

113TH CONGRESS
2D SESSION

H. R. 5051

To ensure that employers cannot interfere in their employees' birth control
and other health care decisions.

IN THE HOUSE OF REPRESENTATIVES

JULY 9, 2014

Ms. SLAUGHTER (for herself, Ms. DEGETTE, Mr. NADLER, Mr. BERA of California, Mr. BISHOP of New York, Mr. BLUMENAUER, Ms. BONAMICI, Mr. BRADY of Pennsylvania, Mr. BRALEY of Iowa, Ms. BROWNLEY of California, Mrs. CAPPs, Ms. CASTOR of Florida, Ms. CHU, Mr. CICILLINE, Ms. CLARK of Massachusetts, Ms. CLARKE of New York, Mr. CLAY, Mr. COHEN, Mr. CONNOLLY, Mr. CONYERS, Mr. CUMMINGS, Mr. DANNY K. DAVIS of Illinois, Mr. DEFazio, Ms. DELAURO, Ms. DELBENE, Mr. DOGGETT, Ms. DUCKWORTH, Ms. EDWARDS, Mr. ELLISON, Ms. ESTY, Mr. FARR, Mr. FATTAH, Ms. FRANKEL of Florida, Ms. FUDGE, Mr. GRAYSON, Ms. HAHN, Mr. HASTINGS of Florida, Mr. HONDA, Mr. HOYER, Mr. HUFFMAN, Mr. ISRAEL, Ms. JACKSON LEE, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. JOHNSON of Georgia, Mr. KEATING, Mr. KENNEDY, Mr. KILMER, Mrs. KIRKPATRICK, Ms. KUSTER, Ms. LEE of California, Mr. LEVIN, Mr. LEWIS, Ms. LOFGREN, Mr. LOWENTHAL, Mrs. LOWEY, Mr. BEN RAY LUJÁN of New Mexico, Ms. MICHELLE LUJAN GRISHAM of New Mexico, Mr. MAFFEI, Mrs. CAROLYN B. MALONEY of New York, Ms. MATSUI, Mrs. MCCARTHY of New York, Ms. MCCOLLUM, Mr. MCDERMOTT, Mr. MCGOVERN, Ms. MENG, Mr. MICHAUD, Mr. GEORGE MILLER of California, Ms. MOORE, Mr. MORAN, Mr. MURPHY of Florida, Ms. NORTON, Mr. PALLONE, Ms. PELOSI, Mr. PERLMUTTER, Mr. PETERS of Michigan, Mr. PETERS of California, Ms. PINGREE of Maine, Mr. POCAN, Mr. POLIS, Mr. PRICE of North Carolina, Mr. QUIGLEY, Mr. RANGEL, Ms. ROYBAL-ALLARD, Mr. RUIZ, Mr. RYAN of Ohio, Ms. LINDA T. SÁNCHEZ of California, Mr. SARBANES, Ms. SCHAKOWSKY, Mr. SCHIFF, Mr. SCHNEIDER, Ms. SCHWARTZ, Mr. SCOTT of Virginia, Ms. SHEA-PORTER, Mr. SIREs, Mr. SMITH of Washington, Ms. SPEIER, Mr. SWALWELL of California, Mr. TAKANO, Mr. THOMPSON of California, Mr. TIERNEY, Ms. TITUS, Mr. TONKO, Ms. TSONGAS, Mr. VAN HOLLEN, Ms. WASSERMAN SCHULTZ, Mr. WAXMAN, Mr. WELCH, Ms. WILSON of Florida, Mr. YARMUTH, Ms. BASS, Ms. BROWN of Florida, Mr. BUTTERFIELD, Mr. CLEAVER, Mr. CROWLEY, Ms. ESHOO, Mr. GENE GREEN of Texas, Mr. GRIJALVA, Mr. GUTIÉRREZ, Mr. KILDEE, Mrs. NAPOLITANO, Mr. PASTOR of Arizona, Mr. PAYNE, Mr. VEASEY,

Ms. WATERS, Mr. MCNERNEY, Mr. HIGGINS, Ms. SINEMA, Mr. HORSFORD, and Mr. BECERRA) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committees on Energy and Commerce and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To ensure that employers cannot interfere in their employees' birth control and other health care decisions.

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 “Protect Women’s
 5 Health From Corporate Interference Act of 2014”.

