

Legislation Protecting Conscience is Needed for the Obamacare Contraceptive Coverage Mandate

- One of the first major actions under the Protection and Affordable Care Act” (PPACA, P.L. 111-148), (popularly known as “Obamacare”) consists of a federal mandate that all private health plans cover the full range of Food and Drug Administration (FDA) approved contraceptives with no co- pays. On August 1, 2011, the Department of Health and Human Services (HHS) issued regulations which accepted all Institute of Medicine (IOM) recommendations regarding “preventive services for women.” Included in the list of “preventive services” that all insurers are mandated to cover with no co-pay are gestational diabetes, domestic violence and breast cancer screenings, as well as “FDA approved contraceptives and sterilization services.”
- To be clear, the HHS regulation includes drugs and devices that can function as an abortifacient before implantation, like Plan B and IUDs, or after implantation, such as ella®. Ella is chemically like RU-486, the one FDA-approved abortion drug. Although both Plan B and ella can cause abortions early in the pregnancy, they are covered by this mandate because the FDA approved these drugs as “emergency contraceptives,” though RU-486 will not be included since it was approved to act as an “abortifacient.”
- The HHS regulation requires all insurance plans to cover contraceptives, and therefore all employers will be forced to provide such plans to their employees. The regulation contains a very narrow exemption for “religious employers” that would apply essentially only to churches engaged in religious teaching. It would not apply to religious organizations that employ people of different faiths, offer various public services to people of different faiths, or are not primarily engaged in the “inculcation” of religious teachings. Religious universities, non-profit organizations and businesses would NOT be exempted.
- On January 20th, 2012 the Administration announced it would grant a “1 year delay” before requiring religious organizations not exempted to cover contraceptives and sterilization procedures. On February 10, 2012, President Obama announced an “accommodation” to allow the insurance company of the health plan the religious employer pays for to directly provide free contraceptive and abortifacients to their employers. This gimmick still violates the conscience of the religious employer who should not be forced to pay someone to turn around and provide their employees services that violate their conscience.
- Congress has passed three laws (Church Amendments, Coats Amendment, and the Hyde/Weldon Amendment) over the past 35 years protecting the conscience rights of healthcare workers from government discrimination on matters related to abortion or any service in a federally funded or administered program. However, the PPACA lacks necessary protections against government discrimination as evidenced with the contraceptive mandate where private health insurance plans and employers are forced by the government to do things that violate their consciences.
- Congress must protect the rights of conscience by passing the bi-partisan “Respect for Rights of Conscience Act of 2011” (H.R. 1179) sponsored by Rep. Jeff Fortenberry (R-NE) and Rep. Dan Boren (D-OK) in the House and Senator Roy Blunt (R-MO), Senator Marco Rubio (R-FL) and Senator Kelly Ayotte (R-NH) in the Senate (S. 1467).
- This federal contraceptive mandate should give all Americans pause as without Congressional action, Americans will be forced to pay contraceptive services which many have conscientious objections to. This is a fundamental and profound encroachment by the Federal government on American religious liberties.
- The majority of Americans are not in favor of this mandate. A February 8, 2012 Rasmussen poll showed that more Americans oppose the Obama Administration mandating religious employers to cover contraceptives. 50% disagree, while 39% agree and 10% are undecided.¹

¹ February 8, 2012 Rasmussen Poll:

http://www.rasmussenreports.com/public_content/politics/general_politics/february_2012/50_oppose_gov_t_mandate_for_religious_organizations_to_provide_contraceptives