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(Original Signature of Member)

113TH CONGRESS
1ST SESSION

H. R. _____

To amend the Patient Protection and Affordable Care Act to protect rights of conscience with regard to requirements for coverage of specific items and services, to amend the Public Health Service Act to prohibit certain abortion-related discrimination in governmental activities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mrs. BLACK (for herself, Mr. FLEMING, Mr. FORTENBERRY, and [see ATTACHED LIST of cosponsors]) introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Patient Protection and Affordable Care Act to protect rights of conscience with regard to requirements for coverage of specific items and services, to amend the Public Health Service Act to prohibit certain abortion-related discrimination in governmental activities, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Health Care Conscience Rights Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) As Thomas Jefferson declared to New London Methodists in 1809, ''[n]o provision in our Constitution ought to be dearer to man than that which protects the rights of conscience against the enterprises of the civil authority''.

(2) Jefferson's conviction on respect for conscience is deeply embedded in the history and traditions of our Nation, and codified in numerous Federal laws approved by congressional majorities and Presidents of both parties, including in the Public Health Service Act; the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act; the Religious Freedom Restoration Act; longstanding provisions on respect for conscience rights in the Federal Employees Health Benefits Program and District of Colombia appropriations; and laws to protect individuals from being forced to participate in federal executions or prosecutions.

(3) Following enactment of the Patient Protection and Affordable Care Act (Public Law 111–148, in this section referred to as ''PPACA''), the Fed-

1 eral Government has sought to impose specific re-
2 quirements that infringe on the rights of conscience
3 of those who offer or purchase health coverage.
4 (4) While PPACA provides an exemption for
5 some religious groups that object to participation in
6 health insurance generally, and exempts millions of
7 Americans from most of the Act's provisions, includ-
8 ing the preventive services mandate, it fails to pro-
9 vide statutory protection for those seeking to offer
10 and purchase health coverage who have a religious
11 or moral objection only to specific items or services.
12 (5) Nurses and other health care providers have
13 increasingly been subjected to discrimination for
14 abiding by their conscience rather than providing,
15 paying for, or referring for abortion.
16 (6) Conscience rights protections for health care
17 providers are an important part of civil rights pro-
18 tections in Federal law and are indispensable to the
19 continued viability of the health care system in the
20 United States. The increasingly significant discrimi-
21 nation suffered by faith-based nonprofit health care
22 providers risks undermining access to high-quality
23 compassionate care for some of the most vulnerable
24 populations in our country.

SEC. 3. APPLYING LONGSTANDING POLICY ON CONSCIENCE RIGHTS TO THE AFFORDABLE CARE ACT.

(a) IN GENERAL.—Title I of the Patient Protection and Affordable Care Act (Public Law 111–148) is amended—

(1) by redesignating the second section 1563 (relating to conforming amendments and as redesignated by section 10107(b)(1) of the Patient Protection and Affordable Care Act) as section 1564;

(2) by redesignating the third section 1563 (relating to the Sense of the Senate promoting fiscal responsibility) as section 1565; and

(3) by adding at the end the following new section:

"SEC. 1566. RESPECTING CONSCIENCE RIGHTS IN HEALTH COVERAGE.

''(a) IN GENERAL.—Notwithstanding any other provision of this title, no provision of this title (and no amendment made by any such provision) shall—

''(1) require an individual to purchase individual health insurance coverage that includes coverage of an abortion or other item or service to which such individual has a moral or religious objection, or prevent an issuer from offering or issuing,

to such individual, individual health insurance coverage that excludes such item or service;

''(2) require a sponsor (or, in the case of health insurance coverage offered to students through an institution of higher education, the institution of higher education offering such coverage) to sponsor, purchase, or provide any health benefits coverage or group health plan that includes coverage of an abortion or other item or service to which such sponsor or institution, respectively, has a moral or religious objection, or prevent an issuer from offering or issuing to such sponsor or institution, respectively, health insurance coverage that excludes such item or service;

''(3) require an issuer of health insurance coverage or the sponsor of a group health plan to include, in any such coverage or plan, coverage of an abortion or other item or service to which such issuer or sponsor has a moral or religious objection; or

''(4) authorize the imposition of a tax, penalty, fee, fine, or other sanction, or the imposition of coverage of the item or service to which there is a moral or religious objection, in relation to health insurance

1 coverage or a group health plan that excludes an
2 item or service pursuant to this section.
3 ''(b) RESTRICTION ON CONTRARY GOVERNMENTAL
4 ACTION.—No provision in this title (or amendment made
5 by such provision) or law, regulation, guideline or other
6 governmental action that implements such provision or
7 amendment, or derives its authority therefrom, shall be
8 given legal effect to the extent that it violates this section.
9 ''(c) NO EFFECT ON OTHER LAWS.—Nothing in this
10 section shall be construed to preempt, modify, or otherwise
11 have any effect on—
12 ''(1) the Civil Rights Act of 1964;
13 ''(2) the Americans with Disabilities Act of
14 1990;
15 ''(3) the Pregnancy Discrimination Act of 1978;
16 ''(4) the Mental Health Parity Act of 1996; or
17 ''(5) any other State or Federal law, other than
18 a provision in this title (or an amendment made by
19 such provision) or a law, regulation, guideline or
20 other governmental action that implements such pro-
21 vision or amendment or derives its authority there-
22 from.
23 ''(d) AGGREGATE ACTUARIAL VALUE.—Nothing in
24 this section shall be construed to prohibit the Secretary
25 from issuing regulations or other guidance to ensure that

health insurance coverage or group health plans excluding abortion or other items or services under this section shall have an aggregate actuarial value at least equivalent to that of health insurance coverage or group health plans at the same level of coverage that do not exclude such items or services.

