



## Secretariat of Pro-Life Activities

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### **The Conscience Protection Act of 2017 (H.R. 644/S.301)**

#### What does the Conscience Protection Act do?

- Codifies the Hyde-Weldon amendment which prohibits federal, state and local governments that receive federal funds from discriminating against those who decline to take part in abortion or abortion coverage. Hyde-Weldon has been approved by Congress as part of the Labor/HHS appropriations act every year since 2004.
- Clarifies the types of forbidden governmental discrimination and the victims of discrimination that Hyde-Weldon seeks to protect.
- Provides a right to take legal action to ensure that those who object to abortion can defend their conscience rights under the Hyde-Weldon, Coats-Snowe, and Church amendments in a court of law—a remedy that has long been available to victims of other civil rights violations.

#### Why is the Conscience Protection Act needed?

These three federal laws protecting conscientious objection to abortion have not proved effective in practice due mostly to inadequate enforcement remedies. The only current remedy for violations is to file a complaint with the Office for Civil Rights at the Department of Health and Human Services (HHS/OCR). Under the Obama Administration, enforcement was a low priority or did not happen at all -- and worse, HHS itself was a perpetrator of discrimination.

- On June 21, 2016, HHS/OCR declared that the State of California may continue forcing all health plans under its jurisdiction—even those purchased by churches and other religious organizations—to cover elective abortions for any reason, in violation of the plain text of the Weldon amendment.
- Violations of the Weldon amendment are also taking place in New York, Washington, Alaska, Illinois, and Oregon.
- Cathy DeCarlo, a nurse at Mt. Sinai Hospital in New York, was forced to take part in a late-term abortion in 2009. A lawsuit she filed was dismissed because a federal appeals court said she had no right to sue under the Church amendment.
- In 2011, HHS itself discriminated against those who cannot in good conscience facilitate abortions, when it implemented a new “strong preference” for grantees willing to refer human trafficking victims to a “full range of family planning services” including abortion.
- A state-run hospital in New Jersey implemented a policy mandating that nurses be trained to assist in abortions in violation of the Weldon and Church amendments.

- Vanderbilt University required applicants to its nurse residency program to agree to participate in abortion procedures in order to be accepted into the program.
- A state-run teaching hospital in New York suspended nine nurses because they refused to comply with a new policy that required assisting with abortions as part of their medical training.
- In recent years, the ACLU has sued Catholic organizations because they do not provide or facilitate abortion.
- In a recent manifesto featured in the prestigious *New England Journal of Medicine*, a prominent physician and ethicist urged professional medical associations to reject conscience rights for medical professionals on issues such as abortion, insisting that a doctor or nurse who on moral grounds cannot provide a procedure that is “professionally accepted” must change specialties or else “leave the profession”.

Without enactment of the Conscience Protection Act, health care providers and institutions that decline to take part in abortion or abortion coverage have nowhere to turn except HHS/OCR, with the problems noted above. In the Hyde-Weldon, Coats-Snowe, and Church amendments, Congress has *already* prohibited such discrimination. The CPA simply ensures that victims have a legal remedy to defend their rights under these laws.

Didn't the Trump Administration fix these conscience problems when it issued new regulations on the HHS contraceptive mandate?

No! The Administration's interim final rules published on October 13, 2017, provide a religious and moral exemption to the HHS mandate that requires health plans to cover contraception, sterilization and related education and counseling. The new regulations do not remedy the conscience violations on *abortion* that are occurring in violation of the Hyde-Weldon, Coats-Snowe, and Church amendments.

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