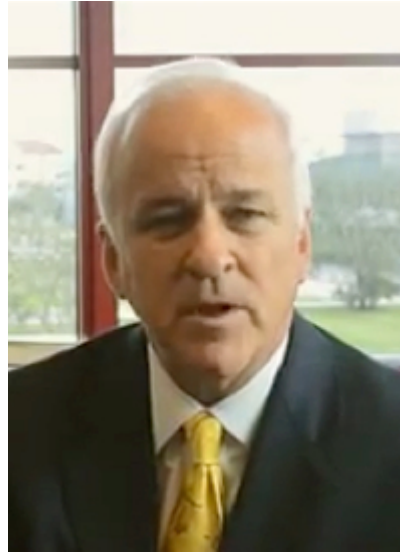




Written by [Raven Clabough](#) on February 23, 2012

## HHS Contraceptive Mandate Faces Challenges

A controversial mandate from Health and Human Services is being contested by Ave Maria University in Florida. The university has filed suit against the Obama administration for the HHS regulation that forces insurance companies to provide sterilization and contraception, which includes abortifacients, at no cost. The mandate in question forces religious institutions to pay for contraceptive drugs, including those that would bring about abortions. The mandate was issued in August 2011, and was followed by a lawsuit from the Becket Fund for Religious Liberty on behalf of Ave Maria, Belmont Abbey College, Colorado Christian University, and the EWTN network.



The Becket Fund's [website](#) explains:

After those lawsuits were filed, and after over 100,000 complaints were issued, Obama had a golden opportunity to expand the religious exemption and live up to the promise he had made at Notre Dame in 2009 of crafting a "sensible conscience clause." It was not to be, however. On January 20, 2012, he merely gave such institutions an extra year to comply.

In the face of the President's refusal to honor the consciences of millions of Americans, the Becket Fund moves forward with this crucial litigation. On February 9, 2012, the Becket Fund filed on behalf of the Eternal World Television Network (EWTN), a Catholic news organization founded 30 years ago by a cloistered nun named Mother Angelica. On February 21, 2012, the Becket Fund filed on behalf of the Ave Maria University, a school dedicated to living the teachings of the Catholic Church.

Jim Towey (pictured above), the president of Ave Maria University and former head of the Office of Faith-Based Initiatives for President George W. Bush, observed, "It's a sad day when an American citizen or organization has no choice but to sue its own government in order to exercise religious liberty rights guaranteed by our nation's Constitution."

"As an American Catholic, I am in disbelief that I have to choose between being a good Catholic and a good citizen," Towey declared, adding, "I will not, and the university will not, accept this false choice."

The final rule of the Obama administration made no amendments to the mandate's limited religious exemption that protects solely religious organizations such as churches and seminaries that employ members of their own faiths.

"A group health plan (and health insurance coverage provided in connection with such a plan) qualifies for the exemption if, among other qualifications, the plan is established and maintained by an employer that primarily employs persons who share the religious tenets of the organization," the final rule states.



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“With respect to certain non-exempted, non-profit organizations with religious objections to covering contraceptive services,” the regulation explains, “guidance is being issued contemporaneous with these final regulations that provides a one-year safe harbor from enforcement by the Departments.”

“Before the end of the temporary enforcement safe harbor, the Departments will work with stakeholders to develop alternative ways of providing contraceptive coverage without cost sharing with respect to non-exempted, non-profit religious organizations with religious objections to such coverage,” reads the ObamaCare regulation.

According to Towey, regardless of the so-called compromise proposal for the regulation negotiated by the White House, Ave Maria would still be required to fund contraceptive/abortifacient coverage for its employees.

“This sleight-of-hand maneuver by the government fooled no one,” Towey said. “Ave Maria University pays 95 percent of the cost of the health plan we offer [to] our 129 employees. It’s absurd for the federal government to suggest that these new pharmaceuticals will be free because they aren’t free now and, in fact, the administration’s own argument for free contraceptive drugs is that they place a financial burden on women.”

[President Obama announced](#) on February 10, “Today, we’ve reached a decision on how to move forward. Under the rule, women will still have access to free preventive care that includes contraceptive services — no matter where they work. So that core principle remains. But if a woman’s employer is a charity or a hospital that has a religious objection to providing contraceptive services as part of their health plan, the insurance company — not the hospital, not the charity — will be required to reach out and offer the woman contraceptive care free of charge, without co-pays and without hassles.”

As a result, observed Towey, “Under this federal mandate, Ave Maria University would be paying for these drugs if we complied with the law, so we will not [comply].”

If necessary, Towey indicates that Ave Maria would be prepared to stop offering health care coverage to its employees and pay the \$2,000 per-employee fine if necessary every year.

Similarly, Kyle Duncan, general counsel for the Becket Fund, explains that the compromise offered by President Obama in February, which forces insurance companies to pay for contraception services themselves, never went into effect when the HHS finalized its rule. In other words, though President Obama assured that organizations such as Ave Maria would be exempt, they are in fact not.

“On February 10, the mandate — the contraceptive mandate — actually became final without change,” Duncan explained. “All of this talk of a compromise and an accommodation, all that is, is a promise in the future by the administration to maybe engage in some additional rulemaking.”

“That’s not the law. What the law is is the contraceptive mandate,” said Duncan.

Towey contended that the “compromise” was the Obama administration’s attempt to assuage its left-wing Catholic support. “What was announced as an accommodation or compromise was simply a fig leaf to provide a little bit of cover for some left-of-center Catholics and some other allies of the administration,” he maintained.

Voicing similar assertions, the United States Conference of Catholic Bishops said, “It would still mandate that all insurers must include coverage for the objectionable services in all the policies they would write.”



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Shawn Reeves, director of Religious Education at St. John's Chapel at the University of Illinois, contends that the mandate is in direct violation of the free exercise of religion. "The unconditional coercion to act contrary to one's conscience under force of penalty is a far cry from a 'free exercise' of religion," he [writes](#).

A vote of 227 to 121 made the New Hampshire House of Representatives the first legislative body in the United States to [condemn](#) the Obama administration for its HHS contraceptive mandate. Speaker of the House William O'Brien explains that the New Hampshire resolution is not in support of Catholic teachings, but instead focuses on standing up "for our religious institutions that have long-held principles and teachings under assault by a president and his ideology that seeks not merely to reject, but to tear down our liberties."

Meanwhile, a number of U.S. Senators issued a [letter](#) to President Obama asking him to revisit the mandate. "The final rule leaves few viable options for religiously-affiliated organizations and individuals to avoid using their funds to pay, directly or indirectly, for services they consider morally objectionable," the letter states. It was signed by: Senators Kelly Ayotte (R-N.H.), Roy Blunt (R-Mo.), John Boozman (R-Ark.), Saxby Chambliss (R-Ga.), John Cornyn (R-Texas), Dan Coats (R-Ind.), Chuck Grassley (R-Iowa), John Hoeven (R-N.D.), Jim Inhofe (R-Okla.), Mike Johanns (R-Neb.), Dick Lugar (R-Ind.), Jerry Moran (R-Kan.), Jim Risch (R-Idaho), Pat Roberts (R-Kan.), Marco Rubio (R-Fla.), John Thune (R-S.D.), David Vitter (R-La.) and Roger Wicker (Miss.).



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