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Stephen Kamelgarn, M.D.

The Editorial and Publications Committee encourages our member's comments for publication.

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U.S. Supreme Court Upholds Affordable Care Act

JAMES T. HAY, M.D.
CMA President



Dear Physician Colleagues –

Following the U.S. Supreme Court ruling, it is clear that Californians can still expect many changes in health care delivery and insurance coverage.

The ruling to uphold the Affordable Care Act (ACA), specifically the individual mandate provision, guarantees insurance coverage for most of the uninsured patients in California. It has been the California Medical Association's goal for decades to achieve universal health insurance coverage. Despite this monumental step forward, there is tremendous work to be done to ensure appropriate implementation here in California. Moreover, there are many problems with the law that need to be fixed to make the ACA work.

CMA has long advocated for affordable access to care for California's uninsured and for an expansion of health insurance coverage. However, as physicians, we know that insurance coverage alone does not mean access to doctors.

Throughout the federal health care reform debate, your CMA advocated for meaningful changes to the health care delivery system that build on what works, while fixing only what is broken. In addition to supporting the individual mandate, CMA has also fought for the protection of the physician-patient relationship from third-party interference, for meaningful reforms to the for-profit health insurance industry, and for sufficient resources to deliver on the promise of improved access to doctors.

CMA has also supported eliminating egregious health insurance cancellation practices, pre-existing condition exclusions from coverage, lifetime or annual limits on

benefits, and excessive insurer profit and administrative costs. These reforms will ensure that patients denied health insurance based on what illnesses they have, but rather will help to guarantee coverage for all. While the individual mandate is essential to making coverage affordable for all, these insurance industry reforms are also critical to making the ACA work.

The ACA also made important investments in primary care, primary care training, rural health care, medical homes, public health and prevention, funding research on the effectiveness of different treatments, and increased payment rates, albeit temporary for primary care physicians and related subspecialties in Medicare and Medi-Cal.

However, the legislation has left several serious problems unresolved, most specifically the underfunding of Medicare and Medicaid. For a decade, California physicians have been calling on Congress to eliminate the flawed Medicare Sustainable Growth Rate (SGR) fee-for-service payment formula and adopt a long-term path to an alternative payment system that recognizes the real drivers of health care costs. That issue was not addressed in the ACA, and physicians are now facing a 32 percent cut in payment rates for Medicare patients at the end of this year. The Medicare Advantage rates are being cut as well. Many physicians will not be able to sustain such cuts and remain in the Medicare program, which would have grave negative impacts on Medicare seniors as well as private patients. CMA and our partners in this fight will continue to work with Congress to find a long-term solution that addresses this serious threat.

CMA worked to eliminate the SGR

and increase Medicaid reimbursement rates, but unfortunately nothing was done in the final bill to fix the grossly inadequate Medi-Cal (California's Medicaid program) payment rates that leave many patients without physicians. This severe underfunding must be addressed, as nearly 3 million new patients will enroll in Medi-Cal under the ACA. California is leading the way for the Medicaid expansion across the country, but in order to succeed, we must look at the reimbursement structure of the program here in our home state. The ACA does increase reimbursement rates for primary care physicians (and related subspecialties) who see Medi-Cal up to Medicare payment levels, but only through 2014. While this is a significant step in the right direction, CMA will be advocating to extend the increase well beyond 2014.

CMA was also strongly opposed to the ACA's creation of an unaccountable Independent Medicare Payment Advisory Board (IPAB), which will mandate arbitrary spending cuts, force more physicians out of the program and limit seniors' treatment options even further. The IPAB removes Congress's accountability to voters, including to physicians and seniors, for the Medicare program by simply mandating physician payment cuts if Medicare spending exceeds congressionally set health care spending limits.

There have been a number of questions about the Medicaid expansion part of the court's ruling. The ACA allows an expansion of Medicaid and would make additional Medicaid funds available to states that comply with the expansion. For states that do

"ACA", Cont. on Pg 14

Abortion and the Practice of Medicine: A Personal Perspective: Part 2

SCOTT SATTLER, M.D.



