

This is a preliminary transcript of a Committee hearing. It has not yet been subject to a review process to ensure that the statements within are appropriately attributed to the witness or member of Congress who made them, to determine whether there are any inconsistencies between the statement within and what was actually said at the proceeding, or to make any other corrections to ensure the accuracy of the record.

1 {York Stenographic Services, Inc.}

2 HIF046.000

3 MARKUP ON H.R. 525, THE VETERINARY PUBLIC HEALTH WORKFORCE
4 AND EDUCATION ACT; H.R. 528, THE NEGLECTED INFECTIONS OF
5 IMPOVERISHED AMERICANS ACT; H.R. 570, THE DENTAL EMERGENCY
6 RESPONDER ACT; AND H.R. 358, THE PROTECT LIFE ACT
7 TUESDAY, FEBRUARY 15, 2011
8 House of Representatives,
9 Committee on Energy and Commerce
10 Washington, D.C.

11 The Committee met, pursuant to call, at 10:13 a.m., in
12 Room 2123 of the Rayburn House Office Building, Hon. Fred
13 Upton [Chairman of the Committee] presiding.

14 Members present: Representatives Upton, Barton,
15 Stearns, Whitfield, Shimkus, Pitts, Bono Mack, Walden, Terry,
16 Rogers, Myrick, Sullivan, Murphy, Burgess, Bilbray, Bass,
17 Blackburn, Gingrey, Scalise, Latta, McMorris Rodgers, Harper,
18 Lance, Cassidy, Guthrie, Olson, McKinley, Gardner, Pompeo,

19 Kinzinger, Griffith, Waxman, Dingell, Markey, Towns, Pallone,
20 Rush, Eshoo, Engel, Green, DeGette, Capps, Doyle, Harman,
21 Schakowsky, Gonzalez, Inslee, Baldwin, Weiner, Matheson,
22 Butterfield, Barrow, and Matsui.

23 Staff present: Clay Alspach, Counsel, Health; Gary
24 Andres, Staff Director; Jim Barnette, General Counsel;
25 Michael Beckerman, Deputy Staff Director; Mike Bloomquist,
26 Deputy General Counsel; Howard Cohen, Chief Health Counsel;
27 Aaron Cutler, Deputy Policy Director; Marty Dannenfelser,
28 Senior Advisor, Health Policy & Coalitions, Todd Harrison,
29 Chief Counsel, Oversight/Investigations; Alexa Marrero,
30 Communications Director; Alan Slobodin, Deputy Chief Counsel,
31 Oversight; Heidi Stirrup, Health Policy Coordinator; Phil
32 Barnett, Democratic Staff Director; Karen Nelson, Democratic
33 Deputy Staff Director (Health); Kristin Amerling, Democratic
34 Chief Counsel; Ruth Katz, Democratic Chief Public Health
35 Counsel; Karen Lightfoot, Democratic Communications Director
36 and Senior Policy Advisor; Jennifer Bernholz, Democratic
37 Chief Clerk; Stephen Cha, Democratic Professional Staff
38 Member; Lindsay Vidal, Democratic Press Secretary; Mitch
39 Smiley, Democratic Assistant Clerk; and Allison Corr,
40 Democratic Policy Analyst.

|

41 The {Chairman.} Committee will come to order. I want
42 to welcome everyone for the first full committee markup of
43 the Energy and Commerce Committee for the 112th Congress.
44 And before we get started a quick word on how we are going to
45 proceed today. First, I am going to recognize myself and
46 Ranking Member Waxman for three minutes for an opening
47 statement. Next, the subcommittee chairs in their Ranking
48 Minority members for the matters before us today.
49 Representatives Pitts, Pallone, Stearns, and DeGette will be
50 each recognized for two minutes for an opening statement.
51 Then I will recognize any other member seeking to give an
52 opening statement for one minute and we will alternate
53 between the two sides. As you know under our Committee rules
54 all printed opening statements will automatically be made
55 part of the record for markups. And after the opening
56 statements I intend to move first to the health legislation
57 before us today in this order: H.R. 525, the Veterinary
58 Public Health Act; H.R. 528, the Neglected Infections Act;
59 H.R. 570, the Dental Emergency Responder Act; and finally,
60 H.R. 358, the Protect Life Act. Finally, following the
61 committee's legislative work we will move to the committee
62 oversight plan for the 112th Congress. I will be offering a
63 substitute to the plan that has been worked out with the

64 minority it is my understanding. So with that, the Chair
65 recognizes himself for an opening statement for three minutes
66 and I will work the clock.

67 I want to commend Chairman Pitts and the members of the
68 Health Subcommittee for bringing four pieces of the
69 legislation for our consideration today. Three of these are
70 bills that were worked out in the last Congress but never
71 reached the President's desk. They passed by voice vote in
72 the subcommittee and I am sure they will enjoy similar
73 support today. Last week during the Health Subcommittee
74 hearing, Professor Rosenbaum correctly pointed out that the
75 Protect Life Act would bring Health Reform into line with
76 what was a Stupak-Pitts amendment that the House adopted by a
77 strong bipartisan majority during the 111th Congress.

78 As was the case with Stupak-Pitts, this bill includes
79 the Hyde amendment language that has been continuously been
80 adopted by Congress since 1993. Legislation also includes a
81 conscience protection language that was adopted in the
82 committee by a unanimous vote during the 111th Congress and
83 included in the House passed Affordable Care Act.
84 Unfortunately the conscience protection language was not
85 included in the Senate bill that ultimately became law.

86 The Catholic Medical Association (CMA) the largest
87 association of Catholic positions in the U.S. sent a letter

88 to Chairman Pitts on February 10 in which they said H.R. 358
89 corrects significant flaws in the Patient Protection and
90 Affordable Care Act regarding abortion funding and protection
91 of conscience rights. CMA President Jan Hemstad said this.
92 Over the last several years there had been a variety of
93 attempts to compel and to justify compelling physicians to
94 violate their conscience by performing acts they hold to be
95 unethical. These attempts if successful would violate
96 significant constitutional human rights and undermine
97 physician's professional judgment which should always include
98 an ethical dimension.

99 Based on a recent survey, Dr. Hemstad continued, we
100 found that a significant percentage of our membership would
101 abandon the practice of medicine rather than to surrender to
102 coercion of this kind undermining access to medical care for
103 a significant number of patients. So, after our work on H.R.
104 358, the committee will turn to our oversight again for the
105 112th Congress. I will speak more on that measure when the
106 time comes. The Chair recognizes now the gentleman from
107 California, Mr. Waxman for an opening statement.

