

112TH CONGRESS
1ST SESSION

S. 1489

To prohibit discrimination and retaliation against individuals and health care entities that refuse to recommend, refer for, provide coverage for, pay for, provide, perform, assist, or participate in abortions.

IN THE SENATE OF THE UNITED STATES

AUGUST 2, 2011

Mr. CASEY introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To prohibit discrimination and retaliation against individuals and health care entities that refuse to recommend, refer for, provide coverage for, pay for, provide, perform, assist, or participate in abortions.

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 “The Health Care Pro-
5 vider and Hospital Conscience Protection Act”.

6 **SEC. 2. CONSCIENCE PROTECTION.**

7 (a) NONDISCRIMINATION.—Neither the Federal Gov-
8 ernment nor a State or local government that receives

1 Federal financial assistance shall discriminate or retaliate
2 against any individual or health care entity because of the
3 refusal by the individual or health care entity to rec-
4 ommend, refer for, provide coverage for, pay for, provide,
5 perform, assist, or participate in, any abortion.

6 (b) SCOPE.—Discrimination and retaliation prohib-
7 ited under subsection (a) includes—

8 (1) denial, deprivation, or disqualification in li-
9 censing;

10 (2) withholding accreditations, authorizations,
11 loans, grants, aids, assistance, benefits, or privileges;
12 and

13 (3) withholding authorization to expand, im-
14 prove, finance, or create facilities or programs.

15 **SEC. 3. JUDICIAL RELIEF.**

16 (a) CAUSE OF ACTION.—An individual or health care
17 entity aggrieved by a violation of this Act may file a civil
18 action in a district court of the United States.

19 (b) REMEDIES.—In a civil action filed under sub-
20 section (a), a court may order any form of legal or equi-
21 table relief, including—

22 (1) injunctive relief prohibiting conduct that
23 violates this Act; and

24 (2) an order preventing the disbursement of all
25 or a portion of Federal financial assistance to a

1 State government that receives Federal financial as-
2 sistance until such time as the conduct prohibited by
3 this Act has ceased.

4 (c) ENFORCEMENT BY THE UNITED STATES.—The
5 Attorney General may file a civil action seeking injunctive
6 or declaratory relief to enforce compliance with this Act.

7 (d) ADMINISTRATION.—The Secretary of Health and
8 Human Services shall designate the Director of the Office
9 of Civil Rights of the Department of Health and Human
10 Services—

11 (1) to receive complaints alleging a violation of
12 this Act; and

13 (2) to pursue the investigation of such com-
14 plaints in coordination with the Attorney General of
15 the United States.

16 **SEC. 4. RULES OF CONSTRUCTION.**

17 (a) SUBSEQUENTLY ENACTED FEDERAL LAW.—
18 Federal statutory law and regulations adopted after the
19 date of enactment of this Act are subject to the require-
20 ments of this Act unless such law explicitly excludes such
21 application by reference to this Act.

22 (b) BROAD CONSTRUCTION.—This Act shall be con-
23 strued in favor of broad conscience protection for individ-
24 uals and health care entities, to the maximum extent per-

1 mitted by the terms of this Act and the Constitution of
2 the United States.

3 (c) SEVERABILITY.—If any provision of this Act or
4 any application of such provision to any person or cir-
5 cumstance, is held to be unconstitutional, the remainder
6 of this Act and the application of the provision to any
7 other person or circumstance shall not be affected.

8 **SEC. 5. DEFINITIONS.**

9 In this Act:

10 (1) The term “Federal Government” means the
11 United States, including branches, departments,
12 agencies, instrumentalities, and officials of the
13 United States.

14 (2) The term “State government that receives
15 Federal financial assistance” means with respect to
16 the receipt of Federal financial assistance—

17 (A) a State (including the District of Co-
18 lumbia, the Commonwealth of Puerto Rico and
19 each territory and possession of the United
20 States);

21 (B) any county, municipality, or other gov-
22 ernmental entity created under the authority of
23 such a State; and

1 (C) any branch, department, agency, in-
2 strumentality, or official of such a State or of
3 an entity described in paragraph (B).

4 (3) The term “individual” means any individual
5 physician, nurse, other health care professional, stu-
6 dent in a health care professional program, or any
7 other person engaged in training for or providing
8 health care services.

9 (4) The term “health care entity” means any
10 hospital, provider sponsored organization, account-
11 able care organization, health maintenance organiza-
12 tion, health insurance plan, or any other health care
13 facility, organization, or plan.

14 (5) The term “Federal financial assistance”
15 means payments by the Federal Government to
16 cover, in whole or in part, the cost of health care
17 items, services or benefits, or other payments,
18 grants, or loans by the Federal Government to pro-
19 mote or facilitate health care services, including, but
20 not limited to, payments provided as reimbursement
21 for the provision of health care items or services.

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