

## **Compromise or Quit Medical Practice: Is There Another Option for Catholic Health Care Professionals?**

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Most Americans are probably familiar with some of the major religious liberty legal disputes occurring across the country, such as the cases involving Kim Davis in Kentucky who refused to issue marriage licenses to same-sex couples, and of Colorado baker, Jack Phillips who refused to bake the cake for a same-sex couple's wedding, based on their Christian views of marriage. There are also the cases involving Hobby Lobby and The Little Sisters of the Poor, both of whom filed lawsuits for religious reasons to block the contraception and sterilization mandates required for employee health care plans by the Affordable Care Act.<sup>i</sup> What many Americans may be less familiar with are the growing conflicts involving conscience protection battles for individual health care workers. Such legal cases are not new, but they have not reached the same level of media coverage as the other, higher profile stories. For years there have been conflicts with pharmacists refusing to distribute contraceptives or abortifacient drugs, such as the case from the State of Washington involving the Stormans' family<sup>ii</sup> who operate a pharmacy in Olympia, or of doctors and nurses not wanting to participate in abortions, such as Sandra Mendoza<sup>iii</sup> of Illinois who is suing the facility she worked at after being forced to quit her job for refusing to make referrals for abortions, and more recently as States pass assisted suicide laws conflicts are arising over doctors refusing to participate in ending patient's lives or refer them to other doctors who will provide such assistance, a situation that has gone to court in the State of Vermont.<sup>iv</sup> In fact, 2016 has seen a barrage of what columnist Wesley J. Smith referred to in the July issue of *First Things* as an "accelerating trend" of new assaults against the consciences of health care practitioners.<sup>v</sup>

My purpose is not to go through a detailed examination of these conflicts regarding freedom of conscience – anyone can peruse the current legal cases on the internet.<sup>vi</sup> Rather, my intention

today is to discuss the argument of those who insist that since health care is a public service, medical practitioners must either perform all legal medical services regardless of personal moral beliefs or leave the field of health care. The current situation is especially troubling for faith-based medical professionals, such as Catholic nurses and doctors. The Catholic tradition has a detailed set of moral teachings cataloged in its *Catechism* that have been developed over many centuries by theologians. More importantly, these teachings on moral behavior have been further affirmed by its clerical leaders, under the guidance – according to Catholic belief – of God through the workings of the Holy Spirit. These beliefs are not “fly-by-night” reactions to troublesome issues that arise in day-to-day life, but rather come out of a long tradition of careful reflection based in part on the understanding and application of God’s Word in Sacred Scripture, but also developed in keeping with modern scientific, political, and ethical thought. This does not mean that the Church adapts its teachings to the current views and whims of contemporary society, but it is important to keep in mind that the Church strives to maintain a constant dialogue with society as it seeks to live out its mission in the world. Further, the moral teachings of the Catholic Church are very specific on issues that affect the inherent dignity of human persons, such as matters involving the beginning and the end of life, and our sexuality. Here in the United States the moral teachings that relate directly to health care have been formulated by the United States Conference of Catholic Bishops into a document titled, *Ethical and Religious Directives for Catholic Health Care Services*, which explicitly forbid such practices as abortion, artificial reproduction, and assisted suicide.<sup>vii</sup> This guide has a twofold purpose: laying out the moral parameters under which a Catholic health care facility may operate, while at the same time providing a framework for Catholic medical professionals to practice in a manner that is in keeping with their faith.

Of course, the Catholic Church is not unique in this regard. Other Christian denominations, as well as Jewish and Muslim traditions, have developed very specific moral guidelines for their

believers. It is also worth remembering that a good many of the moral teachings from Christian, Jewish, and Muslim sources are consistent with social and cultural norms across the globe. However, when current social views begin to diverge from religious morals, these great faith traditions have always insisted that they are bound to a higher calling than society – indeed, they have a duty to follow God’s will over the will of humanity. And while this “higher calling” has not always been respected throughout human history, it was certainly considered worthy of protection by America’s founding fathers in our Constitution and Bill of Rights.<sup>viii</sup> There are also three major pieces of legislation from our more recent history that explicitly protect conscience rights of medical professionals: the Church amendment of 1973, the Coats/Snowe amendment of 1996, and the Hyde/Weldon amendment which has been added to both Labor and Health and Human Services appropriation bills every year since 2004. And while all three of these relate to the specific issue of abortion, they provide clear evidence of bi-partisan political support for the protection of individual conscience to not participate in activities a person believes are immoral.

