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Why do the bishops continue to oppose health-care reform?

Richard McBrien | Jul. 19, 2010 Essays in Theology

It is a mystery why the U.S. Catholic bishops continue to oppose the health-care reform legislation that has already passed both houses of Congress and been signed into law by the President.

The White House's and the nation's attention has long since moved to other matters, not least the tragic oil spill and loss of life in the Gulf of Mexico.

For a time, a handful of Democrats in the House of Representatives, led by Congressman Bart Stupak of Michigan, threatened to derail passage of the legislation because of language in the bill that they charged would pay for abortions. Mr. Stupak insisted that his position was the same as that taken by the Catholic bishops.

When President Obama issued an executive order making it clear that nothing in the bill would violate the Hyde Amendment, which prohibited the use of federal funds to pay for abortions, Congressman Stupak and his small band of allies relented and expressed support for the legislation.

The bishops, however, did not change their opposition to the bill, and some of them accused Congressman Stupak of caving in to political pressure, if not also to a form of treachery.

There is an article in the June 4 issue of *Commonweal* that argues that the bishops have misunderstood the health-care legislation and that their continued, if not also moot, opposition to the bill adds unnecessarily to the confusion surrounding the legislation.

The article, "Episcopal Oversight [1]," is by Timothy Stoltzfus Jost, a professor at the Washington and Lee University School of Law.

Professor Jost finds the bishops to be in error on three counts.

First, the bishops repeat their earlier claims that under the new legislation federal funds will be used to subsidize health plans that cover abortions. But section 1303(b)(2) of the legislation, entitled "Prohibition of the use of federal funds," states clearly that the premium tax credits and cost-sharing reductions available under the legislation cannot be used by any health plan to pay for an abortion under the Hyde Amendment.

If there are private premiums, they must be kept in a separate account, and that account must be audited by the states. Given the added costs of administering these separate funds, Professor Jost points out, "it is likely that insurers will have little interest in offering such plans."

Second, the bishops claim that appropriations for community health centers (CHCs) under the new health-care reform legislation can be used to pay for elective abortions. This claim, Professor Jost argues, "ignores the plain facts that (1) regulations governing CHCs prohibit them from providing abortions not permitted by the Hyde Amendment ... and (2) the funds appropri-ated for CHCs under section 10503 are not paid directly and separately to CHCs."

On the contrary, these funds are covered by the Hyde Amendment, and the President's executive order reaffirms the force of that Amendment.

Moreover, although the bishops express concern that "a long line of federal court decisions" could be interpreted as allowing funding for abortions, they have not been able cite a single federal court decision that has ordered the funding of abortions prohibited by a federal regulation and an executive order.

Third, the bishops claim that the conscience provisions of the health-care reform legislation are inadequate. However, under the newly-passed and signed legislation, federal funds cannot be used to pay for abortions and the consciences of health-care providers are protected.

In a subsequent "clarifying statement," the bishops' conference acknowledged that the new legislation, which the conference continues to oppose, "expands health-care coverage, imple-ments many needed reforms, and provides welcome support to parenting women and adoptive families," and moves toward the Catholic Church's goal of universal access to health care.

The act extends coverage for dependents up to the age of twenty-six, provides tax credits for small businesses that insure their employees, and high-risk-pool coverage for uninsured Americans with pre-existing conditions.

In 2014, Medicaid expansion and health-insurance subsidies will go into effect, insuring millions more Americans, many of whom would die without care.

Professor Jost concludes: "Public polling repeatedly reveals that Americans are confused about what the health-reform legislation does. The legislation is long and complicated, and some misunderstanding of the bill is inevitable.

"It is unfortunate, however, that this confusion continues to be fed by mischaracterizations of the legislation by the USCCB" [the United States Conference of Catholic Bishops].

It is often said that the making of laws is similar to the making of sausage. Unlike the bishops, however, Congressman Bart Stupak viewed the process up close, as a direct legislative partici-pant.

He was satisfied with the changes; why aren't the bishops?

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