

113TH CONGRESS  
1ST SESSION

# H. R. 940

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, to amend the Public Health Service Act to prohibit certain abortion-related discrimination in governmental activities, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 4, 2013

Mrs. BLACK (for herself, Mr. FLEMING, Mr. FORTENBERRY, Mr. DAINES, Mr. BOUSTANY, Mr. JONES, Mr. CASSIDY, Mr. ROGERS of Alabama, Mr. NUNNELEE, Mr. LIPINSKI, Mr. HULTGREN, Mr. BONNER, Mr. CRAMER, Mr. BROUN of Georgia, Mr. JOHNSON of Ohio, Mr. WALBERG, Mr. TIBERI, Mr. KELLY, Mr. NEUGEBAUER, Mr. FLORES, Mrs. ELLMERS, Mr. GINGREY of Georgia, Mr. POMPEO, Mr. ROE of Tennessee, Mr. KING of Iowa, Mr. MURPHY of Pennsylvania, Mr. BENTIVOLIO, Ms. FOXX, Mr. RODNEY DAVIS of Illinois, Mr. WILSON of South Carolina, Mr. POE of Texas, Mr. FINCHER, Mr. WESTMORELAND, Mr. GRAVES of Georgia, Mr. BACHUS, Mr. BARLETTA, Mr. JORDAN, Mrs. WAGNER, Mr. BENISHEK, Mrs. BLACKBURN, Mr. WENSTRUP, Mr. SOUTHERLAND, Mr. SCHWEIKERT, Mr. HUELSKAMP, Mr. HARRIS, Mrs. HARTZLER, Mr. MILLER of Florida, Mr. SMITH of New Jersey, Mr. ROSKAM, Mr. PEARCE, and Mrs. WALORSKI) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on 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

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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, to

amend the Public Health Service Act to prohibit certain abortion-related discrimination in governmental activities, and for other purposes.

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 “Health Care Con-  
5 science Rights Act”.

6 **SEC. 2. FINDINGS.**

7       Congress finds the following:

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

13           (2) Jefferson’s conviction on respect for con-  
14 science is deeply embedded in the history and tradi-  
15 tions of our Nation, and codified in numerous Fed-  
16 eral laws approved by congressional majorities and  
17 Presidents of both parties, including in the Public  
18 Health Service Act; the United States Leadership  
19 Against HIV/AIDS, Tuberculosis, and Malaria Act;  
20 the Religious Freedom Restoration Act; long-  
21 standing provisions on respect for conscience rights  
22 in the Federal Employees Health Benefits Program  
23 and District of Columbia appropriations; and laws to

1 protect individuals from being forced to participate  
2 in Federal executions or prosecutions.

3 (3) Following enactment of the Patient Protec-  
4 tion and Affordable Care Act (Public Law 111–148,  
5 in this section referred to as “PPACA”), the Fed-  
6 eral Government has sought to impose specific re-  
7 quirements that infringe on the rights of conscience  
8 of those who offer or purchase health coverage.

9 (4) While PPACA provides an exemption for  
10 some religious groups that object to participation in  
11 health insurance generally, and exempts millions of  
12 Americans from most of the Act’s provisions, includ-  
13 ing the preventive services mandate, it fails to pro-  
14 vide statutory protection for those seeking to offer  
15 and purchase health coverage who have a religious  
16 or moral objection only to specific items or services.

17 (5) Nurses and other health care providers have  
18 increasingly been subjected to discrimination for  
19 abiding by their conscience rather than providing,  
20 paying for, or referring for abortion.

21 (6) Conscience rights protections for health care  
22 providers are an important part of civil rights pro-  
23 tections in Federal law and are indispensable to the  
24 continued viability of the health care system in the  
25 United States. The increasingly significant discrimi-

1 nation suffered by faith-based nonprofit health care  
2 providers risks undermining access to high-quality  
3 compassionate care for some of the most vulnerable  
4 populations in our country.

5 **SEC. 3. APPLYING LONGSTANDING POLICY ON CON-**  
6 **SCIENCE RIGHTS TO THE AFFORDABLE CARE**  
7 **ACT.**

8 (a) IN GENERAL.—Title I of the Patient Protection  
9 and Affordable Care Act (Public Law 111–148) is amend-  
10 ed—

11 (1) by redesignating the second section 1563  
12 (relating to conforming amendments and as redesignig-  
13 nated by section 10107(b)(1) of the Patient Protec-  
14 tion and Affordable Care Act) as section 1564;

15 (2) by redesignating the third section 1563 (re-  
16 lating to the Sense of the Senate promoting fiscal  
17 responsibility) as section 1565; and

18 (3) by adding at the end the following new sec-  
19 tion:

20 **“SEC. 1566. RESPECTING CONSCIENCE RIGHTS IN HEALTH**  
21 **COVERAGE.**

22 “(a) IN GENERAL.—Notwithstanding any other pro-  
23 vision of this title, no provision of this title (and no amend-  
24 ment made by any such provision) shall—

1           “(1) require an individual to purchase indi-  
2           vidual health insurance coverage that includes cov-  
3           erage of an abortion or other item or service to  
4           which such individual has a moral or religious objec-  
5           tion, or prevent an issuer from offering or issuing,  
6           to such individual, individual health insurance cov-  
7           erage that excludes such item or service;

8           “(2) require a sponsor (or, in the case of health  
9           insurance coverage offered to students through an  
10          institution of higher education, the institution of  
11          higher education offering such coverage) to sponsor,  
12          purchase, or provide any health benefits coverage or  
13          group health plan that includes coverage of an abor-  
14          tion or other item or service to which such sponsor  
15          or institution, respectively, has a moral or religious  
16          objection, or prevent an issuer from offering or  
17          issuing to such sponsor or institution, respectively,  
18          health insurance coverage that excludes such item or  
19          service;

20          “(3) require an issuer of health insurance cov-  
21          erage or the sponsor of a group health plan to in-  
22          clude, in any such coverage or plan, coverage of an  
23          abortion or other item or service to which such  
24          issuer or sponsor has a moral or religious objection;  
25          or

1           “(4) authorize the imposition of a tax, penalty,  
2           fee, fine, or other sanction, or the imposition of cov-  
3           erage of the item or service to which there is a moral  
4           or religious objection, in relation to health insurance  
5           coverage or a group health plan that excludes an  
6           item or service pursuant to this section.

7           “(b) RESTRICTION ON CONTRARY GOVERNMENTAL  
8           ACTION.—No provision in this title (or amendment made  
9           by such provision) or law, regulation, guideline or other  
10          governmental action that implements such provision or  
11          amendment, or derives its authority therefrom, shall be  
12          given legal effect to the extent that it violates this section.

13          “(c) NO EFFECT ON OTHER LAWS.—Nothing in this  
14          section shall be construed to preempt, modify, or otherwise  
15          have any effect on—

16                 “(1) the Civil Rights Act of 1964;

17                 “(2) the Americans with Disabilities Act of  
18                 1990;

19                 “(3) the Pregnancy Discrimination Act of 1978;

20                 “(4) the Mental Health Parity Act of 1996; or

21                 “(5) any other State or Federal law, other than  
22                 a provision in this title (or an amendment made by  
23                 such provision) or a law, regulation, guideline or  
24                 other governmental action that implements such pro-

1 vision or amendment or derives its authority there-  
2 from.

3 “(d) AGGREGATE ACTUARIAL VALUE.—Nothing in  
4 this section shall be construed to prohibit the Secretary  
5 from issuing regulations or other guidance to ensure that  
6 health insurance coverage or group health plans excluding  
7 abortion or other items or services under this section shall  
8 have an aggregate actuarial value at least equivalent to  
9 that of health insurance coverage or group health plans  
10 at the same level of coverage that do not exclude such  
11 items or services.

12 “(e) CONTINUED APPLICATION OF NONDISCRIMINA-  
13 TION RULES.—Nothing in this section shall be construed  
14 to permit a health insurance issuer, group health plan, or  
15 other health care provider to act in a manner inconsistent  
16 with subparagraph (B) or (D) of section 1302(b)(4).”.

17 (b) CLERICAL AMENDMENT.—The table of contents  
18 of the Patient Protection and Affordable Care Act (Public  
19 Law 111–148) is amended—

20 (1) by striking the following items:

“1563. Conforming amendments.

“1563. Sense of the Senate promoting fiscal responsibility.”;

21 and

22 (2) by inserting after the item relating to the  
23 section 1563 relating to small business procurement  
24 the following items:

“1564. Conforming amendments.

“1565. Sense of the Senate promoting fiscal responsibility.

“1566. Respecting conscience rights in health coverage.”.