However, there is an outspoken group of people in this country who do not believe “religion” or “conscience” have a role to play in the public sphere, including the field of medicine. For example, in a *Think Progress* article by Erica Hellerstein and Josh Israel titled, “A Bishop in the Exam Room: When Faith Dictates Health Care Instead of Science,” the authors attacked Catholic run hospitals because they, “provide services based on faith rather than medical necessity” and suggested that one strategy to change this would be to use Medicare and Medicaid funds as, “leverage to force Catholic hospitals to provide a full range of reproductive health and end-of-life care.”<sup>ix</sup> Or, as doctor and lawyer Julie D. Cantor argued in her op-ed in *The New England Journal of Medicine* titled, “Conscientious Objection Gone Awry — Restoring Selfless Professionalism in Medicine,” physicians ought to be required to perform, counsel, and refer when necessary for “all legal options,” regardless of the provider’s individual religious and moral stance – and if one refuses,

then that practitioner should leave the medical profession.<sup>x</sup> Or, as a statement on “Conscientious Objection in Healthcare” published last month on Oxford University’s *Practical Ethics* website by a group of prominent bioethicists argued, “Healthcare practitioners’ primary obligations are towards their patients, not towards their own personal conscience. When the patient’s wellbeing (or best interest, or health) is at stake, healthcare practitioners’ professional obligations should normally take priority over their personal moral or religious views.”<sup>xi</sup> These articles express in one manner or another the belief that in a field of public service such as medicine there is no room for individual conscience to allow practitioners to refuse contested medical treatments for patients – an attitude that has been extended to religious-sponsored health care facilities as well. And so, while it might be clear that in the *past* Americans have recognized freedom of religious practice and the right of conscience protection for individuals, what remains to be seen is whether or not we will *continue* to defend and protect those rights in the future.

In general, the current areas of dispute in health care can be classified into three broad categories. The first involves medical interventions related to human reproduction and fertility, such as performing abortions in emergency situations, referring in non-emergency situations, doing sterilizations, prescribing contraceptives, and providing the full range of fertility and artificial reproductive techniques. The second group of issues relate to the end of life, in which it is argued anyone involved in end-of-life planning (doctor, nurse, community volunteer, etc.) must present assisted suicide as an option for critically and chronically ill patients and/or their surrogate decision-makers; and, both doctors and pharmacists must assist patients with suicide. Finally, there is a set of new, emerging issues related to sex and gender identity, primarily involving requests for hormone or surgical interventions. Here, legal cases are raising the question whether doctors and nurses have to perform and/or assist with sex reassignment surgeries or hormone therapy for the sole purpose of promoting chosen gender identity, including for children and minors?

This is but a sampling of the controversial issues related to freedom of conscience facing health care professionals here in America who object to any and all of the above medical procedures on moral and religious grounds. But if freedom of conscience is so clearly grounded in our Constitution and Bill of Rights, and if there are already existing pieces of legislation in place to further protect freedom of conscience and religion, then why the onslaught of both articles and legal cases attempting to force conscientious objectors to violate their beliefs and perform these medical procedures or leave the field of medicine? The problem is multi-faceted. On the one hand, none of the legal measures currently in place offer a “right of action” that allows a medical professional or hospital legal recourse when there has been a violation of these measures. Rather, enforcement of conscience protections in medical cases is left up to the Department of Health and Human Services, which under the current administration has either acted extremely slowly (in one case, it took four years for pro-life nurse Cathy DeCarlo to get a resolution from HHS after being forced to participate in an abortion or be fired<sup>xii</sup>), or the HHS has simply ignored the request (as is currently happening in regards to several churches and religious institutions appeals regarding the State of California’s Department of Managed Health Care ruling that every State health care plan must cover all abortions – even partial birth abortions – with no exemptions<sup>xiii</sup>). Then, when the courts do get involved, the rulings are not always consistent. For example, while the United States Supreme Court has supported the conscience rights of health care workers in the past,<sup>xiv</sup> it refused to hear the appeal of the pharmacists in the Stormans’ case mentioned earlier, thereby allowing to stand the State of Washington’s extreme ruling that pharmacies cannot refuse to stock and prescribe contraceptives for religious and moral reasons.<sup>xv</sup> Chief Justice Roberts, Justice Thomas, and Justice Alito had been willing to hear the case. Commenting in their dissent to the Court’s dismissal, Justice Alito made the following sobering observation:

