

***Background: Hyde/Weldon Conscience Protection Amendment
in the Labor/HHS Appropriations Bill***

Amendment Language

Sec. 508 (d)(1) None of the funds made available in this Act may be made available to a Federal agency or program, or to a State or local government, if such agency, program, or government subjects any institutional or individual health care entity to discrimination on the basis that the health care entity does not provide, pay for, provide coverage of, or refer for abortions.

(2) In this subsection, the term “health care entity” includes an individual physician or other health care professional, a hospital, a provider-sponsored organization, a health maintenance organization, a health insurance plan, or any other kind of health care facility, organization, or plan.

Summary

The Hyde/Weldon Conscience Protection Amendment in the Labor, Health and Human Services and Education (Labor/HHS/ED) Appropriations bill prohibits the disbursement of Labor/HHS/ED funds to federal agencies and programs and state and local governments that discriminate against health care providers who decline to provide, pay for or refer for abortions.

Background

In 1973, Congress passed the Church Amendment to protect the conscience rights of hospitals and health care providers from forced involvement in abortion. The Amendment provides that the receipt of federal funds in various health programs will not require hospitals or individuals to participate in abortions, if they object based on moral or religious convictions. It also forbids hospitals in these programs to make willingness or unwillingness to perform these procedures a condition of employment. Since 1973, various conscience protections, many of which deal specifically with abortion have been enacted into law, but many of these are limited to particular federal programs.

In 1976, Congress passed the Hyde Amendment to the Labor/HEW Appropriations Bill to protect the consciences of taxpayers who object to paying for abortions with their tax dollars. A version of this amendment has been adopted every year since 1976.

Current Threats

Unfortunately, gaps in the protections of existing laws have been exploited by pro-abortion organizations, which have undertaken a nationwide campaign to require all health care providers to participate in abortion. That campaign has met with some success. Novel legal and administrative strategies have resulted in:

- Forcing a private community hospital to open its doors for late-term abortions¹,
- Denying a certificate of need to an outpatient surgical center that declined involvement

in abortion, after an abortion rights coalition intervened in the proceedings²,

■ Forcing a private non-sectarian hospital to leave a cost-saving consortium, because the consortium abided by a pro-life policy in its member hospitals³,

■ Dismantling a hospital merger, after abortion advocates approached a state attorney general to challenge the merger⁴,

■ Pressuring a hospital to place \$2 million in trust for abortions and sterilizations before allowing the hospital to consolidate⁵,

■ Attempting to require a Catholic hospital to build an abortion clinic and pay for abortions⁶,

■ Threatening a Catholic-operated HMO with loss of state contracts because it declines to provide abortions⁷,

■ Prohibiting hospitals from ensuring that the property they sell is not used for abortions.⁸

Conclusion

To counteract the campaign to force health care providers to participate in abortions, federal law needs to be strengthened. The principle of the Hyde Amendment, that no one should be forced to participate in abortions in any way, needs to be reaffirmed. The addition of conscience protection to the Hyde Amendment fills current gaps in federal law and promotes the right of conscientious objection, by forbidding federally funded government bodies to coerce the consciences of health care providers who respect human life.

Notes

1. See *Valley Hospital Ass'n. v. Mat-Su Coalition for Choice*, 948 P.2d 963 (Alaska 1997).

2. See *State of Connecticut Office of Health Care Access Final Decision in Roy Bebe, M.D., Hartford Hospital, John Dempsey Hospital, New Britain General Hospital, Saint Francis Hospital and Medical Center and ASC Network Corporation d/b/a Avon Surgery Center for a Certificate of Need*, Docket No. 96-547 (Sep. 29, 1997).

3. See "City, Bayfront Settle Suit," Wes Allison, *St. Petersburg Times*, Apr 11, 2001, pg. 1.A.

4. See *New Hampshire Attorney General's Report on Optima Health*, March 10, 1998, www.state.nh.us/nhdoj/CHARITABLE/optima1.html.

5. See "Merger Pits Care and Doctrine," Steve Chambers, *The Star Ledger*, May 16, 1999, page 1.

6. See *In the Matter of: Allegheny Hospitals, New Jersey and Zurbrugg Health Foundation*, Superior Court of New Jersey, Civil Division, Burlington County, Docket No. BUR-L-3541-98, Hearing Transcript, Oct. 24, 2002.

7. See "N.Y. Insurance Denies Access to Reproductive Healthcare," *Womensenews*, Jan. 31, 2002 at womensenews.org/article.cfm/dyn/aid/801 (accessed 09/09/03).

8. See S.B. 932, 2003-2004 Leg. Sess. (Ca. 2003).

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