

112<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 358

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IN THE SENATE OF THE UNITED STATES

OCTOBER 17, 2011

Received; read twice and referred to the Committee on Finance

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## AN ACT

To amend the Patient Protection and Affordable Care Act to modify special rules relating to coverage of abortion services under such Act.

1        *Be it enacted by the Senate and House of Representa-*  
2        *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Protect Life Act”.

3 **SEC. 2. MODIFYING SPECIAL RULES RELATING TO COV-**  
4 **ERAGE OF ABORTION SERVICES UNDER THE**  
5 **PATIENT PROTECTION AND AFFORDABLE**  
6 **CARE ACT TO CONFORM TO LONG-STANDING**  
7 **FEDERAL POLICY.**

8 (a) IN GENERAL.—Section 1303 of the Patient Pro-  
9 tection and Affordable Care Act (Public Law 111–148),  
10 as amended by section 10104(e) of such Act, is amend-  
11 ed—

12 (1) by redesignating subsections (c) and (d) as  
13 subsections (e) and (f), respectively;

14 (2) by redesignating paragraph (4) of sub-  
15 section (b) as subsection (d) and transferring such  
16 subsection (d) after the subsection (c) inserted by  
17 paragraph (4) of this subsection with appropriate in-  
18 dentation (and conforming the style of the heading  
19 to a subsection heading);

20 (3) by amending subsection (b) to read as fol-  
21 lows:

22 “(b) SPECIAL RULES RELATING TO TRAINING IN  
23 AND COVERAGE OF ABORTION SERVICES.—Nothing in  
24 this Act (or any amendment made by this Act) shall be  
25 construed to require any health plan to provide coverage  
26 of or access to abortion services or to allow the Secretary

1 or any other Federal or non-Federal person or entity in  
2 implementing this Act (or amendment) to require coverage  
3 of, access to, or training in abortion services.”;

4 (4) by inserting after subsection (b) the fol-  
5 lowing new subsection:

6 “(c) LIMITATION ON ABORTION FUNDING.—

7 “(1) IN GENERAL.—No funds authorized or ap-  
8 propriated by this Act (or an amendment made by  
9 this Act), including credits applied toward qualified  
10 health plans under section 36B of the Internal Rev-  
11 enue Code of 1986 or cost-sharing reductions under  
12 section 1402 of this Act, may be used to pay for any  
13 abortion or to cover any part of the costs of any  
14 health plan that includes coverage of abortion, ex-  
15 cept—

16 “(A) if the pregnancy is the result of an  
17 act of rape or incest; or

18 “(B) in the case where a pregnant female  
19 suffers from a physical disorder, physical in-  
20 jury, or physical illness that would, as certified  
21 by a physician, place the female in danger of  
22 death unless an abortion is performed, includ-  
23 ing a life-endangering physical condition caused  
24 by or arising from the pregnancy itself.

1           “(2) OPTION TO PURCHASE SEPARATE COV-  
2 ERAGE OR PLAN.—Nothing in this subsection shall  
3 be construed as prohibiting any non-Federal entity  
4 (including an individual or a State or local govern-  
5 ment) from purchasing separate coverage for abor-  
6 tions for which funding is prohibited under this sub-  
7 section, or a qualified health plan that includes such  
8 abortions, so long as—

9           “(A) such coverage or plan is paid for en-  
10 tirely using only funds not authorized or appro-  
11 priated by this Act; and

12           “(B) such coverage or plan is not pur-  
13 chased using—

14           “(i) individual premium payments re-  
15 quired for a qualified health plan offered  
16 through an Exchange towards which a  
17 credit is applied under section 36B of the  
18 Internal Revenue Code of 1986; or

19           “(ii) other non-Federal funds required  
20 to receive a Federal payment, including a  
21 State’s or locality’s contribution of Med-  
22 icaid matching funds.

