



512 10th Street, NW Washington, DC 20004-1401  
(202) 626-8800 FAX: (202) 737-9189 Website: [www.nrlc.org](http://www.nrlc.org)

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**For further information:**

NRLC Federal Legislation Department: 202-626-8820, [legfederal@aol.com](mailto:legfederal@aol.com), or  
NRLC Communications Department: 202-626-8825

## **National Right to Life on the health care debate: "On government-funded abortion, Obama has duped the news media with head fakes and doubletalk"**

***NRLC releases two new memoranda refuting "[the Hyde Amendment myth](#)" and "[the private funds myth](#)."***

WASHINGTON (September 8, 2009) -- The following statement may be attributed to Douglas Johnson, legislative director for the [National Right to Life Committee](#) (NRLC), which is the federation of right-to-life organizations in all 50 states.

The health care legislation being pushed forward by President Obama would create a federally run insurance plan that would pay for elective abortion with government funds. The legislation also would provide massive tax-based subsidies to purchase private insurance plans that would cover elective abortions. Both of these new programs would represent drastic breaks with decades of federal policy against funding abortions in government-subsidized health programs.

Yet, in recent weeks, much of the news media have been manipulated by top Congressional Democrats and by the White House into denying or minimizing the abortion-related policy changes that are being advanced. Many journalists have casually adopted highly misleading characterizations of the abortion-related content of the legislation -- characterizations that cannot survive careful scrutiny. For example, many journalists have been snookered into reporting that House Democrats amended their legislation (H.R. 3200) so that the proposed government-run insurance program would be paying for elective abortions with "private funds" -- a claim that is absurd on its face, and that cannot survive thoughtful and skeptical scrutiny.

It is past time for the would-be factcheckers to stop acting as stenographers for the president and Speaker Pelosi on this issue. Here are some facts for them to check:

\* In 2007, Barack Obama made face-to-face promises to the Planned Parenthood Action Fund. Asked about his plans for "health care reform," Obama said, "in my mind,

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reproductive care is essential care. It is basic care, and so it is at the center, and at the heart of the plan that I propose." He also stated, "What we're doing is to say that we're going to set up a public plan that all persons and all women can access if they don't have health insurance. It'll be a plan that will provide all essential services, including reproductive services." The Obama campaign [confirmed](#) (and nobody disputes) that "reproductive services" includes elective abortion. You can watch a short video clip of Mr. Obama making the promises [here](#) or [here](#). Obama has never publicly repudiated those promises.

\* The health care bills approved by Democrat-controlled committees in the U.S. House and the U.S. Senate during July would fulfill the Obama promises to Planned Parenthood, as quoted above. This advisory focuses only on the House bill, H.R. 3200, although the bill approved by the Senate Health, Education, Labor, and Pensions (HELP) Committee on July 15 has the same basic problems and more. (The abortion-related provisions of both bills are summarized in a two-page document posted [here](#), and are explained in a detailed, footnoted memorandum [here](#).)

\* As amended by the House Energy and Commerce Committee with the [Capps Amendment](#) (or Capps-Waxman Amendment) on July 30, the House health care bill (H.R. 3200) would explicitly authorize the Secretary of Health and Human Services to pay for elective abortion under the government-run insurance plan (the "public option"). As FactCheck.org concluded in its August 21 analysis titled "[Abortion: Which Side is Fabricating?](#)," "Obama has said in the past that 'reproductive services' would be covered by his public plan, so it's likely that any new federal insurance plan would cover abortion unless Congress expressly prohibits that." The abortion coverage would not be optional; no person would be allowed to enroll in the public option without contributing to the abortion fund.

\* Amendments backed by NRLC to expressly prohibit the government plan from covering elective abortions were opposed by the Democratic chairmen of all three House committees that considered the legislation, and defeated in each committee -- a result for which the White House staff has taken partial credit. (As *The American Prospect* reported, "Advocates were able to ensure that both the House tri-committee bill [H.R. 3200] and the Senate HELP bill made it through committee without any amendments limiting access to reproductive care. But as Tina Tchen, director of the White House Office of Public Engagement, told a July 15 Planned Parenthood conference -- perhaps in an effort to tamp down expectations -- 'That was not easy. It was not easy in committee. It won't be easy to hold on the House floor. It won't be easy to hold on the Senate floor.'" From "Aborting Health Reform: Without reproductive-health coverage, any public insurance plan is doomed to fail," by Dana Goldstein, *The American Prospect*, August 18, 2009, [http://www.prospect.org/cs/articles?article=aborting\\_health\\_reform](http://www.prospect.org/cs/articles?article=aborting_health_reform))