108 [The prepared statement of Mr. Upton follows:]

109 ***** COMMITTEE INSERT *****

|
110 Mr. {Waxman.} Mr. Chairman, it is with mixed views that
111 I come to this initial legislative markup of the Energy and
112 Commerce Committee of the 112th Congress. On the one hand, I
113 am pleased that we are taking up three small, but important
114 public health bills on veterinary medicine, impoverished
115 diseases, and emergency dental responders that both the
116 committee and the House acted on in the 111th Congress.
117 These bills are bipartisan and deserve our support today. I
118 am also pleased that we worked together on the oversight
119 plan.

120 On the other plan I very much regret that we are also
121 considering as our first real legislative effort this year a
122 bill that is not only unnecessary and unjustified, but also
123 extreme and contentious in its approach. Procedurally this
124 bill is flawed because its constitutional basis, a
125 requirement set forth in the Republicans own House rules has
126 not been identified. This is a serious flaw for a bill that
127 injects the Federal government into the most personal
128 decisions of women and families. But more than that, H.R.
129 358 is an attack on one of the most hard-fought but
130 delicately balanced provisions of the Affordable Care Act,
131 those related to abortions.

132 Those provisions authored by Senator Nelson whose pro-

133 life record speaks for itself clearly and unequivocally
134 prohibit the use of Federal funds of for abortion, keep State
135 and Federal related law in place, and ensure that those whose
136 conscience dictates against abortion are protected and not
137 discriminated against. H.R. 358 authored by Representative
138 Pitts goes far beyond this. It will shut down all or
139 virtually all private coverage for abortion services. The
140 bill also takes away the Affordable Care Act's limited anti-
141 discrimination protection for those providers whose
142 conscience dictates that women should have access to
143 abortion, a legal and medically appropriate service. And
144 among its most disturbing provisions, the Pitts bill would
145 upend the Affordable Care Act's requirement that health care
146 providers remain obligated to provide emergency services
147 under--as required under EMTALA. Taken as a whole the bill
148 is a full throttled attack on abortion. It will take a
149 woman's right to choose by effectively eliminating coverage
150 for these necessary medical services in the insurance
151 policies. This legislation should not become law. It is not
152 what the American people want. November's election was a
153 mandate for jobs and economic growth. It was not a mandate
154 to erode the rights of choice that are protected by the
155 conscience--protected by the Constitution. In my view, the
156 abortion provisions included in the Affordable Care Act are

157 far too restrictive. I do not want us to turn the clock
158 back. Abortion should be treated as we treat any other legal
159 medically appropriate service. This bill should be the
160 standard of review and I urge members to oppose it.

161 [The prepared statement of Mr. Waxman follows:]

162 ***** COMMITTEE INSERT *****

|
163 The {Chairman.} Thank you. Gentleman from
164 Pennsylvania, Mr. Pitts, the Chairman of the Health
165 Subcommittee is recognized to give an opening statement for
166 two minutes.

167 Mr. {Pitts.} Thank you, Mr. Chairman. Last year
168 Congress passed the Patient Protection and Affordable Care
169 Act without language to uphold the longstanding federal ban
170 on funding for abortion and abortion coverage. Members on
171 both sides of the aisle and the vast majority of the American
172 people believe that taxpayer dollars and government subsidies
173 should in no way fund abortion. In poll after poll, 60 to 70
174 percent of Americans support this position, a position that
175 President Obama endorsed in his Executive order following
176 health care passage. It is unfortunate in that Congress in
177 its haste to pass health reform failed to continue this
178 policy. To fix this mistake I introduced the bipartisan
179 Protect Life Act.

180 My legislation will apply the Hyde amendment to health
181 care reform continuing the historical prohibition of Federal
182 funding for abortion. This bill also codifies conscience
183 protections that have been afforded to health care
184 professionals for decades. These conscience protections were
185 originally adopted in this committee last Congress by a voice

186 vote yet were deleted before the final passage. The recent
187 days we have heard claims that these conscience protections
188 may be in conflict with EMTALA, the Medical--Emergency
189 Medical Treatment and Labor Act. Let me be clear. There is
190 no conflict. The EMTALA statues Section 1867 E of the Social
191 Security Act calls on emergency personnel to respond to
192 distress on the part of a pregnant woman or ``her unborn
193 child'' by stabilizing the condition of both mother and the
194 unborn child. Clearly, the Protect Life Act provides
195 conscience protection that is consistent with the emergency
196 treatment requirements of EMTALA.

197 It was also suggested during the subcommittee hearing
198 last week that insurers might deny claims for injuries that
199 occurred after an abortion. While this argument serves to
200 remind us that injuries and disorders are indeed caused by
201 abortion, nothing in this bill can be construed to forbid or
202 discourage coverage for the treatment of a condition arising
203 from an abortion. The issue of abortion is a contentious
204 one. This debate here is quite simple though. On the one
205 side we have those who want to open up the Federal coffers to
206 the abortion industry. On the other hand we have the
207 American people who oppose Federal funding for abortion. For
208 30 years, Congress has prohibited Federal funding for
209 abortion. Health care reform changed that. We have an

210 obligation to ensure that this time tested policy remains
211 intact. I urge support for this bill. Yield back my time.

212 [The prepared statement of Mr. Pitts follows:]

213 ***** COMMITTEE INSERT *****

|
214 The {Chairman.} Thank you. Gentleman's time is
215 expired. The Chair will recognize the Ranking Member of the
216 Health Subcommittee, Mr. Pallone for two minutes for an
217 opening statement.

218 Mr. {Pallone.} Thank you, Mr. Chairman. I want to
219 reiterate my support for three of the four bills being
220 considered by this committee today: the Dental Responder
221 Emergency Act, the Veterinary Public Health Workforce and
222 Education Act, and the Neglected Infections of Impoverished
223 Americans Act. Each of these are bipartisan common sense
224 bills. Last fall they passed this committee in the full
225 house and my colleagues, I guess they failed in the Senate,
226 so I am pleased that we are trying to move them forward today
227 and quickly.

