

111TH CONGRESS
2D SESSION

H. R. 5111

To amend the Patient Protection and Affordable Care Act to modify special rules relating to coverage of abortion services under such Act.

IN THE HOUSE OF REPRESENTATIVES

APRIL 22, 2010

Mr. PITTS (for himself, Mr. ADERHOLT, Mr. AKIN, Mr. BACHUS, Mr. BARRETT of South Carolina, Mr. BARTLETT, Mr. BILIRAKIS, Mrs. BLACKBURN, Mr. BOEHNER, Mr. BOOZMAN, Mr. BROWN of South Carolina, Mr. CANTOR, Mr. CHAFFETZ, Mr. CONAWAY, Mr. DAVIS of Tennessee, Mr. FLEMING, Mr. FORTENBERRY, Ms. FOXX, Mr. FRANKS of Arizona, Mr. GARRETT of New Jersey, Mr. GINGREY of Georgia, Mr. GOHMERT, Mr. GRIFFITH, Mr. HENSARLING, Mr. HOEKSTRA, Mr. HOLDEN, Mr. INGLIS, Mr. ISSA, Mr. JORDAN of Ohio, Mr. LAMBORN, Mr. LATTA, Mr. LIPINSKI, Mr. MANZULLO, Mr. MARCHANT, Mr. MCHENRY, Mr. MCINTYRE, Mr. NEUGEBAUER, Mr. PENCE, Mr. ROE of Tennessee, Mr. RYAN of Wisconsin, Mr. SMITH of New Jersey, Mr. SCALISE, Mrs. SCHMIDT, Mr. TAYLOR, Mr. TIAHRT, Mr. WILSON of South Carolina, Mr. BRADY of Texas, Mr. DANIEL E. LUNGREN of California, Mr. CHILDERS, Mr. MARSHALL, and Mr. SESSIONS) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Patient Protection and Affordable Care Act to modify special rules relating to coverage of abortion services under such Act.

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

1 **SECTION 1. MODIFYING SPECIAL RULES RELATING TO**
2 **COVERAGE OF ABORTION SERVICES UNDER**
3 **THE PATIENT PROTECTION AND AFFORD-**
4 **ABLE CARE ACT TO CONFORM TO LONG-**
5 **STANDING FEDERAL POLICY.**

6 (a) IN GENERAL.—Section 1303 of the Patient Pro-
7 tection and Affordable Care Act (Public Law 111–148),
8 as amended by section 10104(c) of such Act, is amend-
9 ed—

10 (1) by redesignating subsections (c) and (d) as
11 subsections (e) and (f), respectively;

12 (2) by redesignating paragraph (4) of sub-
13 section (b) as subsection (d) and transferring such
14 subsection (d) after the subsection (c) inserted by
15 paragraph (4) of this subsection with appropriate in-
16 dentation;

17 (3) by amending subsection (b) to read as fol-
18 lows:

19 “(b) SPECIAL RULES RELATING TO COVERAGE OF
20 ABORTION SERVICES.—Nothing in this Act (or any
21 amendment made by this Act) shall be construed to re-
22 quire any health plan to provide coverage of or access to
23 abortion services or to allow the Secretary or any other
24 Federal or non-Federal person or entity in implementing
25 this Act (or amendment) to require coverage of or access
26 to such services.”;

1 (4) by inserting after subsection (b) the fol-
2 lowing new subsection:

3 “(c) LIMITATION ON ABORTION FUNDING.—

4 “(1) IN GENERAL.—No funds authorized or ap-
5 propriated by this Act (or an amendment made by
6 this Act), including credits applied toward qualified
7 health plans under section 36B of the Internal Rev-
8 enue Code of 1986 or cost-sharing reductions under
9 section 1402 of this Act may be used to pay for any
10 abortion or to cover any part of the costs of any
11 health plan that includes coverage of abortion, ex-
12 cept in the case where a woman suffers from a phys-
13 ical disorder, physical injury, or physical illness that
14 would, as certified by a physician, place the woman
15 in danger of death unless an abortion is performed,
16 including a life-endangering physical condition
17 caused by or arising from the pregnancy itself, or
18 unless the pregnancy is the result of an act of rape
19 or incest.