This is the second part of a two-part series on this topic. Last month's editorial focused on the development of my personal and professional relationship with the issue of abortion. This month I would like to briefly address four aspects of the abortion issue that beg further deliberation. These are the Hyde Amendment, the untoward tendency to focus solely on the fetus, the realities of compulsory pregnancy and the issue of religious freedom. Thank you for this opportunity.

1. The Hyde Amendment

The Man: Henry J Hyde (1924-2007)

Henry Hyde was a Republican lawyer and ex-Nixon aide from Chicago who was elected to the House of Representatives in 1975. As a Roman Catholic orator well known for his anti-abortion stance, during his freshman year in Congress he successfully sponsored what is now called The Hyde Amendment, effectively barring all federal funding for abortion-related services. He went on to serve as Chief Prosecutor during President William Clinton's Impeachment trial. Prior to the Savings and Loan crisis of 1980-90 he left his seat on the House Banking Committee and went onto the Board of an S&L that then went into receivership, defaulting on \$67M of insured deposits. According to salon.com, Hyde was the only Congressman sued for "gross negligence" in the S&L crisis. Interestingly, he was a co-sponsor of the Brady Bill that limited the right to bear arms. He lobbied against personal possession of semiautomatic weapons and for a required a background check before one could purchase firearms. Congressman Hyde, an avid anti-Communist, was an outspoken supporter of President Ronald

Reagan and Oliver North in the Iran-Contra affair. Although he initially spoke out against the 9/11 induced Iraq War, he subsequently voted in support of President Bush's war resolution in Congress. In 2007 President George W. Bush presented Rep. Henry J. Hyde with the Presidential Medal of Freedom, the highest civilian award that this country has to offer.

The Amendment

Immediately following the 1973 passage of Roe v. Wade decriminalizing abortion, the anti-abortion movement began an unceasing effort to restrict the availability of abortion services in the United States and worldwide. Its first major legislative success toward this end was the passage of the Hyde Amendment by the House of Representatives in 1976. While not actually a law, this 'rider', which has been attached to every appropriations bill since its introduction, has essentially barred all federal funding for abortion-related services. Initially this rider only affected Medicaid services provided by the Department of Health and Human Services. Since that time it has been expanded to disallow abortion-related funding for all women in the military (over 200,000 women), women federal prisoners, the Indian Health Services, all female federal employees (e.g. those working in the US Postal Service) and all women in the Peace Corps. It disallows funding of the United Nations Population Fund (UNFPA). In its earlier years the ban did not allow for any exceptions, even those based on rape, incest, life endangerment or other physical health damage. Presently cases of rape, incest or life endangerment due to pregnancy are exempted. Currently the

Hyde Amendments may be found attached to the Omnibus Appropriations Act of 2009, Public Law 111-8.

The Ongoing Misinterpretation of the Amendment

It is my strong impression that we are misinterpreting the Hyde Amendment, and that in actuality the Amendment clearly supports unlimited federal funding of abortion related services. Let me present the following:

1. The restrictions of the Hyde Amendments are worded as follows:

"None of the funds appropriated under this Act shall be expended for any abortion except where the life of the mother would be endangered if the fetus were carried to term or where the pregnancy is the result of an act of rape or incest (Stat. 700). The Omnibus Appropriations Act contains about a dozen statutes worded in this fashion, but this one is typical and accurate for the purpose of this discussion. The Act is available online (3).

2. The current administration in Washington has repeatedly promised that all federal regulations will be based on solid scientific evidence.

3. Death occurs in one of every 160,000 cases of legal surgical abortion. These deaths are usually the result of such things as adverse reactions to anesthesia, embolism, infection, or uncontrollable bleeding. In comparison, a woman's risk of death during pregnancy and childbirth is ten times greater (4).

