

February 29, 2012

Senator
U.S. Senate
Washington, DC 20510

Dear Senator:

On behalf of FRC Action, the legislative action arm of Family Research Council, and the families we represent, I want to urge you to vote *NO* on any motion to table the conscience rights amendment S.AMDT. #1520 containing the “Respect for the Rights of Conscience Act of 2011” (S. 1467) sponsored by Senator Roy Blunt (R-MO). FRC Action will score negatively any vote to table this amendment which is pending to the Highway bill (S. 1813). This amendment would apply conscience rights in current law to the Patient Protection and Affordable Care Act (PPACA) to prevent it from being used by the government to discriminate against health care professionals regarding services to which such health care professionals object on moral or religious grounds. This amendment would in essence restore the status quo on conscience rights prior to PPACA and protect against the Administration’s “contraception mandate” that will violate the conscience rights of many individuals, businesses, and religious organizations that are not exempted as “churches.”

Congress has a long-standing history of providing conscience protections. Congress passed the Church Amendments in the 1970s to prevent federal discrimination in the grant making process against those who object to participating in abortion or sterilization. The Church Amendments also protect individual health care providers working under Health and Human Services funded programs from government discrimination for denying *any service* to which they object. In the 1990s, some health care workers in federally funded residency programs were threatened by an accreditation agency for refusing to participate in abortion. In response, Congress passed the Coats Amendment to prevent discrimination by federally funded entities when the health care professional objects to performing or participating in abortion. In 2004, Congress passed the Hyde-Weldon Amendment to further protect the conscience rights of health care workers from discrimination by the federal government with respect to their right to deny performing abortions. These long-standing laws reflect congressional intent to provide conscience protections for health care workers against government discrimination for refusing to participate in abortion or other services.

However, with the enactment of PPACA the conscience rights of purchasers, insurers, plan sponsors, health care providers and other stakeholders are no longer protected from discrimination by the federal government. In passing PPACA, Congress included a narrower nondiscrimination provision that only prevents health "plans" in the exchanges from discriminating against "providers" or "facilities" unwilling to participate in abortion. PPACA does not prevent such discrimination by the federal government.

On August 1, 2011, the Department of Health and Human Services (HHS) adopted new regulations under PPACA mandating that health insurance companies cover contraceptives free of cost to the patient. These interim final regulations provided a narrow exemption only to religious employers that employ people of the same faith and provide religious teaching to people of the same faith. In other words, the vast majority of religious individuals and organizations who object to these services would have their conscience rights trampled.

On January 20, 2012, HHS issued a press release granting religious employers who would not be exempt a 1 year “delay” while requiring them to refer for the services to which they may object. After the understandable uproar, the Administration announced a so-called “accommodation” on Friday, February 10th that literally made no change in the contraception mandate.

In fact, the February 10th *so-called “accommodation” merely reiterated the contraceptive mandate* by putting into final regulation the overly narrow exemption for churches. Simultaneously HHS issued *new guidance that merely continues the contraceptive mandate with a promise for new regulations in the future* to work out how insurers would pay for the free contraceptives. In other words, the mandate and lack of conscience protections were solidified with a promise for a future accounting gimmick that will require the health insurer to pay for the free contraceptives of the religious entity’s employees. The February 10th final regulation and accompanying “guidance” will still violate the religious liberties of many Americans who object to these services.

The “Respect for the Rights of Conscience Act of 2011” is necessary, therefore, to protect the conscience rights of all individuals and entities who object to such services on religious or moral grounds. It is simply not the role of the federal government to force religious groups and individuals to violate their conscience by mandating the offer, provide, or pay for such services even if you think such services are good. That 9 out of 10 health plans already cover contraceptives, and that the federal government already spends roughly \$2 billion annually on contraceptives, suggests that the goal of this mandate is not to generate more access to contraceptives but to force those who object to such services to be complicit in providing them.

Again, on behalf of FRC Action, we strongly encourage you to vote against a motion to table S.AMDT. #1520 containing the “Respect for the Rights of Conscience Act of 2011.” FRC Action will score against a vote to table this amendment. FRC Action also reserves the right to score against any competing amendment that does not fully protect conscience rights of Americans.

Sincerely,



Thomas McClusky
Senior Vice President