20 “(2) OPTION TO PURCHASE SEPARATE COV-
21 ERAGE OR PLAN.—Nothing in this subsection shall
22 be construed as prohibiting any non-Federal entity
23 (including an individual or a State or local govern-
24 ment) from purchasing separate coverage for abor-
25 tions for which funding is prohibited under this sub-

1 section, or a plan that includes such abortions, so
2 long as—

3 “(A) such coverage or plan is paid for en-
4 tirely using only funds not authorized or appro-
5 priated by this Act; and

6 “(B) such coverage or plan is not pur-
7 chased using—

8 “(i) individual premium payments re-
9 quired for a qualified health plan offered
10 through an Exchange towards which a
11 credit is applied under section 36B of the
12 Internal Revenue Code of 1986; or

13 “(ii) other non-Federal funds required
14 to receive a Federal payment, including a
15 State’s or locality’s contribution of Med-
16 icaid matching funds.

17 “(3) OPTION TO OFFER COVERAGE OR PLAN.—
18 Nothing in this subsection or section
19 1311(d)(2)(B)(i) shall restrict any non-Federal
20 health insurance issuer offering a qualified health
21 plan from offering separate coverage for abortions
22 for which funding is prohibited under this sub-
23 section, or a plan that includes such abortions, so
24 long as—

1 “(A) premiums for such separate coverage
2 or plan are paid for entirely with funds not au-
3 thorized or appropriated by this Act;

4 “(B) administrative costs and all services
5 offered through such coverage or plan are paid
6 for using only premiums collected for such cov-
7 erage or plan; and

8 “(C) any such non-Federal health insur-
9 ance issuer that offers a qualified health plan
10 through an Exchange that includes coverage for
11 abortions for which funding is prohibited under
12 this subsection also offers a qualified health
13 plan through the Exchange that is identical in
14 every respect except that it does not cover abor-
15 tions for which funding is prohibited under this
16 subsection.”;

17 (5) in subsection (e), as redesignated by para-
18 graph (1)—

19 (A) in the heading, strike “REGARDING
20 ABORTION”;

21 (B) in the heading of each of paragraphs
22 (1) and (2), strike each place it appears “RE-
23 GARDING ABORTION”; and

1 (C) in paragraph (1), insert “conscience
 2 protection, abortion, or” after “State laws re-
 3 garding”;

4 (6) in subsection (f), as redesignated by para-
 5 graph (1), by striking “Nothing” and inserting
 6 “Subject to subsection (g), nothing”; and

7 (7) by adding at the end the following new sub-
 8 section:

9 “(g) NONDISCRIMINATION ON ABORTION.—

10 “(1) NONDISCRIMINATION.—A Federal agency
 11 or program, and any State or local government that
 12 receives Federal financial assistance under this Act
 13 (or an amendment made by this Act), may not—

14 “(A) subject any individual or institutional
 15 health care entity to discrimination; or

16 “(B) require any health plan created or
 17 regulated under this Act (or an amendment
 18 made by this Act) to subject any individual or
 19 institutional health care entity to discrimina-
 20 tion,

21 on the basis that the health care entity does not pro-
 22 vide, pay for, provide coverage of, or refer for abor-
 23 tions.

24 “(2) DEFINITION.—In this subsection, the term
 25 “healthcare entity” includes an individual physician

1 or other health care professional, a hospital, a pro-
2 vider-sponsored organization, a health maintenance
3 organization, a health insurance plan, or any other
4 kind of health care facility, organization, or plan.

5 “(3) ADMINISTRATION.—The Office for Civil
6 Rights of the Department of Health and Human
7 Services is designated to receive complaints of dis-
8 crimination based on this subsection, and coordinate
9 the investigation of such complaints.”.

10 (b) CONFORMING AMENDMENT.—Section 1334(a)(6)
11 of such Act is amended to read as follows:

12 “(6) COVERAGE CONSISTENT WITH FEDERAL
13 POLICY.—In entering into contracts under this sub-
14 section, the Director shall ensure that no multi-State
15 qualified health plan offered in an Exchange pro-
16 vides coverage for abortions for which funding is
17 prohibited under subsection 1303(c) of this Act.”.

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