This case is an ominous sign. At issue are Washington State regulations that are likely to make a pharmacist unemployable if he or she objects on religious

grounds to dispensing certain prescription medications. There are strong reasons to doubt whether the regulations were adopted for—or that they actually serve—any legitimate purpose. And there is much evidence that the impetus for the adoption of the regulations was hostility to pharmacists whose religious beliefs regarding abortion and contraception are out of step with prevailing opinion in the State. ... If this is a sign of how religious liberty claims will be treated in the years ahead, those who value religious freedom have cause for great concern.<sup>xvi</sup>

Emboldened by such rulings, as well as the inaction on the part of the current HHS administration to enforce existing laws, groups such as the American Civil Liberties Union, The Guttmacher Institute, Planned Parenthood, and Merger Watch have targeted Catholic health care professionals and facilities who refuse to perform the procedures or provide the services being discussed here.<sup>xvii</sup>

For the remainder of this paper, I will examine several aspects of the general argument being posited by these groups regarding why all health care providers – regardless of religious or moral beliefs – must provide all legal medical services for their patients. As I perceive it, the general argument here has three premises in support of its conclusion. The first premise is that all of the services at stake here – abortion, sterilizations, contraception, fertility treatments, sexual therapy, re-assignment surgery, and assisted suicide – are all “essential medical services” that must be provided to patients as part of holistic, quality health care. Second, the refusal to provide these essential services therefore blocks patients’ access to legal and necessary health care services. Third, blocking access to such essential services on religious or moral grounds amounts to forcing one’s personal beliefs and values upon patients. These premises lead to the conclusion that since forcing one’s personal views upon another is inappropriate in a pluralistic society, the refusal of Catholic health care professionals – and by extension, *any* medical professionals or facilities – to provide such services and/or referrals for patients constitutes discrimination against those patients.

Now let me reply to each part of this argument in turn. The first premise that the medical services in question here are all part of “essential health care” is being perpetuated by groups such as the ACLU and Planned Parenthood, as well as even professional medical organizations like the pro-

abortion American College of Obstetricians and Gynecologists, is working its way into case law because of the many legal suits being brought forth by such groups, and is now being repeated in media coverage of those cases without any critical review of this claim. Thus, an effective *narrative* has been generated that abortion is needed to save a woman's life, or that assisted suicide is medically necessary to end a person's suffering. If one goes to the websites of groups such as the ACLU and Merger Watch, one will find numerous "testimonials" which try to make this case. However, the stories are based only on the patient's perception of what happened, and do not provide full details from the medical record of what really occurred. Another common argument is that "emergency abortions" are sometimes necessary, although medically speaking there is no such thing. There are cases in which doctors will induce a woman to deliver early when her life is at risk, which are sometimes referred to as "therapeutic" abortions – but those procedures are nothing like the normal techniques used by abortionists. In his 2002 book, *Choice: A Doctor's Experience with the Abortion Dilemma*, abortionist Dr. Don Sloan, who at the time the book was published had already performed over 20,000 abortions, wrote:

If a woman with a serious illness – heart disease, say, or diabetes – gets pregnant, the abortion procedure may be as dangerous for her as going through pregnancy ... And medical technology has advanced to a point where even women with diabetes and kidney disease can be seen through a pregnancy safely by a doctor who knows what he's doing....The idea of abortion to save the mothers' life is something that people cling to because it sounds noble and pure – but medically speaking, it probably doesn't exist. It's a real stretch of our thinking.<sup>xviii</sup>

