

112TH CONGRESS  
1ST SESSION

# S. 1467

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.

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## IN THE SENATE OF THE UNITED STATES

AUGUST 2, 2011

Mr. BLUNT (for himself, Mr. RUBIO, and Ms. AYOTTE) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## 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.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Respect for Rights of  
5 Conscience Act of 2011”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress finds the following:

8 (1) As Thomas Jefferson declared to New Lon-  
9 don Methodists in 1809, “[n]o provision in our Con-

1       stitution ought to be dearer to man than that which  
2       protects the rights of conscience against the enter-  
3       prises of the civil authority”.

4               (2) Jefferson’s statement expresses a conviction  
5       on respect for conscience that is deeply embedded in  
6       the history and traditions of our Nation and codified  
7       in numerous State and Federal laws, including laws  
8       on health care.

9               (3) Until enactment of the Patient Protection  
10       and Affordable Care Act (Public Law 111–148, in  
11       this section referred to as “PPACA”), the Federal  
12       Government has not sought to impose specific cov-  
13       erage or care requirements that infringe on the  
14       rights of conscience of insurers, purchasers of insur-  
15       ance, plan sponsors, beneficiaries, and other stake-  
16       holders, such as individual or institutional health  
17       care providers.

18               (4) PPACA creates a new nationwide require-  
19       ment for health plans to cover “essential health ben-  
20       efits” and “preventive services” (including a distinct  
21       set of “preventive services for women”), delegating  
22       to the Department of Health and Human Services  
23       the authority to provide a list of detailed services  
24       under each category, and imposes other new require-

1       ments with respect to the provision of health care  
2       services.

3           (5) While PPACA provides an exemption for  
4       some religious groups that object to participation in  
5       Government health programs generally, it does not  
6       allow purchasers, plan sponsors, and other stake-  
7       holders with religious or moral objections to specific  
8       items or services to decline providing or obtaining  
9       coverage of such items or services, or allow health  
10      care providers with such objections to decline to pro-  
11      vide them.

12          (6) By creating new barriers to health insur-  
13      ance and causing the loss of existing insurance ar-  
14      rangements, these inflexible mandates in PPACA  
15      jeopardize the ability of individuals to exercise their  
16      rights of conscience and their ability to freely par-  
17      ticipate in the health insurance and health care mar-  
18      ketplace.

19      (b) PURPOSES.—The purposes of this Act are—

20          (1) to ensure that health care stakeholders re-  
21      tain the right to provide, purchase, or enroll in  
22      health coverage that is consistent with their religious  
23      beliefs and moral convictions, without fear of being  
24      penalized or discriminated against under PPACA;  
25      and

1           (2) to ensure that no requirement in PPACA  
2           creates new pressures to exclude those exercising  
3           such conscientious objection from health plans or  
4           other programs under PPACA.

5 **SEC. 3. RESPECT FOR RIGHTS OF CONSCIENCE.**

6           (a) IN GENERAL.—Section 1302(b) of the Patient  
7           Protection and Affordable Care Act (Public Law 111–148;  
8           42 U.S.C. 18022(b)) is amended by adding at the end the  
9           following new paragraph:

10           “(6) RESPECTING RIGHTS OF CONSCIENCE  
11           WITH REGARD TO SPECIFIC ITEMS OR SERVICES.—

12           “(A) FOR HEALTH PLANS.—A health plan  
13           shall not be considered to have failed to provide  
14           the essential health benefits package described  
15           in subsection (a) (or preventive health services  
16           described in section 2713 of the Public Health  
17           Service Act), to fail to be a qualified health  
18           plan, or to fail to fulfill any other requirement  
19           under this title on the basis that it declines to  
20           provide coverage of specific items or services be-  
21           cause—

22           “(i) providing coverage (or, in the  
23           case of a sponsor of a group health plan,  
24           paying for coverage) of such specific items  
25           or services is contrary to the religious be-

1           liefs or moral convictions of the sponsor,  
2           issuer, or other entity offering the plan; or

3           “(ii) such coverage (in the case of in-  
4           dividual coverage) is contrary to the reli-  
5           gious beliefs or moral convictions of the  
6           purchaser or beneficiary of the coverage.

