$14-a-month  
2284 pill; choose the \$100-a-month pill, which is also bad social  
2285 policy. We just run out of money at some point in our good  
2286 will.

2287 I yield back. Thank you.

2288 Mr. {Pitts.} The chair thanks the gentleman and we  
2289 have--

2290 Dr. {Gingrey.} Mr. Chairman?

2291 Mr. {Pitts.} --unanimous consent request from Dr.  
2292 Gingrey for 1 minute to respond since our friend, Ms.  
2293 Baldwin, went 1 minute over, so without objection.

2294 Dr. {Gingrey.} And I thank my colleagues for allowing  
2295 me the minute because Ms. Baldwin was going down a line of  
2296 hypotheticals in regard to objection to blood transfusions,  
2297 objection to treating AIDS patients, and I want to make sure  
2298 and I want to particularly direct this to the 3 panelists  
2299 that I asked questions of before in regard to the Catholic  
2300 principle that the intimate relationship between husband and  
2301 wife is for the purpose of procreation of children and not  
2302 simply recreation as a number one principle. And the second  
2303 principle, even more important, the Catholic principle is  
2304 that life begins at conception and should never be  
2305 deliberately terminated. I would think that this is the  
2306 reason that the three of you are opposed to this interim rule  
2307 and I just want to get your response on that because this is  
2308 a very narrow area in which you would be opposed to  
2309 sterilization, you would be opposed to abortion, you would be  
2310 opposed to your hospital prescribing birth control pills or  
2311 abortifacients. Is that not the crux of this problem? Very  
2312 quickly yes or no.

2313 Dr. {Stevens.} Yes.

2314 Ms. {Belford.} Yes.

2315 Mr. {Cox.} Yes, we have not been covering those  
2316 services in our health insurance plans for a very, very, very  
2317 long time. It is only now that the government comes forward  
2318 and says we are going to require you to abandon that practice  
2319 and violate your conscience.

2320 Dr. {Gingrey.} Thank you all very much.

2321 And Mr. Chairman, thank you for--

2322 Mr. {Pitts.} The chair thanks the gentleman. That  
2323 concludes the first round of questioning. We will go to one  
2324 follow-up per side. Dr. Burgess for 5 minutes.

2325 Dr. {Burgess.} Yeah, Dr. Hathaway, if I could--and I  
2326 won't use the entire 5 minutes to question. What I am going  
2327 to ask is likely going to require a longer response, and if  
2328 you wish to respond in writing, that is perfectly acceptable.

2329 But first let me ask you, you talked a little bit in  
2330 your testimony about the amount of money that is spent. Can  
2331 you tell us between Title X, Medicaid, and temporary  
2332 assistance for needy families how much money is spent on  
2333 family planning by the Federal Government every year?

2334 Dr. {Hathaway.} I don't know that number.

2335 Dr. {Burgess.} But it is a lot, right?

2336 Dr. {Hathaway.} I presume so. I don't know that  
2337 number.

2338 Dr. {Burgess.} Yeah, I don't either. That is why I am

2339 asking you but it is likely to be well in excess of a billion  
2340 dollars. In fact it may be a multiple of that. And you  
2341 referenced--

2342 Dr. {Hathaway.} Pardon me, Chairman. I think also we  
2343 need to recognize that what this Institute of Medicine's  
2344 recommendation has to do with is insurers would cover  
2345 contraceptive family planning methods. We are not talking  
2346 exclusively about public assistance programs. We are talking  
2347 about insurers throughout the board. So we are now paying a  
2348 tremendous amount of money, those of us that have private  
2349 insurance--

2350 Dr. {Burgess.} Correct.

2351 Dr. {Hathaway.} --for coverage and we are not talking  
2352 about an incredibly--

2353 Dr. {Burgess.} Reclaiming my time. And we are going to  
2354 pay more under the IOM's guidelines. Dr. Cassidy is a  
2355 gastroenterologist. He doesn't prescribe birth control  
2356 pills, but I would submit that if the IOM were to require  
2357 that everyone who comes into his clinic be able to get  
2358 whatever proton pump inhibitor that they want, regardless of  
2359 cost, nobody is going to buy the generic Wal-Mart \$4-a-month  
2360 prescription, which is available for the generics of Tagamet  
2361 and Zantac and some of the earlier products. Everyone is  
2362 going to get NEXIUM because that is the best and why wouldn't

2363 you want to best? But the cost differential is substantial  
2364 between \$4 a month to \$100 a month. That is going to have  
2365 the effect of driving up the cost of the product for  
2366 everyone, whether they be on public assistance or not.  
2367 Everyone who is on employer-sponsored insurance is going to  
2368 bear the brunt of that cost. That is the way insurance  
2369 works, is it not?