Other prominent OB/GYNs have testified to the same point – abortion is not necessary to save a pregnant woman's life.<sup>xix</sup>

It is even more difficult to prove that sterilizations, sexual reassignment surgeries, or assisted suicide could be construed as "medically necessary" by any stretch of the imagination. This is a powerful and useful narrative, but it is not grounded in medical fact. Sadly, as several authors have noted, the reason some medical practitioners insist these services are "necessary" parts of health care

is because medicine itself is becoming politically and ideologically split.<sup>xx</sup> I say that this is “sad” because medicine as a discipline should focus on promoting the well-being of others, and should not sink to the level of partisanship and political ideology like this – when it does, the sick and wounded among us suffer. Needless to say, many medical professionals with years of medical expertise reject the claim that services such as abortion, fertility treatments, and assisted suicide are “essential” parts of health care, and so this first premise fails.<sup>xxi</sup>

The second premise claims that failing to provide any of the medical procedures and treatments being discussed here blocks patients’ access to legal and necessary health care. As for the “necessary” part, that has already been challenged in regards to premise one. However, one could still make the claim – and opponents of freedom of conscience in health care do – that since services such as abortion, sterilization, contraception, fertility treatments, sex reassignment surgeries, and assisted suicide are legal (the latter only in some States) – any health care practitioner must therefore provide them. That is, the *legality* of these procedures therefore guarantees a person the *right* to access such services. However, by this logic, since it is legal to eat meat in the State of Missouri, then if I go to a vegan restaurant I would have a right to be served a steak – regardless of the owners’ personal views about killing animals and serving them for food. Or, if I am at Bush Stadium, home of the St. Louis Cardinals, they must also sell me Kansas City Royals or Chicago Cubs’ merchandise because it is legal to purchase such items. Now, the immediate objection will be that restaurants and ball parks are private businesses, whereas medicine represents a public service. But the examples do serve to show the fallacious nature of the reasoning here, in that any public service industry would therefore have to provide me with any “essential” service that is legally available to me in a State – so your dentist office would have to provide you with cardiac care, and the post-office would have to provide abortions. The claim in this premise is ludicrous. The reality is that because human health needs are so varied and diverse, specialty health care facilities have



naturally arisen to meet these different needs. This division of services is actually quite beneficial to patients, in that different medical institutions can tailor and specialize to meet patient needs more efficiently. Indeed, there has never been a claim that any single health care facility must meet every single need of every possible patient on the planet. There are plenty of hospitals that do not have birthing centers or offer cancer treatment. This second premise is also hypocritical, in that the ACLU has never argued that Planned Parenthood clinics ought to provide women with information about pro-life pregnancy centers, nor that they must also deliver babies for women who so desire.

Often attached to this second premise is the argument that medical practitioners and facilities should be required to offer all of these services if they are the only one in an area – for example in a rural community – and thus travel to another facility would be an imposition on a patient. Yet, this argument does not hold either. Public and governmental agencies do not all offer every single service or product that people may require. You get your books at the Library and mail packages and the Post Office – even though it would be more convenient to handle both types of business in one place. Consumers will also travel great distances to “destination shopping centers” to get products that their local stores do not carry. The same is true for health care services. Every year thousands of Americans travel across States and over many miles to go to The Mayo Clinic, or M.D. Anderson, or St. Jude’s for specialists, or to enroll in clinical trials. In all such cases the travel, time, and cost is burdensome to families – yet it has never been suggested that this burden is the fault of local hospitals for failing to have the specialists these families require. I realize if one accepts the narrative related to the first premise that the services in question here are part of “essential health care,” then my suggestion that patients can travel to receive the medical care they need will seem heartless and uncaring. That is why it is important to dispel the myth of the first premise at the outset. Once it is recognized these are not “necessary” treatments, then comparisons to other “legal” services that are not required of various public and governmental agencies provide a better

comparison to show how this second premise presumes far too much about what health care practitioners and hospitals are obligated to provide.

