

Senate Should Vote Down Casey Amendment on Conscience Clause and Oppose its Inclusion in Final Negotiated Healthcare Reform Bill

There are three reasons that the Senate health care reform bill should not adopt the antidiscrimination amendment – or language similar to it – proposed by Sen. Robert Casey (D.-Penn.). The Senate healthcare reform bill currently prohibits discrimination against individuals or health care facilities on the basis of “*willingness or unwillingness*” to provide, pay for, provide coverage of, or refer for abortions (emphasis added). The Casey proposal would add protection against discrimination by federal and state governmental agencies, but would only make such protection available to individuals and health care entities that do not provide, pay for, provide coverage of, or refer for abortions.

- **First, the anti-discrimination provision already contained in the Senate bill respects, and treats fairly, all viewpoints on abortion, whereas the provision proposed by the Casey amendment allows discrimination based on viewpoint.** No one should be discriminated against on the basis of deeply felt beliefs about abortion, regardless of viewpoint. But the Casey amendment only protects individuals and health care facilities against discrimination if they oppose abortion, leaving unprotected and vulnerable those who believe with equal fervor that women should have access to comprehensive reproductive health care, including abortion. This lopsided protection is inconsistent with the concepts of balance and fairness that run throughout our legal system. The antidiscrimination provision already in the Senate bill adopts a more even-handed approach, consistent with the very first federal legislation to address conscientious belief in the context of abortion (the Church Amendment), which protected those who *either* perform or refuse to perform an abortion.
- **Second, the Casey amendment would put anti-choice ideology ahead of health.** Women should be able to access the health care they need, and health care providers should not be discriminated against for providing it. The antidiscrimination provision contained in the Senate bill prohibits discrimination against those who want to provide reproductive health care, including abortion, helping to protect women’s health care rights and needs. At the same time, that provision already does protect those who are opposed to abortion for religious or moral reasons. The antidiscrimination provision proposed by the Casey amendment, however, only protects those who would exclude abortion from reproductive health care services. It allows discrimination against those who would provide abortion services, jeopardizing women’s ability to access the health care they need.
- **Third, the Casey amendment is utterly unnecessary and would be harmful.** The Casey amendment would add nothing to the protection against discrimination that the Senate bill already affords to those with religious or moral beliefs about abortion. The antidiscrimination provision in the Senate bill prohibits discrimination by *anyone* on the basis of *any* viewpoint about abortion. In contrast, the Casey amendment would protect only those opposed to abortion, and only against discrimination by federal and state governmental agencies. It is not necessary to extend anti-discrimination protections to those who would refuse to provide abortions merely based on fear of retribution from those opposed to abortion. Under those circumstances, those who intentionally harass, intimidate and threaten providers could also create a climate in which their actions directly reduce access to abortion, and in which women have no remedy that would allow them to pursue care. An investigation by the Center in the summer of 2009 found countless incidents of harassment and violence directed towards reproductive healthcare providers, and that this hostile environment threatened women’s healthcare needs. *See* *Defending Human Rights: Abortion Providers Facing Threats, Restrictions, and Harassment*, at <http://reproductiverights.org/en/feature/defending-human-rights-executive-summary>.

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