2370 Dr. {Hathaway.} My understanding is that insurers,  
2371 insurance systems have formularies for just that reason, to  
2372 reduce--

2373 Dr. {Burgess.} Correct. And that is a good point  
2374 because that is the point I was trying to make with my  
2375 experience at Parkland Hospital. But under the interim final  
2376 rule, my read of the federal register is you don't get to use  
2377 a formulary. You get to have any product that is marketed as  
2378 being used for that, and that is the reason for the  
2379 comparison between Necon and Seasonique. There is a vast  
2380 difference in the price differential of those 2 compounds.

2381 Dr. {Hathaway.} So can I interrupt?

2382 Dr. {Burgess.} Yes.

2383 Dr. {Hathaway.} Let me put it this way. It is  
2384 interesting sitting here--

2385 Dr. {Burgess.} Well, let me just ask you the question.  
2386 I have Aetna health savings account.

2387 Dr. {Hathaway.} Um-hum.

2388 Dr. {Burgess.} I use a formulary with them. I only go  
2389 to their website and buy the products they tell me I can buy.  
2390 But as I understand it, under the IOM guidelines, there would  
2391 be no such prohibition. There would be no allowance for a  
2392 formulary for contraception, is that correct?

2393 Dr. {Hathaway.} I am not aware of that. I don't know  
2394 that.

2395 Dr. {Burgess.} Well, that is my read of the federal  
2396 register.

2397 Now, again, this is the problem with an interim final  
2398 rule. We didn't get to talk about any of that, we didn't get  
2399 any transparency, and, you know, forgive me if I make the  
2400 leap of faith and say the reason for the interim final rule  
2401 was precisely for these conscience protections that are  
2402 getting so much discussion this morning. There was a reason  
2403 that they followed that trajectory. There is a reason that  
2404 they went there, say, we can't wait past August because we  
2405 have got this to get out there. Well, that is nonsense.  
2406 This argument is going to be going on for a long time and  
2407 just so you could get this year's student population covered  
2408 under these rules to me was not a valid assertion unless you  
2409 have a political calculation that may be geared for November  
2410 2012. And that may very well have been the case with this,

2411 but in the meantime, the individuals who claim that their  
2412 conscience provisions are going to be violated--and I think  
2413 they are exactly right with that--they are the ones who are  
2414 suffering as a consequence of what is very bad policy and a  
2415 very bad way of going about that.

2416         Let me ask you, though, you mentioned that child spacing  
2417 and that there is a societal benefit and I don't disagree  
2418 with that. I am an OB/GYN myself. I agree with what you are  
2419 saying but I am certainly interested with the billions that  
2420 we are spending on family planning through all areas of the  
2421 Federal Government, what is our return on investment for  
2422 that? Now, we already know, for example, that many of the  
2423 people who are counted as uninsured actually have access to  
2424 SCHIP, Medicaid, maybe even a COBRA program that they don't  
2425 avail themselves of. And if you really scrutinize emergency  
2426 room populations, you will come across those folks. So what  
2427 is the evidence that providing these dollars in the family  
2428 planning area gives us that benefit in child spacing?

2429         Dr. {Hathaway.} Lots and lots of evidence. For every  
2430 dollar spent on family planning services, there is about \$4  
2431 or \$5 saved--

2432         Dr. {Burgess.} And I would appreciate it very much  
2433 because we are out of time if you could provide me references  
2434 for those, I would be anxious to look at that.

2435 Dr. {Hathaway.} I would be delighted. Thank you so  
2436 much. Thank you.

2437 Dr. {Burgess.} Thank you very much.

2438 I will yield back, Mr. Chairman.

2439 Mr. {Pitts.} The chair thanks the gentleman and  
2440 recognizes the gentleman, Mr. Engel, for 5 minutes for the  
2441 follow-up.

