



Secretariat of Pro-Life Activities

3211 FOURTH STREET NE • WASHINGTON DC 20017-1194

202-541-3070 • FAX 202-541-3054 • EMAIL PROLIFE@USCCB.ORG • WEB WWW.USCCB.ORG/PROLIFE

Conscience Protection in HR 3, the No Taxpayer Funding for Abortion Act

H.R. 3 includes a provision (Sec. 310) to protect the civil rights of health care providers who decline to take part in abortion. This provision updates and codifies a conscience law that Congress has approved every year since 2004, the Weldon amendment to annual Labor/HHS appropriations bills. In response to efforts to weaken or rescind this provision:

- Since 1973, beginning with the “Church amendment” (42 USC §300a-7), federal law has protected the right to refuse participation in abortion in all circumstances. Since 2004 the Weldon amendment embodying that policy has repeatedly been signed into law by Presidents Bush and Obama, without controversy or changes.
- President Obama has said he supports “robust” federal conscience protection. His executive order of March 2010 supported retaining the Weldon amendment; and his Administration says it will “strengthen existing health care provider conscience statutes” through public outreach and enforcement by the HHS Office for Civil Rights (76 *Fed. Reg.* 9968, 9969 [Feb. 23, 2011]).
- Sec. 310’s policy is exactly the same as Weldon’s. It makes that policy permanent in all federal agencies, and improves enforcement by defining a private right of action to bring suit in federal court as with other civil rights protections.
- Protection of this right is essential for Americans’ access to life-saving health care. The great majority of doctors, nurses and hospitals do not perform elective abortions; Catholic health care, the largest and highest quality nonprofit health care network in the country, rejects all direct abortions. To penalize these providers or push them out of the system would cause great harm to patients most in need.
- There is no basis for claiming that such conscience laws must be overridden by “emergency services” laws like EMTALA (Emergency Medical Treatment and Active Labor Act). EMTALA has never been used to require an abortion; in fact, in the case of a pregnant woman, it requires emergency medical personnel to address the immediate health needs of both the mother and “her unborn child” (42 USC §1395dd (e)).
- The Obama administration has rightly rejected the claim that such protection conflicts with EMTALA or needs an “emergency” exception. “The conscience laws and the other federal statutes have operated side by side often for many decades. ...[E]ntities must continue to comply with their... EMTALA... obligations, *as well as the federal health care provider conscience protection statutes.*” (76 *Fed. Reg.*, *op. cit.*, at 9973, 9974).