4. So tell me...when doesn't carrying a fetus to term endanger the life of the

Continued Next Page

mother? The answer is “never.” There are no circumstances within which ongoing pregnancy and delivery does not place a woman in significantly greater danger of death than would undergoing a legal surgical abortion. So how can we continue to use this amendment as justification for limiting abortion when, in fact, it clearly supports it in a most compassionate fashion? I would suggest that the legislators voting on the Amendment simply do not realize that pregnancy involves life-threatening risk, for indeed the vast majority are men. Women who choose to take on the selfless risk of pregnancy are to be honored for doing so, even as women who find themselves with an unwanted pregnancy are also to be honored if they choose to safely abort their pregnancy and free themselves of its inherent risk to their health.

2. It's Not Just About the Fetus

Whenever I see a group of anti-abortion folks out protesting Planned Parenthood, the first thing I always notice are those giant pictures of fetuses that they always display. Why don't they ever show a picture of the mother? Why are her feelings and needs repeatedly excluded from anti-choice presentations? If you will pardon my “painting with a broad brush”, there seems to be a major difference between the folks holding these two differing points of view with respect to reproductive freedom. Those who oppose a woman's right to have reproductive control over her body seem to be very selective as to where they choose to apply their compassion; they focus almost exclusively on the fetus. Those who support a woman's right to control her reproductive function seem much more likely to manifest equal concern for the pregnant woman, her family and the fetus who is presenting for inclusion into their lives. From my experience as a physician, I would suggest to you that it's not just about the fetus, folks. Truly, it's not.

3. Compulsory Pregnancy

I have a real problem with the way the reproductive rights discussion is going these days. There is an intellectual disconnect that I find disturbing. Perhaps it is in part due to the fact that as a profession, we physicians aren't doing a very good job of keeping folks up to date on the realities of family planning and birth control.

Too many people simply don't understand that no reversible birth control method is perfectly successful, with the exception of abstinence. Unfortunately there are now a host of studies which show that while abstinence is perfect in theory, in practice it simply does not work as a reliable birth control method. Sexual expression is a deeply rooted part of the bond that exists between a man and a woman, and it is unreasonable and unrealistic to assume that a man and woman will only enjoy its beauty for the purpose of reproduction.

Given the reality that no form of reversible birth control is perfect and that the people are not perfect despite their best intentions, unwanted pregnancy will continue to occur. For some that may mean that they vomited from motion sickness from a boat ride and didn't think to take another birth control pill. For others it means that a long-desired pregnancy has gone terribly wrong. Yet others knew that they were menopausal and thought that pregnancy just couldn't happen at their age.

For the sake of all these women, we must keep abortion safe and legal for when all else fails. Otherwise as a society we will continue to force our wives, daughters and granddaughters into the nightmare of compulsory pregnancy, and no one has the right to do that to a woman.

4. Freedom of Religion and Spiritual Liberty

There has been much discussion lately regarding “religious liberty.” The current discussion centers on whether the Roman Catholic Church can exclude health

insurance coverage for birth control for employees who work in the hospitals and the universities that it owns. The argument posits that if a religious institution chooses to believe that the use of birth control is immoral, then any attempt to restrict its freedom to socially and economically impose this belief upon others violates the principle of religious liberty. It further holds that religions must be allowed, in the name of freedom of religion, to force their particular belief system upon all within their domain, regardless of the physical, mental or spiritual damage done to those impacted by their actions, and regardless of whether those affected are members of their church.

This issue raises an important question, namely where does religious freedom end and religious tyranny begin? If a religious community believes that giving blood products is immoral, may they then refuse to allow insurance coverage for blood products for their employees? If another faith community believes in pure vegan vegetarianism, may they demand that their employees not be covered for heart attacks and strokes caused by what their faith considers to be dietary sacrilege? Where does this end? I would suggest to you that a religious institution is entitled to the exercise of religious freedom, but they do not have the right to impose their belief system upon any one who does not share their beliefs.