2442 Mr. {Engel.} Thank you very much, Mr. Chairman.

2443 First of all, I want to say that I respect people's  
2444 consciences. This is a sensitive issue and it is sensitive  
2445 all the way around, and while I don't think anyone should be  
2446 forced to provide services that morally they feel that they  
2447 cannot do, I think conversely it works the other way as well.  
2448 I think that people who make their own choices and their own  
2449 decisions should not be impeded from getting the services  
2450 that they want and they need. I think this is an important  
2451 hearing to discuss this very important issue of coverage for  
2452 preventive services. And I believe there have been many  
2453 significant advances that the Affordable Care Act made in  
2454 access to quality and affordable care for women.

2455 I am sorry we have another hearing which seems designed  
2456 to attack the significant advances that the Affordable Care  
2457 Act made for women. HHS's final interim rule is a  
2458 significant step in the right direction of providing women

2459 access to coverage to a whole range of healthcare needs that  
2460 are very specific to women, and I applaud their efforts. I  
2461 am just concerned once again we are undermining or attempting  
2462 to undermine these benefits that women have. The cost that  
2463 is placed on women in order to get access to all their  
2464 healthcare needs is something that we ought to be concerned  
2465 with.

2466         And again with respect to the religious exemptions, I  
2467 would say that the Department of Health and Human Services  
2468 has made a significant effort to allow religious  
2469 organizations to opt out of the requirements, to provide  
2470 coverage for contraception. I support that. I don't think  
2471 anyone should be forced to do it, but I think that works  
2472 again both ways. I mean you need to be sensitive both ways.

2473         So my first question is for Dr. Hathaway. HHS's interim  
2474 final rule has already accounted for the concern of providing  
2475 coverage for contraception. In your testimony, you mention  
2476 that cost is a barrier for many women who cannot afford  
2477 access to quality medical information. In your opinion,  
2478 Doctor, what will be some of the most significant benefits  
2479 for women who can now have access to coverage for preventive  
2480 services?

2481         Dr. {Hathaway.} You know, I am sitting here thinking  
2482 some days I feel as though I am pretty passionate about this.

2483 There are other days that I wish I could be more passionate,  
2484 and the only way I think I could do that is if I were a woman  
2485 or a woman of color or a woman of lower social economic  
2486 strata. And since I can't do that, I have to hope that I can  
2487 present the voice that I try to do as best I can. Preventive  
2488 healthcare, contraception care, family planning services are  
2489 incredibly important for multitudes of women in our country,  
2490 and I think we are fooling ourselves if we are not looking at  
2491 the cost savings and the amount of despair we have put women  
2492 into for years and years and years. We have moved to a whole  
2493 different era of contraception. You know, this is a 50th  
2494 anniversary of oral contraceptive pills and yet they have  
2495 saved and helped many, many women for years throughout our  
2496 country as well as many other countries, and yet we are in a  
2497 different era. If I were to ask any of us in this room how  
2498 easy it is to take a pill every day, most of us would say it  
2499 is pretty darn difficult. Most women would say they would  
2500 like to wait at least a year or more to avoid the next  
2501 pregnancy or a pregnancy at all. And therefore, we ought to  
2502 be able to help them. Whether it is private insurance or no  
2503 insurance, we need to be able to help those women space and  
2504 prevent the pregnancies when they want to.

2505 Mr. {Engel.} So let me just follow up with that because  
2506 you mention in your testimony--which is consistent with what

2507 you just said--that access to coverage for counseling,  
2508 education, and contraception is very important for women of  
2509 all socioeconomic backgrounds, but specifically, the women  
2510 who cannot afford access. So what impact would efforts to  
2511 roll back this interim rule have on women's health and what  
2512 would a continued cost barrier mean for women who cannot  
2513 afford the access to care?

2514 Dr. {Hathaway.} Detrimental. I feel as though, you  
2515 know, the women who are currently not using the most  
2516 effective methods or have no access to any method at all are  
2517 still going to struggle without this moving forward. I think  
2518 the Institute of Medicine's recommendations are very, very  
2519 strong and I applaud them. I think it is a wonderful move  
2520 for our country.

2521 Mr. {Engel.} Thank you, Dr. Hathaway.

2522 Thank you, Mr. Chairman, and I yield back.

2523 Mr. {Pitts.} The chair thanks the gentleman.

2524 That concludes the final round of questioning. I would  
2525 like to thank the witnesses for your testimony today and this  
2526 concludes today's hearing.

2527 I remind members that they have 10 business days to  
2528 submit questions for the record, and I ask that the witnesses  
2529 please agree to respond promptly to these questions.

2530 With that, thank you. The subcommittee is adjourned.

2531 [Whereupon, at 12:23 p.m., the subcommittee was  
2532 adjourned.]