The third premise which suggests that blocking access to such “essential health care” services on religious or moral grounds amounts to forcing one’s personal beliefs and values upon patients reflects another false narrative, and is easy to dismiss. After all, if one goes to a vegan restaurant, one could not have an expectation that they would serve you a steak – any such hope would clearly be irrational given the nature of the restaurant. But not providing you a steak is not forcing you to accept their vegan lifestyle or beliefs – not in any way, shape, or form. Catholics have been providing health care services in this country since its founding, and Catholic hospitals have been formally operating for well over a century, yet in all that time there has never been a case in which a person was refused service or treatment *because* of not being a Catholic. No one has ever been asked to produce a baptismal certificate, or profess the Nicene Creed before being seen by a Catholic doctor or allowed through the doors of a Catholic hospital. No patient has ever been forced to accept the teachings of the Church and convert as a requirement for treatment. The same is true of Jewish and Protestant medical practitioners as well. The very notion that when a person follows his or her personal beliefs in what they do and say, that this somehow forces their beliefs upon you is absurd. And in the case of health care, this charge insults the tremendous service that people of all faiths have provided to millions upon millions of sick, suffering, and dying patients.

Finally, the three premises discussed above are offered to conclude that failing to provide these services discriminates against patients who want them. But at this point, we can see the conclusion does not follow because all three of the premises it rests upon are fallacious. However, a few additional comments on this conclusion are warranted to show how truly off-base it is. First, an action is only discriminatory if one refuses to provide a service to one person while providing that same service to someone else. And while I acknowledge there are grey areas related to this point in

some of the other religious liberty cases under litigation today, there is no discrimination in these health care cases. Catholic OB/GYNs do not provide abortions for Catholic patients, and only refuse to allow these for non-Catholics. Catholic pharmacists are not providing contraception and Plan B to Catholics while refusing atheists. Catholic hospitals are not assisting Catholic patients with suicides while refusing Protestant and Jewish patients. The point is that Catholic health care workers and Catholic facilities do not want to provide these morally objectionable services and treatments for *anyone*. So, there is no discrimination here. Nor does it matter that other practitioners and hospitals offer these services, or that they are legal. That still does not compel individuals or institutions to offer every service that is allowed by law, any more than the vegan restaurant has to provide you with steak. We need to be more careful about what we call “discrimination” in our public discourse, and stop using this charge to attack people who are simply protecting their own rights of conscience and religious belief. It was interesting a few years ago when pharmacists and doctors began refusing to participate in legally ordered, State executions, not a single one of the groups currently attacking Catholic medical professionals claimed that the former practitioners were discriminating against the judicial system or the citizens of those States.<sup>xxii</sup> Rather, those refusals were universally applauded as heroic acts of conscience. In fact, one could argue that the specific targeting of religious health care professionals and institutions with litigation and threats of losing careers in order to force compliance with morally objectionable activities constitutes the real discrimination.

And so, it is time to take positive steps to stop this tide of unhelpful, costly attacks that only serve to distract religious individuals and institutions from what really matters – the competent and compassionate care that they are currently providing to millions of patients. First and foremost, the government ought to do its part to continue our long tradition of protecting the rights of individual conscience and of religious freedom by enforcing current legal measures protecting these rights. Second, Congress should take a further step and enact stricter laws that can end the many frivolous

and mean-spirited lawsuits against health care workers by passing legislation such as the Health Care Conscience Rights Act (H.R. 940) introduced in 2015, and President Obama needs to sign The Conscience Protection Act (H.R. 4828) which passed the House in July of this year (unfortunately, he has pledged to veto the bill). These measures have been designed to fix loopholes in existing legislation, and can restore clarity regarding the rights of health care workers. Such measures have gained support from wide-ranging and diverse groups of religious leaders across the country – including groups that themselves do not oppose some of the procedures being discussed here, but who recognize that all Americans must be free to follow and put into practice their moral and religious beliefs.<sup>xxiii</sup> Finally, I would agree with the suggestion put forth by Canadian physicians and ethicists that rather than force medical professionals to violate their consciences, we should develop various lists of doctors showing those who are willing to perform abortions, sterilizations, give contraceptives, do fertility treatments, perform sex reassignment surgery, and assist in suicides, as well as facilities where patients can receive such services, and other lists that show professionals and facilities where these will not be offered.<sup>xxiv</sup> This would allow all patients – those who desire such services and those who do not – the information necessary to make informed choices, while providing genuine protection for practitioners who wish to follow their moral beliefs.