228 Unfortunately today in the mix is a bill that attempts
229 to dismantle the Affordable Care Act and roll back women's
230 reproductive rights 38 years. It is not surprise that I have
231 huge concerns with the far reaching effects of this bill. I
232 continue to be very disturbed by the substitute amendment
233 offered by Mr. Pitts that creates broad exemptions to a 35-
234 year-old law known as EMTALA. The new language creates the
235 loophole that will allow hospitals to deny emergency medical
236 care and even a referral to emergency medical care if

237 compliance would mean performing an abortion. This seems
238 quite extreme to me. During our subcommittee markup on
239 Friday, Mr. Pitts said that the language was not incidental
240 and that it was to prevent States and pro-choice advocates
241 from creating emergencies where there were none. To me, I
242 don't understand this rationale. It seems absurd. I urge my
243 colleagues to vote against this bill. Thank you, Mr.
244 Chairman.

245 [The prepared statement of Mr. Pallone follows:]

246 ***** COMMITTEE INSERT *****

|
247 The {Chairman.} Thank you. Chair will recognize Mr.
248 Stearns for two minutes.

249 Mr. {Stearns.} Good morning. Thank you, Mr. Chairman
250 and I strongly urge the adoption of the oversight plan. The
251 112th Congress is going to be one of the busiest and most
252 consequential in recent history in memory. The major issues
253 facing this Congress in the country: health care, EPA
254 regulation, energy production development, Medicare,
255 Medicaid, the proposed regulation of the Internet lie at the
256 heart of the committee's jurisdiction and we will represent a
257 substantial part of the committee's actions. We have a lot
258 of work to do and the oversight plan before the committee
259 demonstrates our commitment to vigorous oversight. The plan
260 reflects feedback from each of the subcommittee chairs and
261 with the committee minority. I believe it is a good, strong
262 oversight plan and I intend to carry out a substantial part
263 of this plan in a fair, fact based bipartisan manner at the
264 Subcommittee on Oversight and Investigations.

265 Under the rules of the House, the committee is required
266 to adopt an oversight plan for a two year period and submit
267 it to the Committee on Government Reform and House
268 Administration by February 15. The plan includes areas in
269 which the committee expects to conduct oversight during the

270 112th Congress subject to limits on staff and resources. But
271 it does not preclude oversight or investigation of additional
272 matters as the need arises. Mr. Chairman, the American
273 people expect us to honestly and thoroughly engage in
274 oversight of the agencies and departments in the committee's
275 jurisdiction and on the most pressing issues of the American
276 people. We will not, however, just investigate government
277 agencies and departments. We will also look at private
278 industry that operate within the committee's broad
279 jurisdiction. With this oversight plan we can accomplish
280 this goal and I urge adoption of the oversight plan. Yield
281 back.

282 [The prepared statement of Mr. Stearns follows:]

283 ***** COMMITTEE INSERT *****

|
284 The {Chairman.} Thank you, gentleman yields back his
285 time. The Chair will recognize the Ranking Member of the
286 Oversight Subcommittee, Ms. DeGette, for an opening
287 statement.

288 Ms. {DeGette.} Thank you very much, Mr. Chairman.
289 Today our committee will be deliberating several measures
290 including H.R. 358 which has serious consequences for women's
291 reproductive health. This extreme legislations moves beyond
292 any attack on women's health care that I have seen during my
293 lifetime. Under current law, no Federal funds are spent on
294 abortions. Let me say that again. Under current law, and
295 under the Affordable Care Act no Federal funds are spent on
296 abortions. Under the Pitts amendment, women will not be able
297 to obtain legal reproductive services in the exchange with
298 their own money.

299 And in addition, as the Ranking Member said, the overly
300 restrictive conscience clause would allow providers to simply
301 let women die. This is too extreme. I will speak more about
302 these matters during the markup, but at this time I would
303 like to say a few words about the committee's oversight plan
304 for the 112th Congress.

305 Mr. Chairman, I am very pleased to be the Ranking Member
306 of the Subcommittee on Oversight and Investigations. The

307 Energy and Commerce Committee has jurisdiction over issues
308 that are key to the public health and welfare of American
309 families from food safety, to energy security, to ensuring
310 access to quality health care. The Oversight and
311 Investigations Subcommittee plays an important role in
312 overseeing laws on these and other critical issues under the
313 committee's jurisdiction. And they shed light on where we
314 need to have additional legislative action.

315 I look forward to working with subcommittee chairman
316 Stearns in what I hope will be an active subcommittee. Our
317 initial conversations about oversight plans for this Congress
318 have been positive and productive. And while I am confident
319 that members on my side of the aisle will have different
320 perspectives from time to time from members on the other side
321 on a number of subjects contained in this plan, I am hopeful
322 that we will find issues among these and perhaps others on
323 which we can pursue investigations in a bipartisan manner.
324 Thank you very much, Mr. Chairman, and I yield back.

325 [The prepared statement of Ms. DeGette follows:]

326 ***** COMMITTEE INSERT *****

|
327 The {Chairman.} Thank the gentlelady and I, too, look
328 forward to working with her on matters of this importance in
329 a bipartisan way and appreciate her attitude and as well as
330 Mr. Stearns. At this point we will continue with opening
331 statements for one minute on both sides. Are there members
332 on our side? Mr. Barton, Chairman Emeritus for one minute.

333 Mr. {Barton.} Thank you, Mr. Chairman. I put my entire
334 statement in the record. I simply rise to say I support the
335 oversight plan that you are going to offer today. I also
336 support strongly the Protect Life Act which was marked up at
337 subcommittee in the last week. That is a very important bill
338 to correct the problems of the new health care law that we
339 passed in the last Congress and I support passage of the
340 other authorization bills that deal with dental emergency
341 responders, veterinary public health, and Neglected
342 Infections of Impoverished Americans Act. I yield back.

343 [The prepared statement of Mr. Barton follows:]

344 ***** COMMITTEE INSERT *****

|
345 The {Chairman.} Chairman yields back. The chair will
346 recognize friend from Massachusetts for one minute for an
347 opening statement, Mr. Markey.

348 Mr. {Markey.} Thank you, Mr. Chairman. Mr. Waxman has
349 already outlined the objections which I have to the
350 legislation that is being propounded by the gentleman from
351 Pennsylvania, Mr. Pitts, but I will just summarize by saying
352 that his legislation will make it virtually impossible for
353 insurance companies in the soon to be created State health
354 exchanges to offer abortion coverage to women even when they
355 pay entirely with their own money. If a woman receives a
356 federal subsidy to purchase insurance she would not be able
357 to buy a plan with her own money that offers abortion
358 coverage even if the premiums are kept separate as is already
359 required by the health care law. The legislation also allows
360 hospitals to refuse, to refuse to provide life saving care to
361 women who fact imminent threat of death, that is the woman is
362 about to die. The family is saying please save our mother.
363 Please save my wife. Please save my sister, but the hospital
364 can refuse to do so. I think that is wrong. And it also
365 bans abortion coverage in all multi-state insurance plans. I
366 think this legislation is misguided. I urge its rejection
367 and I yield back the balance of my time.