6 **SEC. 2. PURPOSE.**

7 The purpose of this Act is to ensure that employers
 8 that provide health benefits to their employees cannot
 9 deny any specific health benefits, including contraception
 10 coverage, to any of their employees or the covered depend-
 11 ents of such employees entitled by Federal law to receive
 12 such coverage.

13 **SEC. 3. FINDINGS.**

14 Congress finds as follows:

15 (1) Access to the full range of health benefits
 16 and preventive services, as guaranteed under Fed-
 17 eral law or through Federal regulations, provides all

1 Americans with the opportunity to lead healthier
2 and more productive lives.

3 (2) Birth control is a critical health care service
4 for women. Ninety-nine percent of sexually active
5 women use birth control at least once in their life-
6 times, and the Centers for Disease Control and Pre-
7 vention declared it one of the Ten Great Public
8 Health Achievements of the 20th Century. While the
9 most common reason women use contraception is to
10 prevent pregnancy, 58 percent of oral contraceptive
11 users cite noncontraceptive health benefits as rea-
12 sons for using the method. Fourteen percent of birth
13 control pill users, more than 1,500,000 women, rely
14 on birth control pills for noncontraceptive purposes
15 only.

16 (3) In addition to providing health benefits for
17 women, access to birth control has been directly con-
18 nected to women's economic success and ability to
19 participate in society equally. Women with access to
20 birth control are more likely to have higher edu-
21 cational achievement and career achievement, and to
22 be paid higher wages.

23 (4) The independent, nonprofit Institute of
24 Medicine recommends, as part of its recommended
25 preventive health measures, that women's preventive

1 health be covered by health plans with no cost-shar-
2 ing to promote optimal health of women. The Insti-
3 tute of Medicine noted that the contraceptive meth-
4 ods recommendation was one of the most important
5 recommendations for women.

6 (5) Affordability has long been a barrier to
7 women being able to use birth control and other pre-
8 ventive health services effectively. A national survey
9 of women who were currently using some form of
10 contraception found that one-third would switch to a
11 different method of contraception if they did not
12 have to worry about cost. Women citing cost con-
13 cerns were twice as likely as other women to rely on
14 less effective methods of contraception.

15 (6) Three separate studies have found that lack
16 of health coverage is significantly associated with re-
17 duced use of prescription contraceptives.

18 (7) Cost-sharing requirements can dramatically
19 reduce the use of preventive health care measures,
20 particularly among lower-income women. Studies
21 have shown that eliminating cost-sharing for the
22 most effective forms of contraception (intrauterine
23 devices, implants, and injectables) leads to sizable
24 increases in the use of these methods.

1 (8) The Patient Protection and Affordable Care
2 Act (Public Law 111–148) sought to remove the
3 barrier to care by requiring all new health plans to
4 cover recommended preventive services without cost-
5 sharing, which include women’s preventative serv-
6 ices. These services include all methods of contracep-
7 tion and sterilization approved by the Food and
8 Drug Administration and related education and
9 counseling, as prescribed by a health care provider.

10 (9) The contraceptive coverage provision has
11 been a success in increasing access to this critical
12 health service for women. As of 2013, 47,000,000
13 women were covered by this requirement. Women
14 have saved \$483,000,000 in out-of-pocket costs for
15 oral contraceptives with no copayments in 2013
16 compared to 2012.

17 (10) The Journal of the American Medical As-
18 sociation reports that 7 out of 10 people in the
19 United States support coverage of contraception,
20 with significantly higher support among women,
21 Hispanic Americans, and Black Americans.

22 (11) An estimated 76,000,000 people in the
23 United States, including 30,000,000 women, are
24 newly eligible for expanded preventive services cov-
25 erage under the Patient Protection and Affordable

1 Care Act. A total of 48,500,000 women are esti-
2 mated to benefit from preventive services coverage
3 without cost-sharing.

4 (12) The most appropriate method of contra-
5 ception varies according to each individual woman's
6 needs and medical history. Women may have medical
7 contraindications and thus not be able to use certain
8 types of contraceptive methods. It is therefore vital
9 that the full range of contraceptive methods ap-
10 proved by the Food and Drug Administration be
11 available in order to ensure that each woman, in
12 consultation with her medical provider, can make ap-
13 propriate decisions about her health care.