If such measures are not taken, this could result in the loss of a significant number of current medical practitioners leaving the profession. Studies of Christian medical professionals alone have shown that up to 95% say they would leave medicine if forced to violate their consciences.<sup>xxv</sup> Perhaps most, if not all, Catholic-sponsored hospitals and clinics would also have to close because they could not maintain their Catholic mission and identity while engaging in the practices being discussed here. And this is not an idle threat, as Catholic adoption agencies in Boston, San Francisco, and Illinois, have already closed because of regulations recently passed in those States requiring them to place children with same-sex couples, which violates Catholic moral beliefs.<sup>xxvi</sup>

Such actions emphasize that on most of these moral questions, there can be no compromise. For religious believers, we simply cannot participate in evil.

That is also why the oft-suggested legal remedy of “referral” as a compromise is unworkable. In the moral tradition of the Catholic Church, the fundamental norm of human action – given its most definitive formulation in the 13<sup>th</sup> century by St. Thomas Aquinas – is to “do good and avoid evil.”<sup>xxvii</sup> Note that carefully – we must not only keep from doing evil actions, but must remain as far away from evil as we can in this life. Thus, a Catholic doctor cannot refer patients for contraceptives, fertility treatments, reassignment surgeries, abortions or assisted suicide because doing so would constitute cooperating with those evil acts.<sup>xxviii</sup> And while the reasoning may be expressed in different terms, this is the core belief of all religious morals – you cannot cooperate with evil, period. To do so taints your character, in some cases, irreparably so – save for the forgiving grace of God.

In the end, Catholics and other religious believers need to follow their consciences, even if the government fails to recognize or support our right to do so. Just as in the past, Dr. King marched against segregation and racism even though the government did not back him, we must do what is morally right and follow our higher calling. In the words of the late Pope John Paul II, newly canonized Saint of the Catholic Church, there is, “a consistent witness which all Christians must daily be ready to make, even at the cost of suffering and grave sacrifice. Indeed, faced with the many difficulties which fidelity to the moral order can demand, even in the most ordinary circumstances, the Christian is called, with the grace of God invoked in prayer, to a sometimes heroic commitment.”<sup>xxix</sup> In this light, I do not believe that Catholic and other religious health care professionals should give in to the pressures being forced upon them today and compromise their consciences and faith, nor should these thousands of caring and compassionate healers leave the field of medicine. Rather, this is our time to take a heroic stand – being peaceful, yet firm.

