



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

January 22, 2015

RE: No Taxpayer Funding for Abortion Act (H.R. 7)

Dear Member of Congress:

The National Right to Life Committee (NRLC), the nationwide federation of right-to-life organizations, urges you to support the No Taxpayer Funding for Abortion Act (H.R. 7) when it comes before the House of Representatives today. NRLC commends Congressman Chris Smith for advancing this critical pro-life legislation.

At the time Barack Obama was elected president in 2008, an array of long-established laws, including the Hyde Amendment, had created a nearly uniform policy that federal programs did not pay for abortion or subsidize health plans that included coverage of abortion, with narrow exceptions. Regrettably, provisions of the 2010 Obamacare health law ruptured that longstanding policy. Among other objectionable provisions, the Obamacare law authorized massive federal subsidies to assist many millions of Americans to purchase private health plans that will cover abortion on demand. For documentation, please see <http://www.nrlc.org/uploads/ahc/ProtectLifeActDouglasJohnsonTestimony.pdf>, and <http://www.nrlc.org/uploads/DvSBA/GenericAffidavitOfDouglasJohnsonNRLC.pdf>.

The Congressional Budget Office has estimated that between 2015 and 2024, \$726 billion will flow from the federal Treasury in direct subsidies for Obamacare health plans. In September, 2014, the Government Accountability Office (GAO) issued a report that confirmed that elective abortion coverage is widespread in federally subsidized plans on the Obamacare exchanges. In the 27 states (plus D.C.) that did not have laws in effect that restrict abortion coverage, over one thousand exchange plans covered abortion, the report found. (See "GAO report confirms elective abortion coverage widespread in Obamacare exchange plans," <http://www.nrlc.org/communications/releases/2014/release091614/>)

Some defenders of the Obamacare law originally insisted that this was not really "federal funding" of abortion because a "separate payment" would be required to cover the costs of the abortion coverage. NRLC and other pro-life groups dismissed this as a mere bookkeeping gimmick that sharply departed from the principles of the Hyde Amendment. This discussion of the significance of the "separate payment" has been rendered rather academic, since it has become evident that the Obama Administration is ignoring the two-payment requirement anyway.

During 2013, in the same ignore-the-law mode, the Obama Administration interpreted a provision of Obamacare to authorize the Office of Personnel Management (OPM) to collect health care premiums from members of Congress and their staffs, along with subsidies from the legislative branch bureaucracy, for purchase of private health insurance plans that cover elective abortions. The OPM (under instructions from the White House) has gone forward with this plan despite a longstanding law (the Smith Amendment, after sponsor Rep. Chris Smith, R-NJ) that explicitly prohibits OPM from spending one penny on administrative expenses connected with the purchase of any federal employee health plan that includes any coverage of abortion (except to save the life of the mother, or in cases of rape or incest). The Smith Amendment is the law that continues to prohibit inclusion of abortion coverage in the health plans of over 8 million

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federal employees and dependents. Yet, according to research conducted by the office of Congressman Smith, of 70 plans now available to members of Congress and congressional staff, 59 cover elective abortions. See <http://www.nrlc.org/uploads/ahc/NRLCCommentonProposedRuleAndSmithAmendment.pdf>

H.R. 7 would codify the principles of the Hyde Amendment on a permanent, government-wide basis, with respect both to longstanding federal health programs (Medicaid, SCHIP, FEHB, etc.) and to the new programs created by the Obamacare law. Under H.R. 7, for plan years beginning after December 31, 2015, exchange-participating health plans that cover abortion would not be eligible for the federal subsidies. Until then, the bill will revise Obamacare language to eliminate secrecy about abortion coverage, allowing consumers to be fully informed about abortion coverage and the surcharges for such coverage on plans sold on the exchanges.

Among the longstanding provisions to be codified by H.R. 7 is the “D.C. Hyde Amendment,” which is the prohibition on the use of government funds to pay for abortion in the Federal District (except to save the life of the mother, or in cases of rape or incest), which for decades (with brief interruptions) has been part of the annual appropriations bill that covers the District. Most of the objections to this policy misconstrue or misrepresent the constitutional status of the District of Columbia. Under the Constitution, the District is exclusively a federal jurisdiction. Article I says that Congress alone exercises “exclusive legislation in all cases whatsoever” over the Federal District. “Non-federal funds” are a fiction, because under current federal law, all government funds in the Federal District are governed by the federal appropriations bills.

A Member’s vote on H.R. 7 will essentially define his or her position, for or against federal funding of abortion, for the foreseeable future. NRLC will include the vote on final passage of H.R. 7 in our scorecard of key right-to-life votes of the 114th Congress. Moreover, we reserve the right to also score the roll call on the Motion to Recommit, which we anticipate may be an attempt to make the bill far narrower than the traditional Hyde Amendment.

Over one million Americans are alive today because of the Hyde Amendment. In order to preserve and extend this lifesaving policy, NRLC respectfully urges you to vote to reject the anticipated Motion to Recommit, and to pass the No Taxpayer Funding for Abortion Act. Thank you for your consideration of NRLC’s positions on these critical issues.

Sincerely,



Carol Tobias
President



Susan T. Muskett, J.D.
Senior Legislative Counsel



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



Douglas Johnson
Legislative Director