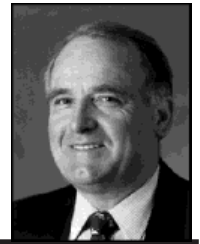
The core issue in the abortion debate is the issue of when personhood occurs. Theologians have discussed this for centuries without consensus. Different spiritual communities have differing opinions. For example the Jewish world takes their guidance from Genesis 2:7 “And the Lord God formed man of dust from the ground, and He breathed into his nostrils the soul of life, and man became a living soul.” (The Complete Jewish Bible). One agreed-upon point by rabbis in all streams of Judaism is that a

“Perspective”, Cont. on Pg 20

North Coast Physician

RE: Abortion and the Practice of Medicine

SCOTT L. HOLMES, M.D.




Editor:

Does the end of the Comstock Act of 1873 justify millions of abortions in the 21st Century? No more than the end of the Versailles Treaty justified the German Holocaust a generation later. It would be laughable if not so serious. This “safe simple procedure” has a mortality rate of 50%: Two enter the procedure room and only one leaves intact. Physicians used to vow: “First do no harm”, respect life. Now the debate is when does “life” begin? There’s the rub. The truth is, life never “begins”, it is merely a continuation of life. Aside from the spiritual, something dynamic happens at conception which results in a person nine months later. Norma McCorvey (aka Jane Roe) never had an abortion and bitterly regretted the landmark decision she began.

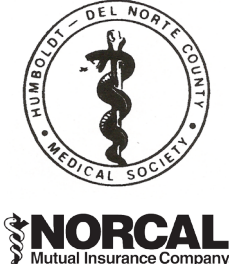
You can read her book, *Won By Love*, the story of how she finally found peace with God. The years since *Roe v. Wade* have seen increases in infanticide, child and spousal abuse and the astonishing issue of gender abortion - all unintended consequences of abortion on demand. * Out of the millions of aborted babies there might have been an Einstein, a Schweitzer, a Beethoven, a Rosa Parks, a Fleming, a Salk, a Ben Carson or a Mother Teresa. There might have been any number who would help solve our current health, economic and environmental problems.


Why is it difficult to find physicians who will perform abortions? Because it runs against the grain of those trained to heal. The words of Pope John Paul II: “The nation that kills its own children is a nation without hope”. Sadly, we are that nation.

*abort73.com



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Counterpoint – The Role of Conscience in Abortion

PAUL WINDHAM, M.D.



I read with interest the article written by my colleague Dr. Sattler in the June issue of the HDNMS Bulletin regarding his experience providing abortion services. There are many inaccuracies, however, with respect to the Roman Catholic teachings on the subject which should be corrected lest misunderstandings fester. The inaccuracies apparently stem from the source Dr. Sattler used in his research. Catholics for Free Choice (CFFC) is not a Catholic organization, and is considered heretical by the U.S. Council of Catholic Bishops. It was formed in 1970 by members of the National Organization of Women and its first offices were provided by Planned Parenthood. The Catechism of the Catholic Church is a much more dependable source if one wants to know exactly what the Church teaches. The Catechism section on abortion begins with an explanation of why human life must be respected from the moment of conception and supports this position with a quote from Hebrew scripture –

“Before I formed you in the womb I knew you, and before you were born I consecrated you.”

Jeremiah 1:5

The Catechism then states “Since the first century the Church has affirmed the moral evil of every procured abortion. This teaching has not changed and remains unchangeable”. It supports this with a quote from the Didache, also known as the Teaching of the Twelve Apostles, from the late first or early second century, the oldest surviving catechism -

“You shall not kill the embryo by abortion and shall not cause the newborn to perish.”

This should reveal that there is indeed

a scriptural basis for the Church’s position, and that position has not changed as CFFC would like to believe, or as my colleague reported.

I share Dr. Sattler’s principal “be of love.” The Church agrees. It teaches that God is Love. It calls us to love one another as ourselves. We are called especially to love, protect, and care for the helpless. We are called to love the unborn child as well as its mother. In that context, performing an abortion is not an act of love. One may disagree that the unborn child is a human being, or feel that it can, in Dr. Sattler’s words, be told to “go back and wait”. The Church will tell you each fertilized egg represents an individual with unique genetic material. It can’t go back and wait. If it is aborted, that individual is gone. If another child comes along, it is a different person. Asking the unborn to “go back and wait some more” and the mother “will let it know by stopping birth control” is impossible. This may sound facetious, but to me that sounds like mothers can order up children like pizzas.