"(e) CONTINUED APPLICATION OF NONDISCRIMINATION RULES.—Nothing in this section shall be construed to permit a health insurance issuer, group health plan, or other health care provider to act in a manner inconsistent with subparagraph (B) or (D) of section 1302(b)(4).".

(b) CLERICAL AMENDMENT.—The table of contents of the Patient Protection and Affordable Care Act (Public Law 111–148) is amended—

(1) by striking the following items:

"1563. Conforming amendments.
"1563. Sense of the Senate promoting fiscal responsibility."; and

(2) by inserting after the item relating to the section 1563 relating to small business procurement the following items:

"1564. Conforming amendments.
"1565. Sense of the Senate promoting fiscal responsibility.
"1566. Respecting conscience rights in health coverage.".

SEC. 4. ABORTION NONDISCRIMINATION FOR HEALTH CARE PROVIDERS.

Section 245 of the Public Health Service Act (42 U.S.C. 238n) is amended—

(1) in the section heading, by striking "**AND LICENSING OF PHYSICIANS**" and inserting "**, LICENSING, AND PRACTICE OF PHYSICIANS AND OTHER HEALTH CARE ENTITIES**";

(2) in subsection (a), by amending paragraph (1) to read as follows:

"(1) the entity refuses—

"(A) to undergo training in the performance of induced abortions;

"(B) to require or provide such training;

"(C) to perform, participate in, provide coverage of, or pay for induced abortions; or

"(D) to provide referrals for such training or such abortions;";

(3) in subsection (b)(1), by striking "standards" and inserting "standard";

(4) in subsection (c), by amending paragraphs (1) and (2) to read as follows:

"(1) The term 'financial assistance', with respect to a government program, means governmental payments to cover the cost of health care services or benefits, or other Federal payments, grants, or loans to promote or otherwise facilitate health-related activities.

1 ''(2) The term 'health care entity' includes an
2 individual physician or other health professional, a
3 postgraduate physician training program, a partici-
4 pant in a program of training in the health profes-
5 sions, a hospital, a provider-sponsored organization
6 as defined in section 1855(d) of the Social Security
7 Act, a health maintenance organization, an account-
8 able care organization, an issuer of health insurance
9 coverage, any other kind of health care facility, orga-
10 nization, or plan, and an entity that provides or au-
11 thorizes referrals for health care services.'';
12 (5) by adding at the end of subsection (c) the
13 following new paragraph:
14 ''(4) The term 'State or local government that
15 receives Federal financial assistance' includes any
16 agency or other governmental unit of a State or
17 local government if such government receives Fed-
18 eral financial assistance.'';
19 (6) by redesignating subsection (c) as sub-
20 section (d); and
21 (7) by inserting after subsection (b) the fol-
22 lowing new subsection:
23 ''(c) ADMINISTRATION.—The Secretary shall des-
24 ignate the Director of the Office for Civil Rights of the
25 Department of Health and Human Services—

"(1) to receive complaints alleging a violation of this section, section 1566 of the Patient Protection and Affordable Care Act, or any of subsections (b) through (e) of section 401 of the Health Programs Extension Act of 1973; and

"(2) to pursue the investigation of such complaints, in coordination with the Attorney General.".

SEC. 5. REMEDIES FOR VIOLATIONS OF FEDERAL CONSCIENCE LAWS.

Title II of the Public Health Service Act (42 U.S.C. 202 et seq.) is amended by inserting after section 245 the following:

"SEC. 245A. CIVIL ACTION FOR CERTAIN VIOLATIONS.

"(a) IN GENERAL.—A qualified party may, in a civil action, obtain appropriate relief with regard to a designated violation.

"(b) DEFINITIONS.—In this section—

"(1) the term 'qualified party' means—

"(A) the Attorney General; or,

"(B) any person or entity adversely affected by the designated violation; and

"(2) the term 'designated violation' means an actual or threatened violation of section 245 of this Act, section 1566 of the Patient Protection and Affordable Care Act, or any of subsections (b) through

(e) of section 401 of the Health Programs Extension Act of 1973.

''(c) ADMINISTRATIVE REMEDIES NOT REQUIRED.—An action under this section may be commenced, and relief may be granted, without regard to whether the party commencing the action has sought or exhausted available administrative remedies.

''(d) DEFENDANTS IN ACTIONS UNDER THIS SECTION MAY INCLUDE GOVERNMENTAL ENTITIES AS WELL AS OTHERS.—

''(1) IN GENERAL.—An action under this section may be maintained against, among others, a party that is a Federal or State governmental entity. Relief in an action under this section may include money damages even if the defendant is such a governmental entity.

''(2) DEFINITION.—For the purposes of this subsection, the term 'State governmental entity' means a State, a local government within a State, or any agency or other governmental unit or authority of a State or of such a local government.

''(e) NATURE OF RELIEF.—The court shall grant—

''(1) all necessary equitable and legal relief, including, where appropriate, declaratory relief and compensatory damages, to prevent the occurrence,

1 continuance, or repetition of the designated violation
2 and to compensate for losses resulting from the des-
3 ignated violation; and
4 ''(2) to a prevailing plaintiff, reasonable attor-
5 neys' fees and litigation expenses as part of the
6 costs.''.