

**Briefing for
House Subcommittee on Criminal Justice,
Drug Policy and Human Services**

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On March 1, 2004, the California Supreme Court ruled against Catholic Charities, in a case where Catholic Charities of Sacramento had attempted to enjoin implementation of a State law redefining “religious employers.” The law in question consists of two 1999 statutes known collectively as the Women’s Contraceptive Equity Act (WCEA).

The WCEA places a mandate on insurers to include contraceptives in prescription drug plans, unless the employer who purchases the coverage qualifies as a “religious organization” as defined by the California Legislature. That definition is so narrowly crafted as to exclude institutional Catholic health care, higher education, and social services, i.e. a religious employer is an entity for which each of the following is true:

- The inculcation of religious values is the purpose of the entity.
- The entity primarily employs persons who share the religious tenets of the entity.
- The entity serves primarily persons who share the religious tenets of the entity.
- The entity is a nonprofit organization as described in Section 6033(a)(2)(A)i or iii, of the Internal Revenue Code of 1986, as amended (organizations meeting this standard do not fill a 990 with the IRS)

This law compromises the religious liberty rights guaranteed in the California and the U.S. constitutions. The only ways to avoid violating Catholic Church teaching regarding contraception would be to eliminate all pharmaceutical coverage in employees’ health benefits or to adjust our organization and operate to accommodate the four criteria. Catholic institutions resist cutting employee health benefits because it would conflict with our commitment to healthcare and just treatment of our employees.

This law places us in an untenable situation. On the one hand, the State solicits our partnership in offering state services, with the caveat that we not proselytize or discriminate in our services or employment. In partnering with us, communities benefit from a generous contribution from the faith community in donations and volunteers. On the other hand, the State tells us that if we comply with their funding requirements, then we are no longer a religious employer.

The new definition of religious employer, which is now being adopted in other states, has perhaps its most severe impact on faith based charities. Essentially, the new legal definition of religious employer has the effect of no longer recognizing most faith based charities, because most faith based charities do not meet the legal definition – they typically serve people outside of their faith and often do not meet the other standards in the State law.

At this point, Catholic Charities of California has not yet determined whether to appeal the case to the U.S. Supreme Court, and we are assisting our local agencies in sorting out their options.