The “legislative body” of the Church Dr. Sattler refers to might be construed as the Congregation for the Doctrine of Faith. The Catechism includes this statement from the Congregation –

“The moment a positive law deprives a category of human beings of the protection which civil legislation ought to accord them, the state is denying the equality of all before the law. When the state does not place its power at the service of the rights of each citizen, and in particular of the more vulnerable, the very foundations of a state based on law are undermined.... As a consequence of the respect and protection which must be ensured for the unborn child

from the moment of conception, the law must provide appropriate penal sanctions for every deliberate violation of the child’s rights.”

Finally, I disagree with my colleague that chastity is impossible. “Folks just can’t do that. Sex is too much fun”, he says. In my opinion, many Americans have stopped trying to live moral lives. Words like chastity and honor no longer come easily to our lips, or often enter our conversations. Again, the teachings of the Church are clear – practice chastity and preserve the power of sexuality for marriage, where husband and wife may participate together with their Creator in the creation of new human life. Since we are created in the image of God, we should strive to be holy, as the Creator is holy. Teaching children to give in to their sexual impulses since they are just too hard to control is to start them down a path of self-absorption, self-love, and immorality. Adults teach by example more than words, and should strive to set an example for the next generation that shows them that self-control and love for others leads to the joy of living a life larger than one’s self.

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"ACA, Cont. from Pg. 4

not comply with the expansion requirement, the ACA intended to impose the penalty of withdrawing all Medicaid matching funds, including funding for current participation levels. The court found that the penalty portion of the Medicaid expansion provision is unconstitutional, but that the provisions of the ACA that expand Medicaid are otherwise valid. Therefore, it is up to the states to decide whether to expand Medicaid – the federal government cannot withhold federal matching funds if states do not comply.

This Medicaid ruling will not affect California, because the state has said they will continue to move full steam ahead in implementing the ACA.

As your CMA President, I understand that the ACA and the Supreme Court ruling are controversial among California physicians. However, there is deep support among the large majority of you for the individual mandate and universal health insurance

coverage. I want to assure you that CMA is firmly committed to advocating for improvements and reforms to the ACA that will ensure everyone can actually see a doctor when they become ill or injured. We will be aggressive in pursuing appropriate payment reforms so that you can sustain your practice. We will continue to be vigilant in fighting to protect us and our patients from any government or private insurance intrusion into the doctor-patient relationship.

CMA will keep you updated on ACA implementation issues, such as the state Health Benefit Exchange and health care delivery innovations, and their impact on our practices. Physician involvement in its implementation is crucial to a successful health care system.

To learn more about the Supreme Court's historic ruling regarding the Affordable Care Act, CMA's "Supreme Court Decision - What's Next" webinar was held

on Thursday, July 5 and is available for viewing in CMA's Resource Library, www.cmanet.org.

This webinar will provide a recap of the U.S. Supreme Court decision regarding the Affordable Care Act from both a legal and policy perspective, as well as what happens next. California Medical Association representatives will present information on the ACA as it stands - and what can be done to improve it.

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“Perspective” Continued From Pg 6

fetus does not become a human being before its head emerges from the mother (5). The nose must be out of the mother’s body for the first breath of air to accept intake of the soul, i.e., for ensoulment to happen and thus for the fetus to become a person. Until this point, the death of the fetus is not considered murder. Many other religions also hold that the soul enters with the first breath of air. Others have differing views. The ancient Greeks felt that ensoulment happened at fertilization. In the early Catholic Church ensoulment was thought to happen at 40 days for the male fetus and at 80 days for the female. Clearly there is no scientific or societal consensus on this issue.

