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**Oral Testimony of Richard M. Doerflinger
on behalf of the
U.S. Conference of Catholic Bishops
before the
Subcommittee on the Constitution
House Judiciary Committee
February 8, 2011**

Hearing on H.R. 3, No Taxpayer Funding for Abortion Act

(For full prepared text, see www.usccb.org/prolife/HR3-testimony-2011-02-08.pdf)

Thank you, Mr. Chairman, for this opportunity to present our views in support of the No Taxpayer Funding for Abortion Act.

This bill will write into permanent law a policy on which there has been strong popular and congressional agreement for over 35 years: The federal government should not use tax dollars to support or promote elective abortion. This principle has been embodied in the Hyde amendment and in numerous other provisions governing a wide range of domestic and foreign programs, and has consistently had the support of the American people.

Even courts insisting on a constitutional “right” to abortion have said that alleged right “implies **no limitation** on the authority of a State to make a value judgment favoring childbirth over abortion, and to implement that judgment by the allocation of public funds.” In 1980 the U.S. Supreme Court said the Hyde amendment is an exercise of “**the legitimate congressional interest in protecting potential life,**” adding: “**Abortion is inherently different from other medical procedures, because no other procedure involves the purposeful termination of a potential life.**” In our view the Court’s only mistake here was the phrase “potential life.” In our view, unborn children are actually alive, until they are made actually dead by abortion.

While Congress’s *policy* has been consistent for decades, its implementation in *practice* has been piecemeal, confusing and sometimes sadly inadequate. Gaps or loopholes have been discovered in this patchwork of provisions over the years, highlighting the need for permanent and consistent policies across the federal government.

Last year Congress passed major health care reform legislation with at least *four* different policies on abortion funding, ranging from a ban on such funding in one section of the bill to a potential mandate for such funding in another.

If H.R. 3 had been enacted before that debate began, the debate would not have been about abortion. A major obstacle to support by Catholics and other pro-life Americans would have been removed, and the final legislation would not have been so badly compromised by provisions that place unborn human lives at grave risk.

H.R. 3 would prevent problems and confusions on abortion funding in future legislation. Federal health bills could be debated in terms of their ability to promote the goal of universal health care, instead of being mired in debates about one lethal procedure that most Americans know is not truly “health care” at all.

H.R. 3 would also codify the Hyde/Weldon amendment, a part of the annual Labor/HHS appropriations bills since 2004 and, I would say, one of many conscience provisions -- beginning with the Church amendment in 1973, named after Senator Frank Church of Idaho -- which have tried to protect the rights of health care providers not to be coerced into abortion. The Hyde/Weldon amendment was recently reaffirmed unanimously as part of the House version of health care reform legislation in Congressman Waxman’s health subcommittee. It was approved by voice vote without dissent, but sadly it did not survive in the final legislation.

Hyde/Weldon ensures that federal agencies, and state and local governments receiving federal funds, do not discriminate against health care providers because they do not take part in abortions. And I emphasize that because this is a modest bill that has the federal government essentially policing itself. It is a government restraining itself from coercing abortion; it does not reach out into private actions.

It is long overdue for the Hyde/Weldon policy, as well, to receive a more secure status. Here also, Congress’s policy has been clear for 38 years, but the mechanism for achieving it has suffered from drawbacks and loopholes, including a failure even to specify where or how providers may go to have their rights enforced.

H.R. 3 writes this essential civil rights protection into permanent law, allows for modest and reasonable remedies to ensure compliance, provides for a private right of action, and designates the HHS Office for Civil Rights to hear complaints as well.

The need for more secure protection in this area is clear. The American Civil Liberties Union, for example, has been urging the federal government to force Catholic and other hospitals to violate their moral and religious convictions by providing what the ACLU calls “emergency” abortions. By this it means all abortions to serve women’s life or “health,” which it surely knows has been interpreted by the federal courts to mean social or emotional “well-being.”

This is an obvious threat to access to life-affirming health care. Catholic hospitals alone care for 1 in 6 patients in the United States each year, and provide a full continuum of health care through more than 2,000 sponsors, systems, facilities, and related organizations. They have been shown to provide higher quality and more effective care, including care for women, than anyone else in various studies.

If Congress wants to expand rather than eliminate access to life-saving health care, including life-saving health care for women and particularly for the poor and the underserved, it should be concerned about any effort to attack the rights of these providers and undermine their continued ability to serve the common good.

Just to give short answers to some questions raised about H.R. 3, with longer answers in our prepared text:

- H.R. 3 does not eliminate private coverage for abortion, but specifically allows such coverage when purchased without federal subsidy.

- It does not create an unprecedented policy of denying tax benefits to abortion, but follows the recently enacted Affordable Care Act in this regard, which I believe has some Democratic support. It is that Act which said use of tax credits for abortion is “federal funding of abortion.” This simply follows the precedent.

- This bill does not depart from precedent by saying that federal law does not compel states to fund any abortions. In this regard as well, it follows a policy actively supported by the Democratic leadership in the last Congress and stated no less than three times in the Affordable Care Act.

- Finally, its conscience clause does not place women’s lives at risk. What places women’s lives at risk, as we recently learned from the story of Dr. Gosnell in Philadelphia – but he is only the tip of the iceberg -- is the abortion industry itself, as well as that same industry’s attacks on the continued viability of the most effective providers of life-saving care in the world.

My prepared text provides additional details, and I would be happy to answer questions. Thank you.