368 [The prepared statement of Mr. Markey follows:]

369 ***** COMMITTEE INSERT *****

|
370 The {Chairman.} Chairman yields back. Are there other
371 members on the Republican side? Chair would recognize Ms.
372 Blackburn for one minute for an opening statement.

373 Mrs. {Blackburn.} Thank you, Mr. Chairman. I will
374 submit my full statement, but I would just like to say that I
375 am very appreciative for the work that is being done on the
376 Protect Life Act. I think after the hearings that we had
377 last week we know and we have heard from everybody that it
378 gives us the confirmation of what we feared last Congress
379 which is PPACA will without question fund elective abortions
380 with taxpayer dollars for the first time in decades. I am
381 pleased that we are going to correct this error and with our
382 Protect Life Act and apply the--and I will repeat this--the
383 long held standard of the Hyde amendment. That is the long
384 held standard of the Hyde amendment. Appreciate the
385 leadership. Yield back.

386 [The prepared statement of Mrs. Blackburn follows:]

387 ***** COMMITTEE INSERT *****

|
388 The {Chairman.} Gentlelady yield back. Are there
389 members--chair will recognize the gentlelady from California,
390 Ms. Capps.

391 Mrs. {Capps.} Thank you, Mr. Chairman. Frankly, I am
392 shocked that we are here today still on course to ram through
393 dangerous and extreme legislation. I have said it before:
394 H.R. 358 does not create a single job, not one. Instead,
395 this extreme legislation is an unprecedented assault on the
396 rights of women and families everywhere to make important
397 life decisions. Furthermore, on a day when we are talking
398 about doing oversight on overreaching government regulations,
399 this extreme bill would actually expand the Federal
400 government's reach into the emergency room, into the doctor's
401 office, and into the home. While some might say this is just
402 like the Stupak legislation we fought so hard against last
403 year, to be clear this legislation is Stupak on steroids with
404 subtle but extreme differences that could lead to women dying
405 in a hospital emergency room without any right to a referral.
406 I urge my colleagues to abandon this divisive effort, put the
407 brakes on this extreme legislation, turn its focus instead to
408 the issue of job creation to help the American people instead
409 of harming them. I yield back.

410 [The prepared statement of Mrs. Capps follows:]

411 ***** COMMITTEE INSERT *****

|
412 The {Chairman.} Gentlelady yields back. Chair would
413 recognize Dr. Gingrey for an opening statement for one
414 minute.

415 Dr. {Gingrey.} Thank you, Mr. Chairman. As a lifelong
416 pro-life Catholic and a practicing OB/GYN for nearly 30
417 years, I believe that all life is sacred. The issue of
418 abortion is a very personal issue for me as it is for this
419 country and many members if not all members on this
420 committee. But that is not why we are here today. We are
421 here to answer one simple question. Should American's tax
422 dollars be used to fund abortions? When an elective choice
423 can decide life and death, should the Federal government be
424 allowed to use tax dollars to pay for that choice? The
425 Protect Life Act is a piece of legislation that seeks to set
426 right what the last Congress got wrong: ensure that
427 abortions are not funded by taxpayer dollars. Speaking as a
428 father, a son, and an OBGYN physician who has delivered over
429 5,200 babies, I will be voting to ensure our government does
430 not put taxpayer dollars behind any person who seeks an
431 elective abortion. And that is the simple crux of the issue
432 here today. And I yield back, Mr. Chairman.

433 [The prepared statement of Dr. Gingrey follows:]

434 ***** COMMITTEE INSERT *****

|
435 The {Chairman.} Gentleman yields back. The Chair would
436 recognize Mr. Towns from New York for an opening statement.

437 Mr. {Towns.} Thank you very much, Mr. Chairman. I
438 strongly oppose the Protect Life Act. I said this during the
439 subcommittee markup last week and I will say it again and
440 again and again. This bill is completely outside of the
441 scope of what we should be talking about and that is jobs,
442 jobs, jobs. When I walk around my District and I see
443 graduates of prestigious universities sitting around
444 unemployed I am reminded of the fact nothing in this bill
445 creates jobs. Instead, what it does is deny access to
446 reproductive health care. It gives insurance companies new
447 power that it does not have under current law and would allow
448 public hospitals to deny life saving care. I could not in
449 good conscience support a bill that would do that. Let us
450 work together to improve our economy, not dismantle existing
451 health care options for women. I am proud. I happen to be
452 co-leading the Dental Emergency Responders Act with Mr.
453 Burgess. This bill along with the two others we are
454 considering are common sense bipartisan measures. That is
455 what we should be about and understand how important it is to
456 create jobs not create problems.

457 [The prepared statement of Mr. Towns follows:]

458 ***** COMMITTEE INSERT *****

|
459 The {Chairman.} Gentleman yields back. Chair would
460 recognize Ms. McMorris Rodgers from Washington State for an
461 opening statement.

462 Ms. {McMorris Rodgers.} Thank you, Mr. Chairman. When
463 we talk about health care coverage for our children, it is
464 all meaningless if we are not going to protect them at the
465 moment their lives begin. Last week we heard administrator
466 Jackson the need to regulate carbon emissions because of the
467 impact on our children's health and well-being. Well then, I
468 ask my colleagues on the other side of the aisle to join us
469 in protecting our most vulnerable children those who cannot
470 protect themselves. Two-thirds of women polled during the
471 health care debate representing all parties, races, marital
472 statuses, objected to the Federal government paying for
473 abortions. This bill heeds that call and maintains the
474 policies that both parties have agreed upon over the last
475 several decades. I urge my colleagues to support the Protect
476 Life Act and I yield back.

477 [The prepared statement of Ms. McMorris Rodgers
478 follows:]

479 ***** COMMITTEE INSERT *****

|
480 The {Chairman.} Gentlelady yields back. Chair would
481 recognize the gentlelady from Illinois, Ms. Schakowsky for
482 one minute.