14 (13) Covering proven preventative services like
15 contraception lowers health care spending as it im-
16 proves health. The Federal Government experienced
17 no increase in costs at all after it began covering
18 contraceptives for Federal employees. A study by the
19 National Business Group on Health estimated that
20 it costs employers 15 to 17 percent more to not pro-
21 vide contraceptive coverage in employee health plans,
22 accounting for the employer's direct medical costs of
23 pregnancy and indirect costs related to employee ab-
24 sence and reduced productivity.

1 (14) Dozens of cases have been filed in Federal
2 court by employers that want to take this benefit
3 away from their employees and the covered depend-
4 ents of such employees.

5 (15) On June 30, 2014, the Supreme Court
6 held, in *Burwell v. Hobby Lobby Stores, Inc.* and
7 *Conestoga Wood Specialties Corp. v. Burwell*, that
8 some for-profit corporations can take away the birth
9 control coverage guaranteed to their employees and
10 the covered dependents of such employees through
11 their group health plan.

12 (16) In a dissent in those cases, Justice Ruth
13 Bader Ginsburg states that in this “decision of star-
14 tling breadth . . . the exemption sought by Hobby
15 Lobby and Conestoga . . . would deny legions of
16 women who do not hold their employers’ beliefs ac-
17 cess to contraceptive coverage that the ACA would
18 otherwise secure.” Justice Ginsburg also notes that
19 the decision opens up the door to religiously ground-
20 ed employer objections to a whole host of health care
21 services like “blood transfusions . . .
22 antidepressants . . . medications derived from pigs,
23 including anesthesia . . . and vaccinations.”.

24 (17) The Supreme Court’s decision in those
25 cases allows employers, that otherwise provide cov-

1 erage of preventive health services, to deny their em-
2 ployees and the covered dependents of such employ-
3 ees contraceptive coverage and to treat a critical
4 women’s health service differently than other com-
5 parable services. Legislation is needed to clarify that
6 employers may not discriminate against their em-
7 ployees and dependents.

8 (18) It is imperative that Congress act to rein-
9 state contraception coverage and to protect employ-
10 ees and the covered dependents of such employees
11 from other attempts to take away coverage for other
12 health benefits to which such employees and depend-
13 ents are entitled under Federal law.

14 **SEC. 4. ENSURING COVERAGE OF SPECIFIC BENEFITS.**

15 (a) IN GENERAL.—An employer that establishes or
16 maintains a group health plan for its employees (and any
17 covered dependents of such employees) shall not deny cov-
18 erage of a specific health care item or service with respect
19 to such employees (or dependents) where the coverage of
20 such item or service is required under any provision of
21 Federal law or the regulations promulgated thereunder.
22 A group health plan, as defined in section 733(a) of the
23 Employee Retirement Income Security Act of 1974 (29
24 U.S.C. 1191b(a)), sponsored by an employer, employee or-
25 ganization, or both, and any health insurance coverage,

1 as defined in section 2791(b) of the Public Health Service
2 Act (42 U.S.C. 300gg–91) is required to provide coverage
3 required under the Public Health Service Act, including
4 section 2713 of such Act (42 U.S.C. 300gg–13), in addi-
5 tion to other applicable requirements.

6 (b) APPLICATION.—Subsection (a) shall apply not-
7 withstanding any other provision of Federal law, including
8 Public Law 103–141.

9 (c) REGULATIONS.—The regulations contained in
10 sections 54.9815-2713A of title 26, 2590.715-2713A of
11 title 29, and 147.131 of title 45, Code of Federal Regula-
12 tions, shall apply with respect to this section. The Depart-
13 ments of Labor, Health and Human Services, and the
14 Treasury may modify such regulations consistent with the
15 purpose and findings of this Act.

16 (d) ENFORCEMENT.—The provisions of this Act shall
17 apply to plan sponsors, group health plans, and health in-
18 surance issuers as if enacted in the Employee Retirement
19 Income Security Act of 1974 (29 U.S.C. 1001 et seq.),
20 the Public Health Service Act (42 U.S.C. 201 et seq.),
21 and the Internal Revenue Code of 1986. Any failure by
22 a plan sponsor, group health plan, or health insurance
23 issuer to comply with the provisions of this Act shall be
24 subject to enforcement through part 5 of subtitle B of title
25 I of the Employee Retirement Income Security Act of

- 1 1974 (29 U.S.C. 1131 et seq.), section 2723 of the Public
- 2 Health Service Act (42 U.S.C. 300gg-22), and section
- 3 4980D of the Internal Revenue Code of 1986.

