

October 2011

TO: Interested Parties
FROM: Lanae Erickson, Deputy Director of the Social Policy & Politics Program
RE: Understanding the "Protect Life Act"

Instead of focusing on getting our economy back on track, House Republicans have scheduled a vote this week on H.R. 358, the "Protect Life Act." Masquerading as an attempt to ensure that federal funds do not go to pay for abortion services, this legislation is actually an effort to radically change settled law on abortion on multiple fronts. The provisions in the bill extend far beyond what was even discussed during last year's debate over abortion in health care reform.

There are four reasons that Congress should reject this extreme legislation:

- 1. Current law already guarantees that federal funds cannot pay for abortion.** The health care law was carefully crafted to ensure that federal funding could not be used to pay for abortion services (except to protect the life of the mother or when the pregnancy resulted from rape or incest). Named after its pro-life author Senator Ben Nelson, the language in the health care law requires private insurance companies operating within state health insurance exchanges to separate private premiums from federal subsidies, and only the private premiums are allowed to pay for abortion services. In case there was any remaining ambiguity, the President issued an Executive Order when he signed the law to "ensure that Federal funds are not used for abortion services."
- 2. This bill would end coverage for abortion in the exchanges.** It would prohibit Americans who receive federal subsidies to purchase insurance in the exchanges from using their own private premiums to buy health plans that include abortion coverage—a restriction that was soundly rejected during last year's debate. Because the majority of Americans purchasing health insurance through the exchanges are likely to be receiving some federal assistance, it would substantially threaten or eliminate the availability of abortion coverage in the exchanges. This would be a dramatic change from the status quo, since the majority of Americans with health insurance already have plans that include abortion coverage.
- 3. It could deny women lifesaving treatment.** Current law carefully balances the rights of medical providers who have moral objections to certain procedures with the ability of patients to obtain the medical care they need. Existing law under the *Emergency Medical Treatment and Active Labor Act* requires that hospitals provide emergency medical care to pregnant women, including emergency abortion services to a woman whose life is threatened by

the pregnancy. This legislation would change that longstanding principle, allowing hospitals to turn away a woman who is in an emergency situation and refuse to give her lifesaving treatment.

- 4. It would undermine crucial services provided by health care reform, including those that reduce the need for abortion.** Federal law already protects the right of conscience for individuals or entities that refuse to provide, pay for, provide coverage for, or refer for an abortion. But this bill would tip the balance of those laws by allowing states to permit health care providers the option to refuse to provide any health service to which they object—driving a bus through our current conscience protections. This would mean that states could allow doctors to refuse to treat a patient, or an entire group of people, just because the patient has done something of which the provider disapproves, for example refusing to provide health services to gay people. It would also allow states to undercut health care reform by refusing to offer required preventative services like contraception. By decreasing access to birth control, it would likely contribute to increasing the number of abortions in this country, since half of unintended pregnancies end in abortion.

Conclusion

The language of the current health care law and accompanying Executive Order make clear that no federal funds will be used to pay for abortion. Members of Congress who want to rewind the conversation and go back to discussing divisive proposals that have already been put to rest—or even present new and more extreme restrictions—are simply trying to stoke the culture wars during election season.