



Written by [Michael Tennant](#) on September 5, 2014

California Forces Catholic Universities to Cover Employees' Abortions

When it comes to forcing employers to violate their religious convictions when offering employee health insurance, the Barack Obama administration has nothing on the Jerry Brown administration. The U.S. president's Department of Health and Human Services (HHS) merely tried to coerce employers into paying for contraceptives that might cause abortions. Meanwhile, the California governor's Department of Managed Health Care (DMHC), having previously approved health insurance policies that deny coverage for elective abortions, has now declared that all policies in the Golden State must cover all abortions regardless of the wishes of the policyholder.



Last year, Santa Clara University in Santa Clara and Loyola Marymount University (LMU) in Los Angeles, both Jesuit institutions, announced that they would no longer include coverage of elective abortions in their employee health plans but would allow employees to purchase such coverage through a third party. LMU instituted the policy this past January, and Santa Clara University was set to follow suit at the start of 2015.

According to the Associated Press, "The two schools said their insurers, Anthem Blue Cross and Kaiser Permanente, had cleared the move with the state." Indeed, as the [Cardinal Newman Society](#), a Catholic education organization, discovered, both insurers obtained permission from the DMHC — Anthem in 2008, Kaiser in 2012 — to offer plans excluding coverage for elective abortions.

The universities' new policy caused an uproar among their faculty and staff, many of whom, despite their employment at explicitly Catholic institutions, not only disagree with the church's official position on abortion (that it is a great evil) but also believe that someone else — in this case, their employer — should be forced to pay for their abortions. The disgruntled employees, with the assistance of pro-abortion organizations such as the National Health Law Program, Planned Parenthood, and the American Civil Liberties Union (ACLU), "lobbied the women's caucus of the California Legislature, which in turn asked Gov. Jerry Brown to clarify and reverse the health care department's determination," reported the AP.

Brown's DMHC director, Michelle Rouillard, obliged, sending [letters](#) to seven insurance companies ordering them to "amend current health plan documents to remove discriminatory coverage exclusions and limitations."

"These limitations or exclusions include, but are not limited to, any exclusion of coverage for 'voluntary' or 'elective' abortions and/or any limitation of coverage to only 'therapeutic' or 'medically necessary'"



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abortions,” she explained.

Rouillard wrote that her department “has concluded that it erroneously approved or did not object to such discriminatory language” in the past. Such exclusions, she argued, are impermissible under both the California constitution, which “prohibits health plans from discriminating against women who choose to terminate a pregnancy,” and the state’s 1975 Knox-Keene Act, which “requires the provision of basic health care services,” which include abortion. (Since “abortion is a basic health service,” insurers are free to deceive their customers about its inclusion in their policies by “omit[ting] any mention of coverage for abortion services in health plan documents,” she added.)

“Several” faculty members at Santa Clara University celebrated the DMHC’s decision, the [San Jose Mercury News](#) reported. Some of these professors also displayed their ignorance of the difference between being permitted to obtain an abortion and forcing someone else to pay for it.

“I’m very grateful to the Department of Managed Health Care for reaffirming a woman’s right to choose,” American History professor Nancy Unger, a professing Catholic, told the paper. “This is not just confirming and clarifying that this is a right we have, but by having comprehensive health insurance, it includes a woman’s right to have an abortion without any qualifiers.”

Likewise, associate law professor Stephen Diamond, who resigned from the school’s ethics center over the new policy, told the *Mercury News* that the DMHC’s reversal is “an important affirmation of a woman’s right to choose, and of the importance of the values of shared governance on a campus like ours.”

Catholics who take the church’s teaching on abortion seriously were, by contrast, aghast at the decision. Bill Donohue, president of the Catholic League for Religious and Civil Rights, called the finding “morally obscene.”

“Catholic universities have a right and a duty to uphold the tenets of their faith in everything they do,” he said in a [statement](#). “Paying for abortions is in direct conflict with the teachings of the Catholic Church.”

While the universities have simply stated that they are working with their insurance companies to comply with the law, others who support the schools’ current policy have gone on the offensive.

The Newman Society, in addition to finding that the Anthem and Kaiser plans were approved by the state years ago, has also posted a link to a [2012 insurance benefits chart](#) produced by the California Department of Insurance that, according to the Society, “indicates that elective abortion was not considered to be a mandatory benefit in employee health plans, and ... acknowledges that some plans did not cover elective abortion.” In other words, until the Brown administration decided to declare elective abortion a “basic health service,” it had not been treated as such by the state of California.

Moreover, noted the Society, California’s “health plans for state employees cover only ‘medically necessary’ abortions” despite Rouillard’s assertion that such language is illegal.

“Why can’t Catholics who are morally opposed to abortion have the same options as California state employees?” Newman Society president Patrick Reilly asked. “It’s evidently false that elective abortion has always been a mandatory health benefit in California. The Brown administration’s new and radical claim that ‘elective’ abortion is ‘medically necessary’ defies common sense and the practices of California’s leading insurance companies, and it violates basic religious freedoms.”

The Life Legal Defense Foundation (LLDF), a pro-life legal-defense group, sent a [letter](#) to Rouillard



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arguing, first, that her interpretations of the California constitution and the Knox-Keene Act are in error, and, second, that a federal law commonly known as the Weldon Amendment “prevents California from mandating that a health insurance plan include abortion coverage.” The Weldon Amendment prohibits a state from receiving certain federal funds if the state discriminates against health plans that do not cover abortion, LLDF legal director Catherine Short wrote.

“The DMHC’s action is a clear violation of the Weldon Amendment and, if not reversed, could trigger loss of funding to the entire state and its departments,” she maintained.

ACLU attorney Margaret Crosby, however, told the [San Francisco Chronicle](#) that the Weldon Amendment doesn’t apply to the DMHC’s actions because “the amendment prohibits discrimination only against those who won’t ‘provide coverage’ for abortions — in this case, employers like the two universities.”

“She said the state isn’t regulating the schools, which remain free to sidestep the state law by insuring themselves, and is just ‘neutrally enforcing its fundamental policies protecting reproductive health care,’” the newspaper added.

Another obstacle to bringing the Weldon Amendment to bear on this case: It has to be enforced by Obama’s HHS.

“If HHS follows the law, they will cut off funding” to California, LLDF’s Short told the *Chronicle*.

That, however, is a huge *if*. After all, HHS has repeatedly chosen to ignore or amend the Affordable Care Act (ObamaCare) as it sees fit. Why would it suddenly decide to enforce a law that runs counter to the Obama administration’s pro-abortion mentality?



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