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THE TRUCE BETWEEN CHOICE AND LIFE

Conservatives argue that the Patient Protection and Affordable Care Act violates the “truce” between pro-choice and pro-life. We recommend a strategy to negotiate a new, longer lasting truce.

The Patient Protection and Affordable Care Act (PPACA, PL 111-148) specifies that a qualified health plan is not required, as a consequence of the minimal creditable coverage to be defined by the Secretary of Health and Human Services, to provide coverage of abortion services. This language however leaves room for the inclusion of abortion services in qualified health plans at the plan's discretion, although the legislation does permit states to exclude such plans. States that allow coverage beyond the federal funding restrictions (that is, supporting only those abortions in the cases of a maternal life-threatening situation, rape, or incest) are given leeway to create separate allocation accounts that separate premium payments from other federal funds. In this sense, the truce between the pro-choice and pro-life audiences in the case of abortion funding is preserved.

Regardless of the state level decision-making, this notion has left the pro-life

audience fearful. Chuck Donovan of the Heritage Foundation believes that these inclusions break the truce that has existed over this very issue - a truce which had been held in place by the Hyde Amendment, an annual attachment to the HHS appropriations since 1976. However the Hyde Amendment allows states to make their own determinations with their own funds. As cited, 33 states have their own strong abortion funding limitations, 4 states fund elective abortions, and 13 states are obligated by the courts to fund abortions for lower-income residents. Unless these states have had a public change of mind, their current levels of support can remain in place and these same 33 states can exclude qualified health plans that include coverage of abortion services. There is legitimacy in allowing each state to re-address this debate, as the permanency of a prior adopted policy might not sit well with the current electorate. But rightfully, that is for the states to decide.



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Donovan, C. Abortion Coverage in President Obama's Health Care Reform Bill. The Heritage Foundation. Mar 4, 2010.

The Patient Protection and Affordable Care Act. Public Law 111-148.

Obama, B. Executive Order: ENSURING ENFORCEMENT AND IMPLEMENTATION OF ABORTION RESTRICTIONS IN THE PATIENT PROTECTION AND AFFORDABLE CARE ACT. March 24, 2010.

Highlights

- Abortion services cannot be required as a part of “minimal creditable coverage”
- Roe v. Wade prohibits the government from intervening in abortion decisions prior to fetal viability
- Roe v. Wade permits the state to restrict or proscribe abortion as it sees fit once the fetus is viable

Donovan also points out that the Hyde Amendment is not applied to the increased funding for community health centers (CHCs) within the PPACA. By Executive Order, the President has directed the Secretary of HHS to observe the longstanding regulations containing the Hyde language in the Secretary's application to future CHC grants. This is admittedly an area of concern where the truce might be called to term, as the Executive Order can be repealed or amended at any time without Congressional approval and future Presidents are not personally beholden.

If the issue remains that tax dollars should not be used to fund abortions, would Donovan and the Heritage Foundation accept a compromise for a permanent Hyde Amendment? In exchange, Congress should enact a permanent law encompassing the essence of Roe v. Wade - that neither the federal government nor the states may restrict the actual practice of abortion by physicians (prior to fetal viability). Would this not be the best way to permanently preserve the "truce" between pro-choice and pro-life?

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