



## Secretariat for Pro-Life Activities

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### THE HYDE/WELDON CONSCIENCE PROTECTION AMENDMENT: RELATIONSHIP TO FEDERAL FAMILY PLANNING GUIDELINES

In a November 19, 2004 letter opposing the Hyde/Weldon amendment, the American Civil Liberties Union claimed: "Title X, which provides federal funds for contraceptive services for low-income individuals, requires that grantees provide a referral to a qualified abortion provider upon request as part of non-directive options counseling. The Weldon Amendment would prohibit the federal government from enforcing this regulation... The bill would thus undermine federal standards and compromise the health of low-income pregnant women by denying them critical information."

Despite this misleading charge, Congress enacted the Hyde/Weldon amendment into law at the end of 2004. Because the amendment is under renewed attack in 2005, it is important to review the facts:

1. There is nothing in the Hyde/Weldon Conscience Protection Amendment about information or counseling. It sets *no barriers whatever* to requirements for informed consent, and poses no conflict with any state or federal law that may require options counseling, in Title X or any other program. The amendment is not about withholding *information* on abortion.
2. On the distinct issue of "referral": The Title X statute itself places severe limitations on abortion referrals, because no Title X funds may be used in "programs where abortion is a method of family planning" (42 USC §300a-6). Thus Title X-funded projects may not arrange for abortions, make appointments for them, or encourage clients to obtain them, though they may provide factual information on how to contact local abortion providers. Title X regulations on nondirective counseling must be applied within this statutory requirement. Thus, when the state of Missouri passed a law barring its state family planning funds from being used by projects "directly referring for abortions," the U.S. Department of Health and Human Services concluded that this law does *not* conflict with federal standards for Title X (Letter to Missouri Family Health Council from HHS Office of Population Affairs, August 2, 2001).
3. Unlike the Missouri law, the Hyde/Weldon amendment does not *forbid* Title X grantees or anyone else to provide abortion referrals. It only bars the *government* from punishing or otherwise discriminating against an individual or group for not providing them. (Note that key aspects of what most people mean by "referral" are already barred by the Title X statute in any case.) Under the amendment, for example, Planned Parenthood clinics receiving Title X funds remain free to provide the (limited) referrals allowed by Title X, and even to *require* all its employees to do so, because Planned Parenthood itself is not a government agency or program.
4. Nor does the amendment forbid a state or federal governmental entity to provide such referrals. It does bar the entity from dismissing or penalizing a government employee solely

because he or she cannot in conscience perform that one task. The entity can locate another employee to do so.

5. This policy of nondiscrimination is nothing new. *Existing* law, enacted in 1996, forbids governmental discrimination against an individual or institutional health care provider that “refuses to undergo training in the performance of induced abortions, to require or provide such training, *to perform such abortions*, or to provide *referrals* for such training *or such abortions*.” 42 USC § 238n. The Hyde/Weldon Conscience Protection Amendment reaffirms this policy, while clarifying its scope to cover the full range of private health care providers. The 1996 law has produced no disruptions of the kind alleged by the ACLU.

The Hyde/Weldon amendment ensures that health professionals are *free* from government requirements that could coerce them into actively participating in abortion. It enhances “freedom of choice” for health care providers -- a freedom that the ACLU apparently wants only for those who *support* abortion.

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