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\* The House Democratic leadership has already publicly said that they will not allow the full House to vote on the amendment (the Stupak Amendment) to exclude elective abortion from the government plan and to prevent subsidies from flowing to private plans that cover elective abortion. This means that a vote to advance H.R. 3200 is a vote to create a federal government insurance program that would fund elective abortions, and also a vote to create a federal government premium subsidy program that would help pay for private insurance plans that cover elective abortions.

### **THE "PRIVATE FUNDS" MYTH**

\* Since July 30, the White House, dozens of congressional Democrats, and many news media "factcheckers" have publicly asserted that the Capps Amendment provides that the "public option" may not spend "federal funds" on elective abortion, but only "private funds." Such statements have been made, for example, by [Speaker Nancy Pelosi](#) (D-Ca.), by [President Obama](#) (who said on August 19 that it was a "fabrication" to suggest that the bill would result in "government funding of abortion"), and many others. Yet, the claim that a federal agency would be paying for a service with "private funds" is beyond misleading -- it is absurd on its face. The public plan would be an arm of the federal Department of Health and Human Services (DHHS), part of the federal Executive Branch. Once the agency collects "premiums" from enrollees, they would be as much "federal funds" and "public funds" as any funds collected by the IRS.

\* Under the Capps Amendment, abortion providers would send their bills to DHHS and receive payment checks drawn on a federal Treasury account. It is perplexing that so many in the news media are being duped into adopting the untenable pretext that a federal agency would be expending "private funds." In reality, this would be direct federal government funding of elective abortion.

\* Aside from the public plan, H.R. 3200 and the Capps Amendment explicitly authorize the proposed premium subsidies to go to private insurance plans that cover elective abortions -- which is something that would not be permitted under any of the existing federal health programs (for federal employees, military, Medicaid, etc.). These subsidies would be federal funds that would flow directly from the federal Treasury to the insurers. Regardless of how the books are kept, when the government pays for insurance, the government pays for what the insurance pays for.

\* On September 7, NRLC issued a detailed memorandum demonstrating all of the funds that the "public option" would expend for elective abortions are "federal funds" and "public funds" as those terms are defined in law and as they are used throughout the government. The memorandum also demonstrates that all of the funds in the premium-subsidy program would be federal government funds. The memorandum cites documents from the CBO, GAO, Congressional Research Service, and other authoritative sources. It is here:

<http://www.nrlc.org/AHC/NRLCmemoFederalFundsnotPrivateFunds.html>

## **THE HYDE AMENDMENT MYTH**

\* Throughout his career as an Illinois state senator, a U.S. senator, and a presidential candidate, Barack Obama consistently opposed all limitations on government funding of elective abortion. During his presidential campaign, he expressed explicit opposition to the Hyde Amendment, the annually renewed provision that prevents federal Medicaid funding of abortion (with narrow exceptions). Recently, some journalists have reported that Obama endorsed the concept that the government should not fund abortions in [an interview with Katie Couric of CBS News, broadcast July 21](#), but Obama really did no such thing. Instead, he simply made a head fake -- an artful observation that "we also have a tradition of, in this town, historically, of not financing abortions as part of government funded health care." Obama did not endorse the "tradition." Certainly, it is true that there is such a tradition -- a tradition that Obama has always opposed, and which the Obama-backed health care bill would shatter.

\* There is another deception that is being widely employed -- again, with little critical scrutiny from the news media. During the just-completed congressional recess, innumerable congressional Democrats told their constituents that the pending legislation would not result in government funding of abortion because the Hyde Amendment prohibits federal funding of abortion. (Examples are found [here](#) and [here](#).)

\* In reality, the Hyde Amendment is not a government-wide law -- it applies only to funds appropriated through the annual appropriations bill that funds the Department of Health and Human Services. As National Right to Life has pointed out for months, and as the nonpartisan Congressional Research Service confirmed in two memoranda issued in late August (which we now have obtained and posted [on our website](#)), none of the funds that would be expended by the public plan, and none of the funds that will subsidize the purchase of private insurance plans, will ever flow through an HHS appropriations bill. Therefore, none of the funds will be covered by the Hyde Amendment. Many Democratic lawmakers have directly misinformed their constituents by telling them that the Hyde Amendment will apply -- and, for the most part -- the news media have simply transmitted the misinformation, or actually adopted the false claim as fact.