483 Ms. {Schakowsky.} Let us be clear. This bill was not
484 about protecting life. It is an extreme and reckless bill
485 that actually endangers the health and life of women and also
486 attacks their rights. We just heard about how we have
487 protect the most vulnerable. The same people who are
488 supporting this legislation are going to vote for a \$750
489 billion cut for a big cut in the WIC program--I guess it is
490 million that is going to affect women and children at birth.
491 So are we just concerned about conception to birth or are we
492 concerned about children after they are born? This
493 legislation is not just about the Hyde amendment. We
494 established last time that it would allow on basis of
495 conscience denial of contraception to women, that there are
496 all kinds of provisions in this bill that would deny women
497 their rights to reproductive health not just to abortions.
498 We have already banned the use of public dollars, federal
499 dollars for abortions. And that is clear. We are revisiting
500 something that has already been decided and I want to urge
501 all my members who are really interested in protecting life
502 to leave it up to the women to decide with their doctors,

503 with their God and to vote against this legislation.

504 [The prepared statement of Ms. Schakowsky follows:]

505 ***** COMMITTEE INSERT *****

|
506 The {Chairman.} Chair would recognize gentleman from
507 Ohio for an opening statement, Mr. Latta.

508 Mr. {Latta.} Thank you very much, Mr. Chairman. I
509 would ask unanimous consent that my written testimony be
510 submitted for the record.

511 The {Chairman.} Without objection. All opening
512 statements are made part of the record.

513 Mr. {Latta.} I thank the Chairman and also just that I
514 want to again strongly state that I am going to be supporting
515 the Protect Life Act and also ask unanimous consent to submit
516 for the record for the Full Committee letter dated February
517 10, 2011, from the Catholic Health Care Partners in its
518 support of H.R. 358. Thank you, Mr. Chairman.

519 [The prepared statement of Mr. Latta follows:]

520 ***** COMMITTEE INSERT *****

|
521 The {Chairman.} Chair would recognize the gentlelady
522 from California, Ms. Eshoo for an opening statement.

523 Ms. {Eshoo.} More than one gentlelady from California.

524 The {Chairman.} There are a lot of gentlelady's from
525 California. You are just one of the many.

526 Ms. {Eshoo.} Right. Thank you, Mr. Chairman. I am
527 pleased to support the small bills that are being brought up
528 for approval today and thank the people that are involved in
529 those efforts for bringing them forward. It really is--I
530 think rather sad to hear this relitigation of pretent in
531 plain English. Pretend that there wasn't language in the
532 Affordable Care Act that reflected the Hyde language.
533 Whether someone has been pro-life or pro-choice, for over two
534 decades that language has been honored in the House. But
535 make no mistake about it. The bill that we are marking up
536 today which I think is really deceptively named, the Protect
537 Life Act will play out very differently in people's lives.
538 For a party, the Republican Party to constantly hammer about
539 the arm of government in people's lives I am stunned that you
540 would use your arms to reach into individual's lives, women's
541 lives in the country where they cannot even use their own
542 private dollars to secure a health care policy that they wish
543 to have. So you want to manipulate the health insurance

544 industry in what they provide and what they don't provide.
545 You don't want people to have access to something that they
546 want to pay for with their own dollars. That is one hell of
547 a stretch. And it is dangerous, it is dangerous. What would
548 the party say if we started regulating mastectomies and what
549 you can have and what you can't have? How would that go
550 down? So this is I think bad legislation. It doesn't
551 protect anyone or anything and I would urge my colleagues to
552 reject it.

553 [The prepared statement of Ms. Eshoo follows:]

554 ***** COMMITTEE INSERT *****

|
555 Mr. {Chairman.} Gentlelady's time is expired. Are
556 there other members on the Republican side wishing to give an
557 opening statement? Gentleman from Texas, Mr. Olson is
558 recognized for one minute.

559 Mr. {Olson.} Thank you, Mr. Chairman. I am proud to be
560 an original cosponsor of H.R. 358 and I thank Chairman Pitts
561 for moving this bill so promptly. The vast majority of
562 Americans object to federal funding of abortion. Under the
563 guise of a toothless Executive order, Democrats argued that
564 no federal funds would go towards abortion under the
565 Affordable Care Act. However, we found out that this is
566 simply not the case. There are known examples of abortions
567 being funded through the Affordable Care Act. This
568 legislation fixes this egregious law by preventing federal
569 monies from going towards abortions that offer these
570 services. When I ran for Congress in 2008, I promised the
571 people of the 22nd Congressional District of Texas that I
572 would do everything in my power to prevent federal funding of
573 abortions. I ask my colleagues to support this legislation.
574 Yield back.

575 [The prepared statement of Mr. Olson follows:]

576 ***** COMMITTEE INSERT *****

|
577 The {Chairman.} Gentleman yields back. Are there other
578 member--gentle--Chair would recognize the gentlelady from
579 Wisconsin, Ms. Baldwin.

580 Ms. {Baldwin.} Thank you, Mr. Chairman. It is
581 noteworthy that the very first bill to be marked up by this
582 committee under its new leadership is not about jobs or
583 strengthening our economy, but rather extreme legislation
584 that divides Americans. Despite all the talk about jobs and
585 deficits during the midterms, Republicans have instead put
586 forth extreme legislation that takes away women's ability to
587 make their own important life decisions about their
588 reproductive health. This extreme legislation is an
589 unprecedented display of lack of respect for American women
590 and our safety. The bill would cut off millions of women
591 from the private care they already have and limit the ability
592 of a woman to get the care she needs even if the result is a
593 serious permanent health condition that could shorten her
594 life. Enough is enough. It is time for the Republican
595 majority to respect women's choices and focus instead on
596 restoring our economy. I urge my colleagues to oppose this
597 extreme and intrusive legislation and I yield back.

598 [The prepared statement of Ms. Baldwin follows:]

599 ***** COMMITTEE INSERT *****

|
600 The {Chairman.} Gentlelady yields back. Are there
601 further members on the Republican side wishing to give an
602 opening statement? Mr. McKinley from West Virginia.

603 Mr. {McKinley.} Thank you, Mr. Chairman. There are
604 many things wrong with the health care bill who was passed by
605 Congress last year. Among the most troubling was the
606 provision that federal funds would be used to fund abortion.
607 Even the Obama Administration heard the outcry by the
608 American public. Unfortunately they heard; they did not
609 listen. The President merely signed an Executive order that
610 was not strong enough to allay the concerns and fears raised
611 by millions of Americans. Today, one of the bills we are
612 considering will correct that inconsistency. Mr. Chairman, a
613 minute is not enough to convey my personal feelings regarding
614 this issue, but for me, the Right to Life issue is about one
615 thing, respecting life. I believe our actions today are a
616 means to achieve that goal. Thank you, Mr. Chairman, and I
617 yield back my time.