## Notes to Morris

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- <sup>i</sup> For more on these and similar stories go to the Alliance Defending Freedom website at <https://www.adflegal.org>.
- <sup>ii</sup> See <http://www.becketfund.org/stormans-case> for more details on the case.
- <sup>iii</sup> See <http://www.lifenews.com/2016/06/09/pro-life-nurse-fired-for-refusing-to-participate-in-abortions-im-called-to-do-no-harm> for more details on the case.
- <sup>iv</sup> See <http://www.washingtontimes.com/news/2016/jul/21/vermont-doctors-push-back-against-assisted-suicide>.
- <sup>v</sup> Wesley J. Smith, "Religious and Pro-Life Conscience Unwelcome in Healthcare," *First Things*, 7/22/16, online at <https://www.firstthings.com/web-exclusives/2016/07/religious-and-pro-life-conscience-unwelcome-in-healthcare>.
- <sup>vi</sup> For conservative perspectives that seek to protect religious freedoms and conscience to the highest degree, one could visit the pages of the Alliance Defending Freedom organization, The Becket Fund for Religious Liberty, or the United States Conference of Catholic Bishops. For the liberal, counter-view one could visit the webpages of the American Civil Liberties Union, the pro-abortion Guttmacher Institute, and groups such as MergerWatch and CatholicWatch.
- <sup>vii</sup> United States Conference of Catholic Bishops, *Ethical and Religious Directives for Catholic Health Care Services*, Fifth Edition, 2009.
- <sup>viii</sup> For an excellent discussion of the long-standing history in American jurisprudence protecting religious freedom and individual conscience see the article by Lynn D. Wardle in the *Ave Maria Law Review* titled, "Protection of Health-Care Providers' Rights of Conscience in American Law: Present, Past, and Future," Volume 9, Number 1, 1-46.
- <sup>ix</sup> Erica Hellerstein and Josh Israel, "A Bishop in the Exam Room: When Faith Dictates Health Care Instead of Science," *Think Progress*, June 22, 2016, at <https://thinkprogress.org/a-bishop-in-the-exam-room-when-faith-dictates-health-care-instead-of-science-69cb73f4ab80#.a5eydnzz5>.
- <sup>x</sup> Julie D. Cantor, "Conscientious Objection Gone Awry — Restoring Selfless Professionalism in Medicine," *The New England Journal of Medicine*, Op-Ed, April 9, 2009, 360: 1484-1485.
- <sup>xi</sup> Angela Ballantyne, et al., "Consensus Statement on Conscientious Objection in Healthcare," accessed at <http://blog.practicaethics.ox.ac.uk/2016/08/consensus-statement-on-conscientious-objection-in-healthcare>. The statement was the outcome of a conference held this Summer in Geneva, Switzerland, that was sponsored by The Brocher Foundation.
- <sup>xii</sup> United States Conference of Catholic Bishops, "The Need for the Conscience Protection Act of 2016," posted at <http://www.usccb.org/issues-and-action/religious-liberty/conscience-protection/upload/The-Need-for-The-Abortion-Non-Discrimination-Act.pdf>.
- <sup>xiii</sup> United States Conference of Catholic Bishops, "HHS Refuses to Enforce Weldon Amendment," posted at <http://www.usccb.org/issues-and-action/religious-liberty/conscience-protection/upload/HHS-Refuses-to-Enforce-Weldon-Amendment-FACT-SHEET.pdf>.
- <sup>xiv</sup> See Wardle, "Protection of Health-Care Providers' Rights of Conscience in American Law: Present, Past, and Future," *op. cit.*
- <sup>xv</sup> Although it appears that refusing to stock and dispense these same drugs for business reasons is allowed by the State of Washington, as explained by Wesley J. Smith in his article, "Religious and Pro-Life Conscience Unwelcome in Healthcare," *op. cit.*
- <sup>xvi</sup> Supreme Court of the United States, *Storman v. Weisman*, 579 U. S. \_\_\_\_ (2016), Justice Alito dissenting, available at <http://www.adfmedia.org/files/StormansDissentFromDenial.pdf>.
- <sup>xvii</sup> For some examples, see: Debra B. Stulberg, Rebecca A. Jackson, and Lori R. Freedman, "Referrals for Services Prohibited in Catholic Health Care Facilities," *Perspectives on Sexual and Reproductive Health*, The Guttmacher Institute, Volume 48, Issue 3, September 2016, pp.111-117; Samantha Lachman, "Lawsuits Target Catholic Hospitals For Refusing To Provide Emergency Miscarriage Management," *The Huffington Post*, June 10, 2016, posted at [http://www.huffingtonpost.com/entry/catholic-hospitals-miscarriage-management\\_us\\_5759bf67e4b0e39a28acceea6](http://www.huffingtonpost.com/entry/catholic-hospitals-miscarriage-management_us_5759bf67e4b0e39a28acceea6); and, American Civil Liberties Union, "Report: Health Care Denied," posted at <https://www.aclu.org/report/report-health-care-denied>.
- <sup>xviii</sup> Don Sloan, M.D. and Paula Hartz. *Choice: A Doctor's Experience with the Abortion Dilemma* (New York: International Publishers, 2002), pp.45-46.
- <sup>xix</sup> From the 2011 debate on a conscience rights bill, four experts with decades of experience in emergency medicine and high-risk deliveries unanimously testified that abortion is never necessary to save a pregnant woman's life – *Congressional Record*, October 13, 2011, pages H6877-6878.