1 **SEC. 4. ABORTION NONDISCRIMINATION FOR HEALTH**  
2 **CARE PROVIDERS.**

3 Section 245 of the Public Health Service Act (42  
4 U.S.C. 238n) is amended—

5 (1) in the section heading, by striking “**AND**  
6 **LICENSING OF PHYSICIANS**” and inserting “**, LI-**  
7 **CENSING, AND PRACTICE OF PHYSICIANS AND**  
8 **OTHER HEALTH CARE ENTITIES**”;

9 (2) in subsection (a), by amending paragraph  
10 (1) to read as follows:

11 “(1) the entity refuses—

12 “(A) to undergo training in the perform-  
13 ance of induced abortions;

14 “(B) to require or provide such training;

15 “(C) to perform, participate in, provide  
16 coverage of, or pay for induced abortions; or

17 “(D) to provide referrals for such training  
18 or such abortions;”;

19 (3) in subsection (b)(1), by striking “stand-  
20 ards” and inserting “standard”;

21 (4) in subsection (c), by amending paragraphs  
22 (1) and (2) to read as follows:

23 “(1) The term ‘financial assistance’, with re-  
24 spect to a government program, means governmental

1 payments to cover the cost of health care services or  
2 benefits, or other Federal payments, grants, or loans  
3 to promote or otherwise facilitate health-related ac-  
4 tivities.

5 “(2) The term ‘health care entity’ includes an  
6 individual physician or other health professional, a  
7 postgraduate physician training program, a partici-  
8 pant in a program of training in the health profes-  
9 sions, a hospital, a provider-sponsored organization  
10 as defined in section 1855(d) of the Social Security  
11 Act, a health maintenance organization, an account-  
12 able care organization, an issuer of health insurance  
13 coverage, any other kind of health care facility, orga-  
14 nization, or plan, and an entity that provides or au-  
15 thorizes referrals for health care services.”;

16 (5) by adding at the end of subsection (c) the  
17 following new paragraph:

18 “(4) The term ‘State or local government that  
19 receives Federal financial assistance’ includes any  
20 agency or other governmental unit of a State or  
21 local government if such government receives Fed-  
22 eral financial assistance.”;

23 (6) by redesignating subsection (c) as sub-  
24 section (d); and

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

3           “(c) ADMINISTRATION.—The Secretary shall des-  
4           ignate the Director of the Office for Civil Rights of the  
5           Department of Health and Human Services—

6           “(1) to receive complaints alleging a violation of  
7           this section, section 1566 of the Patient Protection  
8           and Affordable Care Act, or any of subsections (b)  
9           through (e) of section 401 of the Health Programs  
10          Extension Act of 1973; and

11          “(2) to pursue the investigation of such com-  
12          plaints, in coordination with the Attorney General.”.

13 **SEC. 5. REMEDIES FOR VIOLATIONS OF FEDERAL CON-**  
14 **SCIENCE LAWS.**

15          Title II of the Public Health Service Act (42 U.S.C.  
16 202 et seq.) is amended by inserting after section 245 the  
17 following:

18 **“SEC. 245A. CIVIL ACTION FOR CERTAIN VIOLATIONS.**

19          “(a) IN GENERAL.—A qualified party may, in a civil  
20 action, obtain appropriate relief with regard to a des-  
21 ignated violation.

22          “(b) DEFINITIONS.—In this section—

23                  “(1) the term ‘qualified party’ means—

24                          “(A) the Attorney General; or

1           “(B) any person or entity adversely af-  
2           fected by the designated violation; and

3           “(2) the term ‘designated violation’ means an  
4           actual or threatened violation of section 245 of this  
5           Act, section 1566 of the Patient Protection and Af-  
6           fordable Care Act, or any of subsections (b) through  
7           (e) of section 401 of the Health Programs Extension  
8           Act of 1973.

9           “(c) ADMINISTRATIVE REMEDIES NOT REQUIRED.—  
10          An action under this section may be commenced, and relief  
11          may be granted, without regard to whether the party com-  
12          mencing the action has sought or exhausted available ad-  
13          ministrative remedies.

14          “(d) DEFENDANTS IN ACTIONS UNDER THIS SEC-  
15          TION MAY INCLUDE GOVERNMENTAL ENTITIES AS WELL  
16          AS OTHERS.—

17                 “(1) IN GENERAL.—An action under this sec-  
18                 tion may be maintained against, among others, a  
19                 party that is a Federal or State governmental entity.  
20                 Relief in an action under this section may include  
21                 money damages even if the defendant is such a gov-  
22                 ernmental entity.

23                 “(2) DEFINITION.—For the purposes of this  
24                 subsection, the term ‘State governmental entity’  
25                 means a State, a local government within a State,

1 or any agency or other governmental unit or author-  
2 ity of a State or of such a local government.

3 “(e) NATURE OF RELIEF.—The court shall grant—

4 “(1) all necessary equitable and legal relief, in-  
5 cluding, where appropriate, declaratory relief and  
6 compensatory damages, to prevent the occurrence,  
7 continuance, or repetition of the designated violation  
8 and to compensate for losses resulting from the des-  
9 ignated violation; and

10 “(2) to a prevailing plaintiff, reasonable attor-  
11 neys’ fees and litigation expenses as part of the  
12 costs.”.

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