7           “(B) FOR HEALTH CARE PROVIDERS.—  
8           Nothing in this title (or any amendment made  
9           by this title) shall be construed to require an  
10          individual or institutional health care provider,  
11          or authorize a health plan to require a provider,  
12          to provide, participate in, or refer for a specific  
13          item or service contrary to the provider’s reli-  
14          gious beliefs or moral convictions. Notwith-  
15          standing any other provision of this title, a  
16          health plan shall not be considered to have  
17          failed to provide timely or other access to items  
18          or services under this title (or any amendment  
19          made by this title) or to fulfill any other re-  
20          quirement under this title because it has re-  
21          spected the rights of conscience of such a pro-  
22          vider pursuant to this paragraph.

23          “(C) NONDISCRIMINATION IN EXERCISING  
24          RIGHTS OF CONSCIENCE.—No Exchange or  
25          other official or entity acting in a governmental

1 capacity in the course of implementing this title  
2 (or any amendment made by this title) shall  
3 discriminate against a health plan, plan spon-  
4 sor, health care provider, or other person be-  
5 cause of such plan's, sponsor's, provider's, or  
6 person's unwillingness to provide coverage of,  
7 participate in, or refer for, specific items or  
8 services pursuant to this paragraph.

9 “(D) CONSTRUCTION.—Nothing in sub-  
10 paragraph (A) or (B) shall be construed to per-  
11 mit a health plan or provider to discriminate in  
12 a manner inconsistent with subparagraphs (B)  
13 and (D) of paragraph (4).

14 “(E) PRIVATE RIGHTS OF ACTION.—The  
15 various protections of conscience in this para-  
16 graph constitute the protection of individual  
17 rights and create a private cause of action for  
18 those persons or entities protected. Any person  
19 or entity may assert a violation of this para-  
20 graph as a claim or defense in a judicial pro-  
21 ceeding.

22 “(F) REMEDIES.—

23 “(i) FEDERAL JURISDICTION.—The  
24 Federal courts shall have jurisdiction to  
25 prevent and redress actual or threatened

1 violations of this paragraph by granting all  
2 forms of legal or equitable relief, including,  
3 but not limited to, injunctive relief, declar-  
4 atory relief, damages, costs, and attorney  
5 fees.

6 “(ii) INITIATING PARTY.—An action  
7 under this paragraph may be instituted by  
8 the Attorney General of the United States,  
9 or by any person or entity having standing  
10 to complain of a threatened or actual viola-  
11 tion of this paragraph, including, but not  
12 limited to, any actual or prospective plan  
13 sponsor, issuer, or other entity offering a  
14 plan, any actual or prospective purchaser  
15 or beneficiary of a plan, and any individual  
16 or institutional health care provider.

17 “(iii) INTERIM RELIEF.—Pending  
18 final determination of any action under  
19 this paragraph, the court may at any time  
20 enter such restraining order or prohibi-  
21 tions, or take such other actions, as it  
22 deems necessary.

23 “(G) ADMINISTRATION.—The Office for  
24 Civil Rights of the Department of Health and  
25 Human Services is designated to receive com-

1           plaints of discrimination based on this para-  
2           graph and coordinate the investigation of such  
3           complaints.

4                   “(H) ACTUARIAL EQUIVALENCE.—Nothing  
5           in this paragraph shall prohibit the Secretary  
6           from issuing regulations or other guidance to  
7           ensure that health plans excluding specific  
8           items or services under this paragraph shall  
9           have an aggregate actuarial value at least  
10          equivalent to that of plans at the same level of  
11          coverage that do not exclude such items or serv-  
12          ices.”.

13          (b) EFFECTIVE DATE.—The amendment made by  
14          subsection (a) shall be effective as if included in the enact-  
15          ment of Public Law 111–148.

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