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March 19, 2010

To the Honorable Members of the U.S. House of Representatives:

The National Right to Life Committee (NRLC), the federation of right-to-life organizations in the 50 states, strongly urges you to vote against enactment of the Senate-passed health care bill, H.R. 3590.

The bill is riddled with provisions that predictably will result in federal subsidies for private insurance plans that cover abortion (some of which will be administered directly by the federal government), direct federal funding of abortion through Community Health Centers, and pro-abortion federal administrative mandates. The sum of these provisions makes H.R. 3590 the most abortion-expansive piece of legislation ever to reach the floor of the House of Representatives.

In recent weeks, some organizations and individuals have insisted that various clauses in the Senate bill would prevent these pro-abortion policy effects. Some of these assurances have been offered by surrogates for President Obama – who opposed all limits on abortion and public funding of abortion throughout his years in legislative office, and who pledged in 2007 that abortion coverage would be “at the heart” of his health care legislation. Some other commentators, well intended but not well versed on the legal and regulatory terrain, have naively relied upon such assurances and on superficial readings of the Senate bill language.

In reality, however, the purported protections in the Senate bill are all very narrow, riddled with loopholes, and/or rigged to expire. There is nothing in the Senate bill remotely resembling the Stupak-Pitts Amendment, added to H.R. 3962 by the House of Representatives on November 7, 2009, which was an effective, bill-wide, permanent prohibition on subsidies for abortion under the programs authorized by the bill. Following that House vote, if President Obama had endorsed the House’s action and prevailed upon the Senate Majority Leader to put the Stupak-Pitts language into the base Senate bill, it would have remained in the bill. Regrettably, the President instead lamented the House vote on the Stupak-Pitts Amendment, and he collaborated in blocking the language in the Senate. As a result, when you vote on H.R. 3590, you are voting on whether to approve a panoply of provisions that will be employed in the future to expand access to abortion on demand.

Pro-life citizens across America know that this is a pro-abortion bill. They know, and they will be reminded again and again, which members of the House deserve the gratitude of the pro-life movement for standing strong on this historic vote.

A vote to approve H.R. 3590 – whether through adoption of a self-executing Rule or otherwise – is a vote for the following abortion-related policies:

(1) Direct funding of abortion through the Community Health Centers program. The Senate bill directly *appropriates* \$7 billion for Community Health Centers (CHCs), unconnected to any restriction on the use of these funds for abortion. In recent days, some backers of H.R. 3590 have asserted that none of the 1,250 federally funded CHCs provide abortions -- but a few minutes on the

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website of the Reproductive Health Access Project should suffice to cast great doubt on that claim: http://www.reproductiveaccess.org/getting_started/faq.htm

Also, an internal Health and Human Services memo has asserted that a federal regulation would prohibit any CHC from using the new funds, appropriated by H.R. 3590, for abortions. This assertion cannot be relied upon; it rests on a circular argument. The cited regulation is based on the Hyde Amendment, which applies only to funds that flow through the regular annual HHS appropriations bill. But the Senate language quite deliberately creates a new direct-appropriation funding pipeline outside of the annual appropriations process, and therefore untouched by the Hyde Amendment. Any lawmaker who does not want to read in the future that CHCs are providing abortions, with federal funds appropriated through the new funding pipeline created by this bill, must insist that the pro-life policy be written in (which is what the House did when it adopted the Stupak-Pitts Amendment). NRLC has posted a more detailed analysis of the CHC issue, including rebuttal to those who claim that this is not a legitimate concern, here: <http://www.nrlc.org/AHC/NRLCMemoCommHealth.html>

(2) Other direct appropriations not covered by abortion restrictions. The Senate bill contains additional pools of directly appropriated funds that are not covered by any limitations regarding abortion, including \$5 billion for a temporary high-risk health insurance pool program (Sec. 1101 on pages 45-52) and \$6 billion in grants and loans for health co-ops (Sec. 1322, pp. 169-180). Only bill-wide, permanent language, such as the Stupak-Pitts Amendment, can ensure that none of the vast amounts of federal money authorized and appropriated through the Senate bill are tapped by pro-abortion political appointees and bureaucrats to pay for abortion.

