

Senate Should Maintain Fair and Balanced Conscience Clause Provisions on Abortion Services Coverage in Health Reform Bill

There are three main reasons that the conscience clause contained in section 1303 of the Senate healthcare reform bill – and not the conscience clauses in the House of Representatives’ version of the bill – should be included in the final bill:

First, the Senate bill puts women’s right to healthcare first without compromising conscience rights, while the House bill puts anti-choice ideology ahead of health.

Women should be able to access the healthcare they need, and healthcare providers should not be discriminated against or harassed for providing it. The Senate bill prohibits discrimination against those who want to provide reproductive healthcare, including abortion, helping to protect women’s healthcare rights and needs. At the same time, the Senate bill safeguards the conscience rights of those who are opposed to abortion for religious or moral reasons, ensuring that no one will be discriminated against for their sincerely held beliefs about abortion. The House bill only protects those opposed to abortion, but allows discrimination against those who would provide abortion services, jeopardizing women’s ability to access the healthcare they need.

Second, the Senate bill respects, and treats fairly, all viewpoints on abortion, but the House bill version would allow people to be discriminated against based on their viewpoint.

Both people who would provide abortion services and those who oppose abortion feel strongly about the issue. No one should be discriminated against on the basis of deeply felt beliefs about abortion, regardless of viewpoint. But the House bill only would shield only those individuals and healthcare facilities against discrimination that oppose abortion, leaving unprotected and vulnerable

those who believe that women should have access to comprehensive reproductive healthcare that includes abortion services. This lopsided protection violates a fundamental principle of the American law by allowing discrimination based on viewpoint, and is inconsistent with the concepts of balance and fairness that run throughout our legal system. The Senate bill instead takes a viewpoint-neutral approach; it protects individuals and healthcare facilities against discrimination on the basis of either a “willingness or unwillingness” to provide, pay for, provide coverage of, or refer for abortions.

Third, the Senate bill is better because it provides more comprehensive protection for conscience rights than the House bill.

Taken together, the conscience clauses in the House bill prohibited discrimination against those opposed to abortion by specific entities: exchange-participating health benefits plans; federal agencies and programs; and state and local governments receiving federal financial assistance under the healthcare reform act. By contrast, the Senate bill prohibits discrimination by anyone against individual healthcare providers and healthcare facilities on the basis of viewpoint about abortion.

For more information, please contact [Laura MacCleery](mailto:LauraMacCleery@reprorights.org), of the Center for Reproductive Rights, at ImacCleery@reprorights.org or 202.489.7147.