ObamaCare Provision Would Nudge Seniors to Agree to a Premature Death: Right to Life

The National Right to Life Committee is urging Congressional action to keep an Obama administration proposal to pay doctors for “advance care planning” in Medicare from taking effect, and instead to provide for balanced, neutral materials to assist patients in implementing their own values. (Advance care planning refers to counseling potential patients on deciding when to accept or reject life-preserving medical treatment and advising on legal documents embodying that decision.) “Although advance care planning proponents give lip service to honoring individual references,” said Burke Balch, J.D., director of the National Right to Life Committee’s Powell Center for Medical Ethics., “in practice its pervasive focus is to ‘nudge’ patients to agree to forego life-saving treatment and even assisted feeding through the use of unbalanced, distorted, and even inaccurate information. Advance care planning is openly promoted as a means of slashing health care spending. Far from opposing the concept of advance directives concerning treatment, the National Right to Life Committee provides a ‘Will to Live’ version on and supports alternatives that provide truly informed consent to decisions about medical treatment. But we must fight the tax funding and promotion of advance care planning counseling that cannot be adequately monitored for bias and that typically is less about discovering and applying patients’ own wishes than about pushing them to accept premature deaths.” The Powell Center recently released a report entitled “The Bias Against Life-Preserving Treatment in Advance Care Planning.” (Read it here.) The document cites a 2013 Health Affairs article

entitled “Decision Aids: When ‘Nudging’ Patients to Make A Particular Choice Is More Ethical Than Balanced, Nondirective Content,” which gave this advice on how to get people with prostate cancer to agree not to have costly surgery: [I]f incontinence and impotence are presented as plainly stated—that is, with no detailed description of these risks—men with early-stage prostate cancer may be swayed toward the option of surgery. If instead those possible effects of surgery are presented vividly via personal stories, men may be swayed away from the surgery option. The Powell Center report gives examples of advance care planning materials in widespread use that, it argues, violate the principle of informed consent by selectively presenting facts in a distorted and unbalanced manner to “nudge” unwary patients to reject cardio-pulmonary resuscitation (CPR), IV fluids, and medically assisted feeding. Other advance care planning materials, it charges, describe disabilities and illnesses in an inaccurately repugnant way so as to induce people to agree that a low “quality of life” is not worth living. The Powell report notes that providers of advance care planning materials to health insurers frequently tout the money it saves them. For example, to implement an advance care planning program Aetna hired the “Center to Advance Palliative Care,” which proudly reported that the result of its efforts was an average reduction of more than $12,000 annually in benefits for senior citizens covered by the insurance company. Tax funding for Medicare advance care planning was a part of the original House bill for Obamacare that was dropped amidst controversy over critics’ charges that it was designed to save money by pushing senior citizens to agree to forego costly treatment. On July 9, however, the Obama Administration initiated notice and comment rule-making its proposal to revive such a measure. The Powell Center report concludes, “Significant safeguards would need to be incorporated in any governmental program care planning in order for [it] to be truly protective of the values and intent of patients, and to ensure they are not pressured into rejecting treatment against their in the name

of cost-savings.”