618 [The prepared statement of Mr. McKinley follows:]

619 ***** COMMITTEE INSERT *****

|
620 The {Chairman.} Gentleman yields back. The Chairman--
621 or the Chair recognizes the gentleman from Washington State
622 Mr. Inslee.

623 Mr. {Inslee.} Thank you, Mr. Chair. It is regrettable
624 we aren't turning job creating instead turning to another
625 socially divisive issue which divides us rather than unites
626 us. But I want to point out a failure here that is becoming
627 a pattern with the Republican majority already in a couple of
628 weeks and that is an effort to ignore the constitutional way
629 of deciding things in our country that does reach a
630 resolution on things we disagree on. Last week, this
631 committee essentially wanted to ignore the constitutional
632 principle that the Supreme Court decides issues of law in our
633 country on the issue of whether or not we were going to have
634 dirty air or clean air. Republicans wanted to pass a bill to
635 give us dirty air. This week it is an effort to ignore the
636 Supreme Court and the U.S. Constitution on a decision that
637 does divide us but we have a mechanism of resolving that in
638 this country. And right now under the current law as we
639 ought to take an oath to gives a constitutional right to a
640 woman to make this very individual private decision. This
641 assault, I think on the Constitution, does not help us move
642 forward as a country. We ought to be focusing on jobs.

643 Thanks .

644 [The prepared statement of Mr. Inslee follows:]

645 ***** COMMITTEE INSERT *****

|
646 The {Chairman.} Gentleman's time is expired. Are there
647 any other Republicans wishing to give an opening statement?
648 None--I look to the Democratic side. Are there any further
649 Democrats? Any more Democrats? Chair recognizes gentlewoman
650 from California, Ms. Matsui.

651 Ms. {Matsui.} Thank you, Mr. Chairman. I strongly
652 oppose H.R. 358. It is a gross overreach of Republican
653 majority. Access to contraceptives and other services are
654 critical components to the health and well-being of millions
655 of American women. Every woman should have the ability to
656 make deeply personal and important decisions about their own
657 bodies and whether or not to start a family. Moreover, it is
658 their legal right. A right affirmed by the Supreme Court to
659 make these decisions. Congress should not be in the business
660 of trying to deny these legal rights to America's women. It
661 is my hope that this committee and its members affirms our
662 commitment to the health and safety of America's women and
663 that we move beyond such relentless attacks on the woman's
664 right to choose. With that I yield back my time.

665 [The prepared statement of Ms. Matsui follows:]

666 ***** COMMITTEE INSERT *****

|
667 The {Chairman.} Gentlelady yields back. Are there any
668 other member wishing to make an opening statement? See none.
669 Again, I will remind all members that they can submit their
670 opening statements as part of the record.

|
671 H.R. 525

672 The {Chairman.} We are now prepared to call up the
673 bill. H.R. 525--I want to ask the clerk to report.

674 The {Clerk.} H.R. 525, to amend the Public Service Act
675 to enhance and increase the number of veterinarians trained
676 in veterinary public health.

677 [H.R. 525 follows:]

678 ***** INSERT 1 *****

|

679 The {Chairman.} Without objection the first reading of
680 this bill is dispensed with and the bill will be open for
681 amendment at any point. So are there any amendments in a
682 bipartisan way that might be wanted to be offered at this
683 point? Seeing none. Are there any other amendments to the
684 bill? Seeing none the question now occurs on favorably
685 reporting the bill. All those in favor signify by saying
686 aye. All right, those oppose say no. The ayes appear to
687 have it and the bill is favorably reported.

|

688 H.R. 528

689 The {Chairman.} Chair now calls up the bill H.R. 528
690 and I ask the clerk to report.

691 The {Clerk.} H.R. 528, to require the submission of a
692 report to the Congress on parasitic disease among poor
693 Americans.

694 [H.R. 528 follows:]

695 ***** INSERT 2 *****

|

696 The {Chairman.} Without objection the first reading of
697 the bill is dispensed with and the bill will be open for
698 amendment at any point. So ordered. Are there any
699 amendments to the bill, first to bipartisan amendments to the
700 bill? Seeing none are there any other amendments to the
701 bill? Seeing none if not, the question now occurs on
702 favorably reporting the bill. All those in favor signify by
703 saying aye. Aye. Those opposed please say no. The ayes
704 appear to have it. The ayes have it and the bill is
705 favorably reported.

|

706 H.R. 570

707 The {Chairman.} The Chair now calls up the bill H.R.
708 570 and asks the clerk to report.

709 The {Clerk.} H.R. 570, to amend the Public Health
710 Service Act to enhance the roles of dentist and allied
711 dentists.

712 [H.R. 570 follows:]

713 ***** INSERT 3 *****

|
714 The {Chairman.} Without objection the first reading of
715 the bill is dispensed with and the bill will be open for
716 amendment at any point. So ordered. Are there any
717 bipartisan amendments to the bill? Gentleman from
718 California.

719 Mr. {Waxman.} Strike the last word. I am assuming that
720 if a member wants to speak on the bill they have an
721 opportunity to do so at this point they will have time.

722 The {Chairman.} Absolutely. Strike the last word and
723 they will be given five minutes on either side as we go. Are
724 there any other amendments to the bill? Seeing none. Are
725 there any other amendments to the bill? If not the question
726 appear--occurs on favorably reporting the bill. All those in
727 favor signify by saying aye. Those opposed please say no.
728 The ayes appear to have it. The ayes have it and again the
729 bill is reported.

|

730 H.R. 358

731 The {Chairman.} The Chair now calls up H.R. 358 as

732 amended and asks the clerk to report.

733 The {Clerk.} H.R. 358, to amend the Patient Protection

734 and Affordable Care Act to modify--

735 [H.R. 358 follows:]

736 ***** INSERT 4 *****

|
737 The {Chairman.} Without objections the bill will be
738 considered as read and open for amendment at any point. So
739 ordered. I remind members that at our organizational meeting
740 I indicated I would recognize bipartisan amendments first as
741 I have done in the other three bills. Are there are any
742 bipartisan amendments at this point, folks ready to offer?
743 Seeing none are there any other amendments to the bill? If
744 not--gentle--recognize the gentlewoman from California. I am
745 sorry, the gentlewoman from Colorado, Ms. DeGette.

