

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.

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

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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