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<sup>xx</sup> For example, see Stephen J., Genuis, MD, “Emerging assault on freedom of conscience,” *Canadian Family Physician*, Volume 62, April 2016, pp.293-296, and the position paper by the Christian Medical Association, “Real-life examples of discrimination in healthcare,” posted at <https://cmda.org/library/doclib/Real-life-conscience-stories-RevisedMay09.pdf>.

<sup>xxi</sup> For example, see groups such as the Christian Medical and Dental Association and the Catholic Medical Association.

<sup>xxii</sup> For statements of support on these stances by medical professionals see, “Lethal Injection,” posted on the Death Penalty Information Center at <http://www.deathpenaltyinfo.org/lethal-injection#statements>.

<sup>xxiii</sup> See, “Free Exercise of Religion: Putting Beliefs into Practice,” an open letter from religious leaders in the U.S. to fellow Americans, June 21, 2012, which can be found at <http://www.usccb.org/issues-and-action/religious-liberty/fortnight-for-freedom/upload/Free-Exercise-of-Religion-Putting-Beliefs-into-Practice.pdf>; and, the Open Comments joint letter from November 16, 2015, to HHS regarding proposed OCR regulations on nondiscrimination in health care services at [http://nae.net/wp-content/uploads/2015/11/HHS\\_OCR\\_Regulations.110615.pdf](http://nae.net/wp-content/uploads/2015/11/HHS_OCR_Regulations.110615.pdf).

<sup>xxiv</sup> As referenced in the Rome report, “Dying to keep a job? Freedom of conscience, abortion and euthanasia,” posted at <http://www.romereports.com/2015/09/03/dying-to-keep-a-job-freedom-of-conscience-abortion-and-euthanasia/>

<sup>xxv</sup> As cited by Dr. Geoffrey Gerow, “The Right of Conscience for Medical Providers,” posted on the Christian Medical & Dental Association at <https://cmda.org/resources/publication/the-right-of-conscience-for-medical-providers>.

<sup>xxvi</sup> United States Conference of Catholic Bishops, “Religious Liberty Under Attack: Catholic Adoption Services,” posted at <http://www.usccb.org/issues-and-action/religious-liberty/discrimination-against-catholic-adoption-services.cfm>.

<sup>xxvii</sup> St. Thomas Aquinas, *Summa Theologiae*, I-II, Q94, “Of the Natural Law,” Article 2, *responsio*.

<sup>xxviii</sup> This view gets formulated into the Catholic moral understanding of formal and material cooperation with evil. Formal cooperation is when one actually decides to do and promote evil ends. So, a Catholic doctor who rejects the teachings of the Church and performs abortions would be formally cooperating with the evil of abortion. But even when one does not directly perform an action, if one takes steps to assist or promote an evil action such as abortion, that is called material cooperation – in that it provides some of the material means to achieve the evil goal in question. For more on the Catholic teaching on formal and material cooperation see John A. Di Camillo, BeL, “Understanding Cooperation with Evil Forging Collaborative Arrangements,” *Ethics & Medics*, July 2013 Volume 38, Number 7, or reply to the USCCB from the Congregation for the Doctrine of the Faith, “Some Principles for Collaboration with Non-Catholic Entities in the Provision of Health Care Services,” February 17, 2014, posted at [http://www.ncbcenter.org/files/9014/4891/8937/Q14.2\\_Verbatim\\_CDF\\_Principles.pdf](http://www.ncbcenter.org/files/9014/4891/8937/Q14.2_Verbatim_CDF_Principles.pdf).

<sup>xxix</sup> Pope Saint John Paul II, *Veritatis Splendor*, 93.