746 Ms. {DeGette.} I know there is a lot--

747 The {Chairman.} I know there is a--it is that red.

748 Ms. {DeGette.} I move to strike the last word.

749 The {Chairman.} Gentlelady is recognized for five
750 minutes.

751 Ms. {DeGette.} Thank you very much, Mr. Chairman. Mr.
752 Chairman, during opening statements and also ever since the
753 subcommittee hearing on this bill we have heard ongoing
754 assertions over and over again that the Pitts bill is
755 virtually the same as the Stupak amendment that was passed by
756 the House. And also many of our colleagues on this committee
757 have described the bill as being a virtual look-a-like to the
758 Stupak amendment. And they also say it just merely echoes
759 the Hyde amendment. So I don't see the bill that way and in

760 fact, the way I see the bill is that it is much more extreme
761 than the legislation that was considered last year. And it
762 frankly as I said in my opening statement is it really is--it
763 has an extreme effect on women's health. So I want to ask
764 the counsel a couple of questions about this particular piece
765 of legislation and I would ask counsel if you could just
766 answer yes or no if possible. The current bill before us on
767 page three, line six applies its rules on coverage of
768 abortion service to any health plan. Is that correct?

769 {Counsel.} Yes, Congresswoman.

770 Ms. {DeGette.} And last year's Stupak amendment only
771 applied to qualified plans meaning plans that were part of
772 the State exchanges. It did not apply to any completely
773 private plans. Is that correct?

774 {Counsel.} If you are referring to Section 256 of the
775 House passed bill--I am sorry, Section 265, the limitations
776 on abortion funding relate to any health plan that receives
777 government subsidies.

778 Ms. {DeGette.} Correct. So it did not apply to
779 complete private plans. Correct? That is easy. Yes or no.

780 {Counsel.} I believe that is correct.

781 Ms. {DeGette.} Thank you. Now, the current bill before
782 the committee protects State laws that limit insurance
783 coverage for abortion. Last year's Stupak amendment

784 protected both State laws that limit coverage abortion and
785 State laws that cover coverage of abortion. Is that correct?

786 {Counsel.} Will the gentlelady repeat that please? I
787 am trying to follow it and I didn't clearly--

788 Ms. {DeGette.} Certainly. This bill says that it
789 protects State laws that limit insurance coverage of
790 abortion. Last year's Stupak amendment protected both laws--
791 State laws that limit coverage of abortion and State laws
792 that recover--require coverage of abortion. In other words,
793 the Stupak amendment said that if a State limits coverage of
794 abortion then that is still allowed or if it allows coverage
795 of abortion. But this one does not allow States to cover
796 abortion correct?

797 {Counsel.} The section that you are referring to was in
798 the underlying house bill not in the amendment that Mr.--

799 Ms. {DeGette.} Okay. But what is the coverage?

800 {Counsel.} The house passed bill related to pre-emption
801 of State laws regarding the prohibition or requirement of
802 coverage.

803 Ms. {DeGette.} Correct. So as I said, this is more--
804 this is broader than the Stupak amendment because this bill
805 says that State laws that require coverage of abortion are no
806 longer allowed. Correct--or not protected? Or not
807 protected?

808 {Counsel.} The legislation does not speak to whether
809 the requirement of coverage of abortion is protected or not.
810 The legislation before us today just speaks to the
811 requirement on pre--but not--

812 Ms. {DeGette.} But Stupak does both and this only does
813 one. Correct?

814 {Counsel.} The underlying--

815 Ms. {DeGette.} Yes.

816 {Counsel.} --House bill last year did.

817 Ms. {DeGette.} Okay. Thank you. Now, the bill before
818 us creates a new federal private right of action. This one
819 isn't for patients. It is for providers that assert a
820 conscience objection to abortion. Last year's Stupak
821 amendment did not contain any private right of action. Is
822 that correct?

823 {Counsel.} That is correct.

824 Ms. {DeGette.} Thank you. Now the bill before the
825 committee today strikes the limitations of law to abortion
826 services in all the places it appears in the law. The result
827 is protecting State laws on other topics. Last year's
828 Congress's Stupak amendment did not make this change and it
829 limited the refusal rights to abortion services. Is that
830 correct?

831 Mr. {Waxman.} Mr. Chairman, I ask unanimous consent

832 that the gentlelady from Colorado be given another two
833 minutes. She has waited a long time for some of the answers
834 that--

835 The {Chairman.} Is there objection?

836 Mr. {Waxman.} --they are telling.

837 The {Chairman.} Hearing none the gentlelady's
838 recognized for an additional two minutes.

839 Ms. {DeGette.} Yeah, he is--yes or no?

840 {Counsel.} Under the House--under the bill last year as
841 it relates to preemption of State laws it did not limit it to
842 only abortion.

843 Ms. {DeGette.} So the answer is yes? Correct?

844 {Counsel.} However under federal protection--federal
845 laws it was open to things beyond abortion.

846 Ms. {DeGette.} Right, but this goes beyond the Stupak
847 amendment from last year. Right?

848 {Counsel.} As it relates to the preemption of State
849 laws.

850 Ms. {DeGette.} Yes, okay. Now the bill before the
851 committee today creates an exception to the requirements of
852 EMTALA regarding emergency care must be complied with. Last
853 year's--last Congress's Stupak amendment did not make that
854 change. It didn't even amend EMTALA--that section of EMTALA
855 at all. Is that correct?

856 {Counsel.} The underlying bill today does not amend
857 EMTALA.

858 Ms. {DeGette.} It--

859 Mr. {Waxman.} Will the gentlelady yield to me on that.
860 I think that is an incorrect statement--

861 Ms. {DeGette.} I will yield.

862 Mr. {Waxman.} --because you are saying the underlying--

863 Ms. {DeGette.} Right.

864 Mr. {Waxman.} --law did not but the way that his
865 distractive would have the impact of changing EMTALA in a
866 practical matter.

867 Ms. {DeGette.} Right. It--the Ranking Member is
868 correct. It amends the Affordable Care Act. Correct?

869 {Counsel.} Correct, but it doesn't change the
870 requirements of EMTALA.

871 Mr. {Waxman.} If the gentlelady would yield to me. It
872 doesn't change the underlying EMTALA law, but it changes the
873 bill from last year which means the impact of the EMTALA law
874 is not the same.

875 Ms. {DeGette.} Thank you. I am going to--I am just
876 going to go on. I do have an amendment at the desk, Mr.
877 Chairman. I don't know if it is appropriate now to offer it
878 or not, but if so I would offer it.

