

112TH CONGRESS  
1ST SESSION

# H. R. 1179

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 HOUSE OF REPRESENTATIVES

MARCH 17, 2011

Mr. FORTENBERRY (for himself, Mr. BOREN, Mrs. McMORRIS RODGERS, Mr. SCALISE, Mr. TIBERI, Mr. CONAWAY, Mr. LAMBORN, Mr. WALBERG, and Mr. LIPINSKI) introduced the following bill; which was referred to the Committee on Energy and Commerce

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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:

1           (1) As Thomas Jefferson declared to New Lon-  
2 don Methodists in 1809, “[n]o provision in our Con-  
3 stitution ought to be dearer to man than that which  
4 protects the rights of conscience against the enter-  
5 prises of the civil authority”.

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

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

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

1 under each category, and imposes other new require-  
2 ments with respect to the provision of health care  
3 services.

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

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

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

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

1 penalized or discriminated against under PPACA;  
2 and

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

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

8 (a) IN GENERAL.—Section 1302(b) of the Patient  
9 Protection and Affordable Care Act (Public Law 111–148;  
10 42 U.S.C. 18022(b)) is amended by adding at the end the  
11 following new paragraph:

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

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

24 “(i) providing coverage (or, in the  
25 case of a sponsor of a group health plan,

1           paying for coverage) of such specific items  
2           or services is contrary to the religious be-  
3           liefs or moral convictions of the sponsor,  
4           issuer, or other entity offering the plan; or

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

9           “(B) FOR HEALTH CARE PROVIDERS.—

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

1           “(C) NONDISCRIMINATION IN EXERCISING  
2           RIGHTS OF CONSCIENCE.—No Exchange or  
3           other official or entity acting in a governmental  
4           capacity in the course of implementing this title  
5           (or any amendment made by this title) shall  
6           discriminate against a health plan, plan spon-  
7           sor, health care provider, or other person be-  
8           cause of such plan’s, sponsor’s, provider’s, or  
9           person’s unwillingness to provide coverage of,  
10          participate in, or refer for, specific items or  
11          services pursuant to this paragraph.

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

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

25          “(F) REMEDIES.—

1           “(i) FEDERAL JURISDICTION.—The  
2 Federal courts shall have jurisdiction to  
3 prevent and redress actual or threatened  
4 violations of this paragraph by granting all  
5 forms of legal or equitable relief, including,  
6 but not limited to, injunctive relief, declar-  
7 atory relief, damages, costs, and attorney  
8 fees.

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

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

1           “(G) ADMINISTRATION.—The Office for  
2 Civil Rights of the Department of Health and  
3 Human Services is designated to receive com-  
4 plaints of discrimination based on this para-  
5 graph and coordinate the investigation of such  
6 complaints.

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

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

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