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Hawaii's contraception model has downsides, some say

by Brian Roewe

While the possibility of mandatory contraception coverage in health plans could become a new reality for many Catholic institutions under the recent ruling by the Department of Health and Human Services, dioceses in nearly 30 states have already faced contraception rules, reacting in various ways.

Currently, 28 states have laws requiring contraceptive coverage as part of health plans. According to the National Conference of State Legislatures, 20 of those states offer some type of exemption, a list including Arizona, New York, Maryland, Missouri and California.

Whether exemptions exist or not, Catholic groups in all 28 states can avoid the contraceptive mandate in one of three ways, says the U.S. bishops' conference. These include self-insuring prescription drug coverage, dropping that coverage completely or opting into a federal law that preempts any state mandates. Critics say the narrowness of the recent federal ruling would block religious groups from taking any of these avenues.

In Hawaii, contraception coverage has been on the books since 1999. Offering more leniency for religious groups, its mandate has been mentioned as a compromise to the federal HHS ruling.

For religious groups in Hawaii, the option of a refusal clause exists for those with religious beliefs opposing contraception. As part of the refusal clause, the organization is required to inform employees in writing that such coverage will not be provided in their health plans, but also provide information to them regarding where such coverage can be obtained.

Employees who choose to buy contraception do so at a cost no higher than the pro-rata share of the rate the organization would have paid had they not opted out through the refusal clause. The Hawaiian law stipulates the refusal clause applies to contraceptive purposes, and cannot exclude coverage for non-contraceptive purposes, such as decreasing the risk of ovarian cancer or eliminating symptoms of

menopause.

Walter Yoshimitsu, chancellor of the Honolulu diocese and executive director of the Hawaii Catholic Conference, said that in most cases the model works, but issues still remain. For instance, despite the presence of the refusal clause in state law, some insurance companies decline to honor it.

Yoshimitsu said that Kaiser Permanente includes contraception coverage in all of its plans, and doesn't provide an opt-out for anyone, even religious groups. Instead, the company provides the coverage at no cost to those who don't want it. According to Yoshimitsu, only a small portion of people with Catholic organizations are enrolled with Kaiser, but such a policy still presents a problem because of a lack of distance between the church and the coverage.

While most members receive health coverage through the Hawaii Medical Service Association, the fact that the diocese, though not intentionally, issues contraception coverage through Kaiser remains an issue.

For Bishop William Lori, chair of the U.S. bishops' Ad Hoc Committee on Religious Liberty, the Hawaii model fails to present the compromise many paint it as. Opt out or not, Lori said that the plan's requirement that Catholic organizations refer enrollees to where they can obtain contraception presents an obstacle for the church.

"The more we're forced into a corner, the more we are forced to make accommodations, the more our witness value goes down," he said, adding that the United States has "always been a country where everybody gets to participate according to their own likes" and where religious freedom included tolerance at the minimum.

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"All the Founding Fathers saw that, and how far are we removed when we're sitting around talking about, well, maybe the Catholic church could make a referral to a service that it regards as intrinsically immoral," Lori said.

"We're pretty far way from the genius that inspired the founding of this country."

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