

112TH CONGRESS
2D SESSION

H. R. 3982

To prohibit the Secretary of Health and Human Services from implementing certain rules relating to the health insurance coverage of sterilization and contraceptives approved by the Food and Drug Administration.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 8, 2012

Mr. LUETKEMEYER introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To prohibit the Secretary of Health and Human Services from implementing certain rules relating to the health insurance coverage of sterilization and contraceptives approved by the Food and Drug Administration.

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 “Religious Liberty Pro-
5 tection Act of 2012”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) Deeply embedded in the history and tradi-
2 tions of the United States is the protection of reli-
3 gious freedom. The First Amendment of the United
4 States Constitution states “Congress shall make no
5 law respecting an establishment of religion, or pro-
6 hibiting the free exercise thereof”, and thus, it gives
7 general protection for individuals’ religious beliefs
8 and practices.

9 (2) Repeatedly during the existence of the
10 United States, Congress has reaffirmed the freedom
11 of religion by enacting, among other things, title VII
12 of the Civil Rights Act of 1964, the Church amend-
13 ment, the Weldon amendment, section 245 of the
14 Public Health Service Act, and the Religious Free-
15 dom Restoration Act of 1993. Through their pas-
16 sage, the United States has augmented religious
17 freedoms and set the precedent of protection of con-
18 science rights.

19 (3) The Weldon amendment has been regularly
20 included in appropriations legislation for the Depart-
21 ment of Health and Human Services. The Weldon
22 amendment prohibits Federal agencies, States, and
23 local governments that receive the appropriated
24 funds in the respective Act from discriminating
25 among institutional or individual health care profes-

1 sionals, organizations, facilities, and plans on the
2 basis of a health care entity's refusal to provide, pay
3 for, provide coverage of, or refer for abortions.

4 (4) The United States has a history of pro-
5 tecting individuals, organizations, facilities, and
6 plans from being penalized or discriminated against
7 due to their religious beliefs and moral values. Until
8 the enactment of the Patient Protection and Afford-
9 able Care Act (Public Law 111–148), the Federal
10 Government has never sought to impose specific
11 health care coverage or care requirements that in-
12 fringe on the conscience rights of insurers, pur-
13 chasers of insurance, plan sponsors, beneficiaries,
14 and other stakeholders, such as individual or institu-
15 tional health care entities.

16 (5) The Patient Protection and Affordable Care
17 Act grants the Department of Health and Human
18 Services the authority to provide a list of detailed
19 services to be included as essential health benefits
20 (as defined in section 1302(a) of the Patient Protec-
21 tion and Affordable Care Act), and preventive health
22 services described in section 2713 of the Public
23 Health Service Act. These services represent a new
24 nationwide coverage requirement for health plans.

1 (6) The Patient Protection and Affordable Care
2 Act provides a narrow exemption for religious
3 groups that object to participation in government
4 health programs generally, but it does not allow pur-
5 chasers, plan sponsors, and other stakeholders with
6 religious or moral objections to specific required
7 items or services to decline providing or obtaining
8 coverage of such items or services, or allow health
9 care entities with such objections to decline to pro-
10 vide them.

11 (7) By creating new barriers to health insur-
12 ance and causing the loss of existing insurance ar-
13 rangements, these inflexible mandates in the Patient
14 Protection and Affordable Care Act jeopardize the
15 ability of individuals to exercise their rights of con-
16 science and their ability to freely participate in the
17 health insurance and health care marketplace.

18 (8) In a significant move from the current free
19 insurance coverage market, the Department of
20 Health and Human Services issued an interim rule
21 on August 1, 2011, requiring individual and group
22 health plans to cover free sterilization and all con-
23 traceptives approved by the Food and Drug Admin-
24 istration.

1 (9) Within the list of contraceptives approved
2 by the Food and Drug Administration are drugs
3 containing abortifacient substances and effects, in-
4 cluding Levonorgestral commonly known as Plan B
5 and ulipristal acetate marketed as Ella. Thus, the
6 Patient Protection and Affordable Care Act effec-
7 tively mandates employers to provide health care in-
8 surance covering abortion drugs and services, which
9 is a violation of numerous Federal provisions afore-
10 mentioned.

11 (10) On January 20, 2012, the Department of
12 Health and Human Services announced that it
13 would not broaden the religious exemption it in-
14 cluded in its August 1, 2011, interim rule. Instead,
15 it gave institutions and employers with religious and
16 moral objections to including free sterilization and
17 all contraceptives approved by the Food and Drug
18 Administration in their offered health insurance plan
19 an additional year to “adapt” their consciences to
20 the mandate.

21 **SEC. 3. PROTECTING RIGHTS OF CONSCIENCE.**

22 (1) PROHIBITION ON IMPLEMENTATION OF
23 CERTAIN RULES.—Notwithstanding any other provi-
24 sion of law, the Secretary of Health and Human
25 Services shall not implement or enforce any provi-

1 sion of the interim final rule published on July 19,
2 2010 (75 Federal Register 41726) or any amend-
3 ment to such rule, including the amendment pub-
4 lished on August 3, 2011 (76 Federal Register
5 46621), insofar as such provision or amendment re-
6 lates to requiring any individual or entity to provide
7 coverage of sterilization or contraceptive services to
8 which the individual or entity is opposed on the
9 basis of religious belief.

10 (2) CLARIFICATION ON APPLICATION TO PPACA
11 REQUIREMENTS.—Section 1302(b) of the Patient
12 Protection and Affordable Care Act (Public Law
13 111–148; 42 U.S.C. 18022(b)) is amended by add-
14 ing at the end the following new paragraph:

15 “(6) SPECIAL RULE.—A health plan shall not
16 be considered to have failed to provide the essential
17 health benefits package described in subsection (a)
18 (or preventive health services described in section
19 2713 of the Public Health Service Act), to fail to be
20 a qualified health plan, or to fail to fulfill any other
21 requirement under this title on the basis that the
22 plan does not provide (or pay for) coverage of steri-
23 lization or contraceptive services because—

24 “(A) providing (or paying for) such cov-
25 erage is contrary to the religious or moral be-

1 liefs of the sponsor, issuer, or other entity offer-
2 ing the plan; or

3 “(B) such coverage, in the case of indi-
4 vidual coverage, is contrary to the religious or
5 moral beliefs of the purchaser or beneficiary of
6 the coverage.”.

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