112TH CONGRESS 2D SESSION

H.R.3982

To prohibit the Secretary of Health and Human Services from implementing certain rules relating to the health insurance coverage of sterilization and contraceptives approved by the Food and Drug Administration.

IN THE HOUSE OF REPRESENTATIVES

February 8, 2012

Mr. LUETKEMEYER introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

- To prohibit the Secretary of Health and Human Services from implementing certain rules relating to the health insurance coverage of sterilization and contraceptives approved by the Food and Drug Administration.
 - 1 Be it enacted by the Senate and House of Representa-
 - 2 tives of the United States of America in Congress assembled,
 - 3 SECTION 1. SHORT TITLE.
 - 4 This Act may be cited as the "Religious Liberty Pro-
 - 5 tection Act of 2012".
 - 6 SEC. 2. FINDINGS.
- 7 Congress finds the following:

- 1 (1) Deeply embedded in the history and tradi2 tions of the United States is the protection of reli3 gious freedom. The First Amendment of the United
 4 States Constitution states "Congress shall make no
 5 law respecting an establishment of religion, or pro6 hibiting the free exercise thereof", and thus, it gives
 7 general protection for individuals' religious beliefs
 8 and practices.
 - (2) Repeatedly during the existence of the United States, Congress has reaffirmed the freedom of religion by enacting, among other things, title VII of the Civil Rights Act of 1964, the Church amendment, the Weldon amendment, section 245 of the Public Health Service Act, and the Religious Freedom Restoration Act of 1993. Through their passage, the United States has augmented religious freedoms and set the precedent of protection of conscience rights.
 - (3) The Weldon amendment has been regularly included in appropriations legislation for the Department of Health and Human Services. The Weldon amendment prohibits Federal agencies, States, and local governments that receive the appropriated funds in the respective Act from discriminating among institutional or individual health care profes-

- sionals, organizations, facilities, and plans on the basis of a health care entity's refusal to provide, pay for, provide coverage of, or refer for abortions.
- (4) The United States has a history of protecting individuals, organizations, facilities, and plans from being penalized or discriminated against due to their religious beliefs and moral values. Until the enactment of the Patient Protection and Affordable Care Act (Public Law 111–148), the Federal Government has never sought to impose specific health care coverage or care requirements that infringe on the conscience rights of insurers, purchasers of insurance, plan sponsors, beneficiaries, and other stakeholders, such as individual or institutional health care entities.
 - (5) The Patient Protection and Affordable Care Act grants the Department of Health and Human Services the authority to provide a list of detailed services to be included as essential health benefits (as defined in section 1302(a) of the Patient Protection and Affordable Care Act), and preventive health services described in section 2713 of the Public Health Service Act. These services represent a new nationwide coverage requirement for health plans.

- (6) The Patient Protection and Affordable Care Act provides a narrow exemption for religious groups that object to participation in government health programs generally, but it does not allow pur-chasers, plan sponsors, and other stakeholders with religious or moral objections to specific required items or services to decline providing or obtaining coverage of such items or services, or allow health care entities with such objections to decline to pro-vide them.
 - (7) By creating new barriers to health insurance and causing the loss of existing insurance arrangements, these inflexible mandates in the Patient Protection and Affordable Care Act jeopardize the ability of individuals to exercise their rights of conscience and their ability to freely participate in the health insurance and health care marketplace.
 - (8) In a significant move from the current free insurance coverage market, the Department of Health and Human Services issued an interim rule on August 1, 2011, requiring individual and group health plans to cover free sterilization and all contraceptives approved by the Food and Drug Administration.

(9) Within the list of contraceptives approved by the Food and Drug Administration are drugs containing abortifacient substances and effects, including Levonorgestral commonly known as Plan B and ulipristal acetate marketed as Ella. Thus, the Patient Protection and Affordable Care Act effec-tively mandates employers to provide health care in-surance covering abortion drugs and services, which is a violation of numerous Federal provisions afore-mentioned.

(10) On January 20, 2012, the Department of Health and Human Services announced that it would not broaden the religious exemption it included in its August 1, 2011, interim rule. Instead, it gave institutions and employers with religious and moral objections to including free sterilization and all contraceptives approved by the Food and Drug Administration in their offered health insurance plan an additional year to "adapt" their consciences to the mandate.

21 SEC. 3. PROTECTING RIGHTS OF CONSCIENCE.

(1) Prohibition on implementation of Certain Rules.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall not implement or enforce any provi-

- sion of the interim final rule published on July 19, 2010 (75 Federal Register 41726) or any amend-ment to such rule, including the amendment pub-lished on August 3, 2011 (76 Federal Register 46621), insofar as such provision or amendment re-lates to requiring any individual or entity to provide coverage of sterilization or contraceptive services to which the individual or entity is opposed on the basis of religious belief.
 - (2) CLARIFICATION ON APPLICATION TO PPACA REQUIREMENTS.—Section 1302(b) of the Patient Protection and Affordable Care Act (Public Law 111–148; 42 U.S.C. 18022(b)) is amended by adding at the end the following new paragraph:
 - "(6) SPECIAL RULE.—A health plan shall not be considered to have failed to provide the essential health benefits package described in subsection (a) (or preventive health services described in section 2713 of the Public Health Service Act), to fail to be a qualified health plan, or to fail to fulfill any other requirement under this title on the basis that the plan does not provide (or pay for) coverage of sterilization or contraceptive services because—
- 24 "(A) providing (or paying for) such cov-25 erage is contrary to the religious or moral be-

1	liefs of the sponsor, issuer, or other entity offer-
2	ing the plan; or
3	"(B) such coverage, in the case of indi-
4	vidual coverage, is contrary to the religious or
5	moral beliefs of the purchaser or beneficiary of
6	the coverage.".

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