23           “(3) OPTION TO OFFER COVERAGE OR PLAN.—  
24 Nothing in this subsection or section  
25 1311(d)(2)(B)(i) shall restrict any non-Federal

1 health insurance issuer offering a qualified health  
2 plan from offering separate coverage for abortions  
3 for which funding is prohibited under this sub-  
4 section, or a qualified health plan that includes such  
5 abortions, so long as—

6 “(A) premiums for such separate coverage  
7 or plan are paid for entirely with funds not au-  
8 thorized or appropriated by this Act;

9 “(B) administrative costs and all services  
10 offered through such coverage or plan are paid  
11 for using only premiums collected for such cov-  
12 erage or plan; and

13 “(C) any such non-Federal health insur-  
14 ance issuer that offers a qualified health plan  
15 through an Exchange that includes coverage for  
16 abortions for which funding is prohibited under  
17 this subsection also offers a qualified health  
18 plan through the Exchange that is identical in  
19 every respect except that it does not cover abor-  
20 tions for which funding is prohibited under this  
21 subsection.”;

22 (5) in subsection (e), as redesignated by para-  
23 graph (1)—

24 (A) in the heading, by striking “REGARD-  
25 ING ABORTION”;

1 (B) in the heading of each of paragraphs  
2 (1) and (2), by striking each place it appears  
3 “REGARDING ABORTION”;

4 (C) in paragraph (1), by striking “regard-  
5 ing the prohibition of (or requirement of) cov-  
6 erage, funding, or” and inserting “protecting  
7 conscience rights, restricting or prohibiting  
8 abortion or coverage or funding of abortion, or  
9 establishing”; and

10 (D) in paragraph (2)(A), by striking  
11 “Nothing” and inserting “Subject to subsection  
12 (g), nothing”;

13 (6) in subsection (f), as redesignated by para-  
14 graph (1), by striking “Nothing” and inserting  
15 “Subject to subsection (g), nothing”; and

16 (7) by adding at the end the following new sub-  
17 section:

18 “(g) NONDISCRIMINATION ON ABORTION.—

19 “(1) NONDISCRIMINATION.—A Federal agency  
20 or program, and any State or local government that  
21 receives Federal financial assistance under this Act  
22 (or an amendment made by this Act), may not sub-  
23 ject any institutional or individual health care entity  
24 to discrimination, or require any health plan created  
25 or regulated under this Act (or an amendment made

1 by this Act) to subject any institutional or individual  
2 health care entity to discrimination, on the basis  
3 that the health care entity refuses to—

4 “(A) undergo training in the performance  
5 of induced abortions;

6 “(B) require or provide such training;

7 “(C) perform, participate in, provide cov-  
8 erage of, or pay for induced abortions; or

9 “(D) provide referrals for such training or  
10 such abortions.

11 “(2) DEFINITION.—In this subsection, the term  
12 ‘health care entity’ includes an individual physician  
13 or other health care professional, a hospital, a pro-  
14 vider-sponsored organization, a health maintenance  
15 organization, a health insurance plan, or any other  
16 kind of health care facility, organization, or plan.

17 “(3) REMEDIES.—

18 “(A) IN GENERAL.—The courts of the  
19 United States shall have jurisdiction to prevent  
20 and redress actual or threatened violations of  
21 this section by issuing any form of legal or eq-  
22 uitable relief, including—

23 “(i) injunctions prohibiting conduct  
24 that violates this subsection; and

1           “(ii) orders preventing the disburse-  
2           ment of all or a portion of Federal finan-  
3           cial assistance to a State or local govern-  
4           ment, or to a specific offending agency or  
5           program of a State or local government,  
6           until such time as the conduct prohibited  
7           by this subsection has ceased.

8           “(B) COMMENCEMENT OF ACTION.—An  
9           action under this subsection may be instituted  
10          by—

11                  “(i) any health care entity that has  
12                  standing to complain of an actual or  
13                  threatened violation of this subsection; or

14                  “(ii) the Attorney General of the  
15                  United States.

16          “(4) ADMINISTRATION.—The Secretary shall  
17          designate the Director of the Office for Civil Rights  
18          of the Department of Health and Human Services—

19                  “(A) to receive complaints alleging a viola-  
20                  tion of this subsection; and

21                  “(B) to pursue investigation of such com-  
22                  plaints in coordination with the Attorney Gen-  
23                  eral.”.

24          (b) CONFORMING AMENDMENT.—Section 1334(a)(6)  
25          of such Act is amended to read as follows:



1           “(6) COVERAGE CONSISTENT WITH FEDERAL  
2 POLICY.—In entering into contracts under this sub-  
3 section, the Director shall ensure that no multi-State  
4 qualified health plan offered in an Exchange pro-  
5 vides coverage for abortions for which funding is  
6 prohibited under section 1303(c) of this Act.”.

Passed the House of Representatives October 13,  
2011.

Attest:

KAREN L. HAAS,  
*Clerk.*