



# CATHOLIC LEAGUE

*For Religious  
and  
Civil Rights*

February 16, 2018

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Hon. Andrew M. Cuomo  
Governor of the State of New York  
New York State Capitol Building  
Albany, New York 12224

Dear Governor Cuomo:

As president of the nation's largest Catholic civil rights organization, I am asking you to withdraw your proposal to change the state law regulating the sale of non-profit health plans to for-profit insurance companies.

Your proposal would alter the current law by allowing the state to take the lion's share of the proceeds from such transactions. Reportedly, it is being done to make up for an expected shortfall in healthcare dollars, itself the result of recent changes in federal law.

Your initiative was triggered by the announced purchase of Fidelis Care, a non-profit Catholic health plan, by a private St. Louis entity, Centene Corporation. Under existing law, Centene could acquire Fidelis, and then allow it to devolve into a charitable foundation, the purpose of which would be to serve the needy. Surely you support such a cause. However, your proposal would allow the state to take most of the monies from the sale, thus nixing the deal.

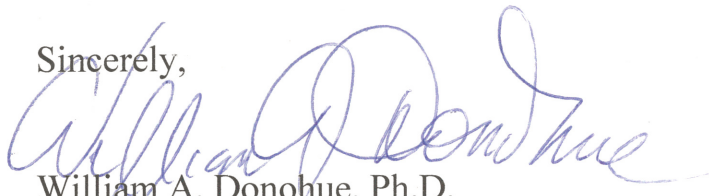
The Catholic League stands with Albany Bishop Edward Scharfenberger in maintaining that your proposal is unconstitutional. Specifically, it would violate the Takings Clause of the Fifth Amendment. In 1960, the U.S. Supreme Court ruled in *Armstrong v. United States* that the Takings Clause "was designed to bar Government from forcing some people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole."

It would be hard to find a more accurate summary of how your initiative violates this ruling.

Surely you can find other means to make up for the expected budgetary shortfalls without "forcing some people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole."

If your proposal were to become law, I can assure you that the Catholic League will be party to lawsuits challenging it in the courts. Please withdraw it and save everyone a needless confrontation.

Sincerely,

A handwritten signature in blue ink, appearing to read "William A. Donohue". The signature is fluid and cursive, with a large initial "W" and "D".

William A. Donohue, Ph.D.

President

cc: Bishop Edward Scharfenberger  
Timothy Cardinal Dolan