(3) Federally administered abortion plans. The Senate-passed bill would create a new program under which the federal Office of Personnel Management (OPM) would administer two or more national (“multi-state”) insurance plans. (See Section 1334.) The bill provides that “at least one” such plan would be subject to limitations on abortion coverage, implying that other federally administered plans could cover elective abortions, or perhaps even be required to do so by the federal administrator. This is a sharp break from longstanding federal policy, adopted by Congress, under which plans that participate in the OPM-administered Federal Employees Health Benefits (FEHB) program are prohibited from covering elective abortions. Also, even the purported requirement (pages 2087-2088) that the OPM program offer one pro-life plan is rigged to expire each year; this requirement will remain in force only if pro-life forces prevail annually in preserving pro-life language on an unrelated annual appropriations bill.

(4) Federally subsidized abortion plans. The Senate bill (Section 1303, page 2069) contains the objectionable “Nelson-Boxer language,” under which private plans that cover elective abortion would qualify for the federal subsidy, but every enrollee in such a plan would find himself or herself subject to a requirement that he or she make a separate payment into a fund used exclusively for elective abortions – an abortion surcharge. This requirement would apply to anyone who enrolls in a subsidized plan that covers elective abortions, which would surely include many people who would learn of the abortion surcharge only after enrolling, but who would have no choice other than to pay the abortion surcharge or see their entire health coverage lapse. In contrast, under the House-passed Stupak-Pitts Amendment, a citizen who takes advantage of the new premium-subsidy program would not be required to help pay for anyone else’s abortions, which is the approach consistent with the principles that govern current federal health programs, such as Medicaid and the Federal Employees Health Benefits program.

(5) Authorities for pro-abortion mandates. The Senate bill contains a bewildering array of provisions that grant authority to the Secretary of Health and Human Services and other federal entities to issue binding regulations on various matters. (One analyst recently wrote that the Senate bill “contains more than 2,500 references to powers and responsibilities of the secretary of health and human services,” to say nothing of other federal authorities.) Some of these provisions could be employed in the future as authority for pro-abortion mandates, requiring health plans to cover abortion and/or provide expanded access to abortion, unless there is clear language to prevent it. For example, under the Mikulski Amendment (Section 1001, pp. 20-21), adopted by the Senate on December 3, 2009, the Department of Health and Human Services could force every private health plan to cover elective abortions merely by placing abortion on a list of “preventive” services – as Senator Ben Nelson pointed out in a statement in the December 3 *Congressional Record*, explaining his vote against the Mikulski Amendment, in which he also noted that Senator Mikulski had declined to accept a suggested revision to exclude abortion from the scope of this authority. While the Senate bill does contain some anti-mandate provisions, our analysis finds that these clauses are worded in such a way that they control only specific provisions of the bill (e.g., the reference to “essential health benefits” on page 2070), or are ambiguous in their scope.

(6) Open door to future abortion funding in Indian health programs. Both the House-passed and Senate-passed health bills revamp and reauthorize all Indian health programs. In the House bill, these programs are permanently barred from providing elective abortions (by the Stupak-Pitts Amendment). In the Senate bill, there is no such prohibition, but merely a policy-neutral clause (Section 10221, pp. 2175-2176) that “punts” the abortion policy, requiring that it be set annually on an appropriations bill. The Senate omitted the necessary pro-life language even though a permanent Hyde Amendment had won approval by the Senate the last time that the Indian health reauthorization (S. 1200) was on the Senate floor in amendable form (the Vitter Amendment, adopted February 26, 2008). (The House never acted on S. 1200.)

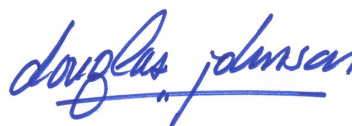
(7) Missing abortion nondiscrimination (conscience) language. The House-passed bill contained a codification of the “Hyde-Weldon” language (H.R. 3962, Section 259), which would prevent government actors from penalizing health care providers who refuse to participate in providing abortions. This language was not controversial in the House – indeed, Speaker Pelosi had included it in H.R. 3962 even before the House added the Stupak-Pitts Amendment. But pro-abortion senators blocked its inclusion in the Senate bill. The so-called conscience protections in H.R. 3590 (e.g., on page 2076) are exceedingly narrow.

In conclusion: A vote for the Senate-passed health bill (H.R. 3590) is a vote for the most expansively pro-abortion legislation ever to come before the House of Representatives, since *Roe v. Wade*, and will be accurately so described in the NRLC congressional scorecard for the 111th Congress. We respectfully urge that you vote against this legislation and against any measure or procedure that might be employed in an attempt to move it towards the President’s desk. We thank you for your consideration of our acute concerns on this critical issue.

Sincerely,



David N. O’Steen, Ph.D.
Executive Director



Douglas Johnson
Legislative Director