\* President Obama himself has made statements of artful indirection involving the Hyde Amendment, in addition to the Katie Couric interview referred to above. For example, on August 20, 2009, Obama said at a health-care forum, "There are no plans under health reform to revoke the existing prohibition on using federal taxpayer dollars for abortions. Nobody is talking about changing that existing provision, the Hyde Amendment. Let's be clear about that. It's just not true." This statement was another trademark head fake by Obama. It is true that the Obama-backed health bill does not directly revoke the Hyde Amendment -- and it is also entirely irrelevant, because Obama's congressional allies have carefully crafted the bill language to allow

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government funding of elective abortions using federal money that is not covered by the Hyde Amendment.

\* On September 3, NRLC issued a memorandum that explains in detail why the funds in question will not be affected by the Hyde Amendment. The NRLC memo quotes from, and links to, two new Congressional Research Service memoranda, and other official documents. It is here:

<http://www.nrlc.org/AHC/NRLCmemoHydeAmendmentWillNotApply.html>

### THREE QUESTIONS FOR PRESIDENT OBAMA

As the White House warms up its smokescreen generators for a heavy workload during the week ahead, National Right to Life now suggests three questions for the President:

(1) Mr. President: During your campaign for President, [you promised the Planned Parenthood Action Fund](#) that funding for "reproductive care," including abortion, would be "at the heart" of your health-care plan, and that the "public plan" would cover such services. The pending House bill, with the Capps-Waxman Amendment, would explicitly authorize your secretary of Health and Human Services to cover all abortions in the government insurance plan, the public option. If Congress enacts that language, would your Secretary fulfill your promise to Planned Parenthood by covering abortions in the public plan, OR would you order her NOT to cover elective abortions under the government plan?

(2) Mr. President: Speaker Pelosi, among others, has insisted that if the public option does pay for abortions, the abortions will be paid for with "private funds." National Right to Life says that this is misleading and absurd -- that as a matter of law, the funds that would be spent by DHHS under the public option would be federal funds, public funds. Do you embrace the notion that a federal agency, writing checks drawn on a federal Treasury account, would be expending "private funds," and if so, is that a concept that you think could be applied to other federal agencies -- for example, the CIA, the Pentagon, or the Department of the Interior?

(3) Mr. President, in recent weeks, you and your staff have made several references to the Hyde Amendment, a provision of the annual appropriations bill that funds the Department of Health and Human Services. For example, you said that the pending healthcare bill would not "revoke" the Hyde Amendment. **National Right to Life says this is a "head fake" -- that is, irrelevant with respect to the pending healthcare bill, because none of the money expended by the public option or by the premium-subsidy program would be covered by the Hyde Amendment.** However, the Hyde Amendment does cover the federal Medicaid program, and the Hyde Amendment expires every September 30. National Right to Life points out that you have always opposed the Hyde Amendment. Are you willing to change that position now, and to pledge now that you will actively support renewal of the Hyde

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Amendment next year, and each year for the remainder of your term, so that federal Medicaid funds would not be used to fund elective abortions? And if you are not willing to make that promise, are you willing to at least promise that you will not, next year or in any subsequent year, issue a veto threat on an HHS appropriations bill because the bill would renew the Hyde Amendment? And if you are not willing to make either of those promises, why should anyone believe that the Medicaid program will not be paying for elective abortions by the end of your term (in addition to the abortions that would be paid for under the new programs that would be created by H.R. 3200)?

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Addendum: Some members of Congress have even managed to mix the "Hyde Amendment myth" and the "your government will be spending private funds myth" together. For example, in an August 28, 2009, "telephone town hall," [here](#), Senate Majority Leader Harry Reid (D-Nv.) said: "Another myth that's being thrown around is that health insurance reform uses money for abortions. Not true. . . . Next, the House bill states, and I quote, health insurance providers aren't required to or prohibited from offering abortion coverage. The cost of such coverage would be exclusively paid by premiums, not by public subsidies. Public funding for abortion would be permitted only as under current law, that's the so-called Hyde Amendment, named after Henry Hyde, who I served with in the House. And as you know, that is in cases of rape, incest or when a woman's life is in danger."