

January 25, 2017

Support for the Conscience Protection Act of 2016 (H.R. 4828)

Dear Representative:

We represent millions of Americans and tens of thousands of health care professionals with a profound concern about abortion, and particularly about the conscience rights of health care professionals and facilities. Federal laws protecting conscientious objection to abortion have been approved for decades by Congresses and Presidents of both parties. Even many “pro-choice” Americans realize that the logic of their position requires them to respect a choice *not* to be involved in abortion. Yet it is increasingly clear that the current laws offer far less protection in practice than in theory.

For example, the state of California in 2014 began demanding that all health plans under the jurisdiction of the state’s Department of Managed Health Care — even those purchased by churches and other religious organizations — cover elective abortions for any reason, including late-term abortions and those performed for reasons of “sex selection.” No exemption of any kind is allowed. This policy flagrantly violates the Weldon amendment, which has been part of the annual Labor/HHS appropriations laws for over a decade. Yet the HHS Office for Civil Rights has not acted on the complaints that were filed against this coercive mandate over a year ago, despite Congress’s demand for swift action in its report language accompanying the final Labor/HHS appropriations acts for FY 2015 and FY 2016. Moreover, an attempt by that agency to enforce Weldon could revive a legal challenge to this law by California and other states, based on the law’s broad denial of all Labor/HHS funds to a governmental body that violates it. And Weldon and other federal conscience laws do not authorize a “private right of action” allowing the victims of discrimination to sue on their own behalf, and allowing courts to take measured action to end this discrimination.

Such loopholes in current laws are addressed by the Conscience Protection Act (H.R. 4828), introduced on March 22 by Reps. John Fleming, M.D. (R-LA) and Vicky Hartzler (R-MO). This Act is very similar to the Abortion Non-Discrimination provision that for the last three years has been part of the House’s Labor/HHS appropriations bills. It takes the core policy of Weldon — protecting those who decline to perform, pay for, refer for, or provide coverage for abortion — and writes it into permanent law. It clarifies the protections of Weldon, and adds a private right of action to enforce this law and other longstanding conscience laws on abortion. This will help nurses and other health professionals like Cathy DeCarlo, threatened with loss of their careers and livelihoods if they do not assist in abortions, whose cases have sometimes languished for years at the HHS Office for Civil Rights.

Notably, there have been no serious efforts in Congress to repeal or weaken these current laws for many years, and President Obama and his Department of Health and Human Services have voiced active support for all of them. All we need to agree on is that these widely supported laws should be effective and have a workable and timely means of enforcement.

This would mean almost no change in the substantive policy of Congress; but it would be an enormous step forward in assuring Americans who serve the sick and needy that they can do so without being forced by government to violate their most deeply held convictions on respect for innocent human life. We urge you to give a high priority to the passage into law of the Conscience Protection Act this year. Please support and co-sponsor this important legislation.

Sincerely,

United States Conference of Catholic Bishops

Christian Medical Association

Catholic Medical Association

National Council of Catholic Women

March for Life Education and Defense Fund

American College of Pediatricians

Christ Medicus Foundation

American Association of Pro-Life Obstetricians and Gynecologists

Susan B. Anthony List

National Catholic Bioethics Center

Family Research Council

Americans United for Life Action

National Association of Pro-Life Nurses

The National Association of Catholic Nurses – U.S.A.

The Catholic Benefits Association

Catholic Healthcare International

National Right to Life Committee

American Academy of Fertility Care Professionals

National Association of Evangelicals

Southern Baptist Ethics & Religious Liberty Commission

Sacred Heart Mercy Health Care Centers (Michigan and Minnesota)

Knights of Columbus

California Nurses for Ethical Standards

Association of American Physicians and Surgeons

Institute for Youth Development

Alliance Defending Freedom