The principle of religious freedom was put into the constitution to protect people from the unsolicited demands of organized religions. In colonial days all colonists were required to pay a tax to the Church of England. Thank you, Thomas Jefferson, for rebelling against that practice and for setting the precedent in this country that freedom of religion includes freedom from religion.

“Religious liberty” as used in the current debate demands the right of a given

religion to impose its beliefs upon the lives of others. True freedom of religion, which might be called spiritual liberty, recognizes the right of every human being to pursue the deeper questions of life in that fashion called forth by their own inner longing for spiritual truth. Spiritual liberty is free of coercion. The motivation to walk in its light comes only from one’s own intense longing for spiritual wisdom. We must preserve this spiritual liberty, especially with regard to the issue of abortion.

It is hard being a human. Let us not make it harder for others by demanding control over their lives. Somehow we must find the capacity to simply trust other people and support their efforts to decide about their sexuality, about having children and planning a family. Let us acknowledge that established religions differ about when life begins even as we insist that no single religious view on this subject should be forced upon others, let alone made into the law of the land. Let us diligently support every person’s right to pursue their own spiritual truth and to live by it, and to do no harm to those who believe differently. Let us support every person’s right to choose to be a par-

ent or not, regardless of creed. Let us hold access to safe, effective and available birth control, including abortion, to be a blessing, an act of love and compassion for those in need.

- (1) Teratology, Volume 12, Issue 1, pages 11–26, August 1975
- (2) <http://emedicine.medscape.com/article/266317-overview#a0199>
Puscheck MD, Elizabeth et al. Updated Jan 26, 2012.
- (3) <http://www.gpo.gov/fdsys/pkg/PLAW-111publ8/html/PLAW-111publ8.htm>
- (4) Tietze C, Henshaw SK. Induced abortion: A worldwide review, 1986. Third edition. New York: Guttmacher Institute, 1996.
- (5) <http://www.koach.org/kocmar05ber-ezovsky.htm>



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Bella Vista Plaza office space available! Suite 12 is a 900 sq. ft., 5 rooms + bathroom + reception area for \$900/mo. Suite 11 is one large open carpeted room, 290 sq ft, for \$375/mo. Ideal for conferencing/meetings/lunch room/office manager or billing space. Ample off-street parking and easy access to 101. Available after June 30, 2012. Call Monica at 839-4907 to view.

MISCELLANEOUS

FIREWOOD FOR SALE. Call (707) 499-2805

FOR SALE. Scanner and Imager for sale: DocketPORT 687Duplex Scanner - scans ID & insurance cards to upload to your EMR - Includes software and manuals. Orig retail 479.00 Elavon RDM 7111F Imager - check reader/credit card processor that direct deposits into your bank account. Includes manuals. Orig retail 509.00. Like new; used less than 6 months. 450.00 for both. Call Kate 599-2829.

ARE YOU A CONSORTIUM MEMBER?

Our Consortium for Continuing Medical Education is accredited by the CMA Institute for Medical Quality to plan and accredit local programs to meet the needs of our physicians. Credit is provided for Grand Rounds, Tumor Board, Cardiac Cath Lab, UCSF Case Conference, Neo-Natal Resuscitation, etc. In addition to coordinating programs based on the feedback we get from the membership, we also work with the HDN Foundation/IPA, Hospice, Public Health and other local agencies in coordinating CME credit for physicians.

HELP SUPPORT LOCAL EDUCATION - BE A CONSORTIUM MEMBER

Display Advertising Rate Schedule

<u>SIZE</u>	<u>MONTHLY</u>	<u>SIZE</u>
1/4 Page	\$140.00	7.45" x 2.61"
1/2 Page	\$160.00	7.45" x 5.23"
1/3 Page Vertical	\$150.00	2.37" x 9.95"
Full Page	\$200.00	7.45" x 9.95"
Inside Cover/Full Page	\$275.00	7.90" x 10.40"
Business Card Ad	\$65.00	Copy Ready 2" x 3.5"
Classified Ads	\$5.25 per line	

DEADLINE: 15th day of the preceding month to be published