879 The {Chairman.} Does the gentlelady seek recognition to

880 offer the amendment?

881 Ms. {DeGette.} Yes, yes, Mr. Chairman, I do.

882 The {Chairman.} The gentlelady's amendment the clerk
883 will read the title of the amendment and circulate the
884 amendment to the members.

885 The {Clerk.} Amendment to H.R. 358 offered by Ms.
886 DeGette.

887 [The amendment follows:]

888 ***** INSERT 5 *****

|
889 The {Chairman.} Without objection the amendment is
890 considered as read and the gentlelady is recognized for five
891 minutes to speak about her amendment.

892 Ms. {DeGette.} Thank you. Mercifully I won't speak for
893 five minutes, Mr. Chairman, but I want to talk about what
894 this amendment does. What it does is it helps define what
895 access to means. It makes sure that the phrase access to
896 does not include providing information to consumers, telling
897 them the insurance options available, and whether they
898 include or do not include comprehensive reproductive
899 services, and providing information about consumers about the
900 location where they can receive comprehensive reproduction
901 services. So given Republican's and Democrat's commitment to
902 transparency in the health care marketplace, we should not
903 support restricting access to information and so I--that is
904 simply what this does is it lets people know exactly what
905 they are and are not able to be provided. And with that I
906 will yield back.

907 The {Chairman.} Gentlelady yields back her time. Are
908 there other members wishing to speak on the amendment?
909 Seeing none--Chair would recognize gentleman from Louisiana,
910 Mr. Scalise for five minutes.

911 Mr. {Scalise.} Thank you, Mr. Chairman. I arise in

912 objection to the amendment and I think it is important to
913 note that this would actually force a doctor who under
914 conscience is opposed to abortion to then have to help
915 facilitate an abortion that he is opposed to. I don't--not
916 only do I think that that's not a moral position that we
917 should be forcing a doctor to be put into, but the Catholic
918 Medical Association which is the largest association of
919 Catholic positions in the United States has actually sent a
920 letter opposing any type of language that would weaken
921 conscience clauses and clearly this would not only weaken it,
922 but it would force the doctor, put the doctor in a position
923 of having to help facilitate abortion even though the doctor
924 is opposed to it morally. I think this completely goes
925 against the intention of what we are trying to do with the
926 Pitts legislation. I strongly oppose the amendment--

927 Ms. {DeGette .} Will the gentleman yield?

928 Mr. {Scalise.} --and I would yield back the balance of
929 my time.

930 Mr. {Waxman.} Mr. Chairman?

931 The {Chairman.} The gentleman from California, Mr.
932 Waxman.

933 Mr. {Waxman.} I first of all yield to Ms. DeGette.

934 Ms. {DeGette.} Thank you.

935 Mr. {Waxman.} I think it is helpful for us to yield to

936 each other so we can get the issues clarified. So I am able
937 to do that.

938 Ms. {DeGette.} The only thing I will say is is this
939 amendment does absolutely nothing to force doctors to provide
940 services. It just simply gives a definition of the access of
941 information which it seems to me we would want everybody to
942 have access to all appropriate medical information: what
943 their insurance covers and so on and so forth. There is
944 nothing in here that forces doctors to do anything that they
945 don't have to do already.

946 Mr. {Waxman.} As I see this language in your amendment,
947 you are saying that access where we are talking about the
948 conscience clause shouldn't preclude information about
949 abortion services by others including the provision of
950 information regarding the availability of or limitations on
951 insurance coverage so that I suppose that would mean a doctor
952 could say your insurance doesn't cover abortion services.
953 The doctor or others who provide medical care could say but
954 if you go somewhere else that abortion services are available
955 and then it will or will not be covered. So this is
956 basically allowing information to be given. So the question
957 is is it a violation of someone's conscience to give accurate
958 information to someone who asks for it? And I think it--this
959 amendment's appropriate. It is not forcing anybody to do

960 anything other than to give accurate information such as I
961 don't perform abortions. This institution will not perform
962 abortions. Your insurance does not cover abortions. And if
963 you want more information you have to go somewhere else for
964 it and there is an identification where they might go. Is
965 that the correct understanding?

966 Ms. {DeGette.} That is correct.

967 Dr. {Cassidy.} Will the gentleman yield?

968 Mr. {Waxman.} I would be happy to. You are seeking to
969 yield? Yes. Way down here in the corner. The man in the
970 corner.

971 Dr. {Cassidy.} Now I was with you all the way up until
972 the very end.

973 Mr. {Waxman.} Yes.

974 Dr. {Cassidy.} Because okay, I don't cover it, this
975 hospital doesn't do it and as far as I know your insurance
976 doesn't cover it. Now on the other hand I can already
977 imagine there being a form legislated, a check list if you
978 will which effectively amounts to a referral. I am a
979 practicing physician. I still teach. And so I know how this
980 works. Sometimes that is appropriate. Sometimes you want to
981 make sure that there is a checklist and the legislature
982 mandates that. But I can tell you that there is going to be
983 someone who is on the basis of morality, his or her morality

984 opposes abortion and they are going to be given checklists.
985 And it says that if you don't document that you have done
986 this then you are busted. And I don't think frankly that is
987 where we want to be.

988 Mr. {Waxman.} If I could reclaim my time. I don't
989 think that your required to give this information but if you
990 do give the information you are not violating the underlying
991 statute. And I think that is the important point. And let
992 me ask the author if that is correct understanding.

993 Ms. {DeGette.} That is exactly correct. And there is
994 not checklist--

995 Mr. {Waxman.} So is somebody who doesn't want to give
996 the information out required to give out the information?

997 Ms. {DeGette.} Thank you for yielding. No, it is just
998 as I said it doesn't change people's obligations that they
999 would have under current law, but it simply says under the
1000 underlying law it--this would not preclude them from giving
1001 that information to somebody.

1002 Mr. {Waxman.} And I think that is important because let
1003 us say somebody goes into a hospital; they talk to the person
1004 at the admissions desk. They say that I want to be admitted
1005 because I would like to have termination of my pregnancy.
1006 The person there could say well, we don't perform abortions
1007 here. Doctor so and so won't do it and your insurance as I

1008 look at it doesn't cover it. But if you go to hospital Y,
1009 you could talk to them about it. A lot of people go there to
1010 get information. That person could be fired under the
1011 statute that is being proposed, the bill and what the DeGette
1012 amendment is saying is that in that this should not be a
1013 reason to discriminate against employees who might give this
1014 information if others in the hospital might not in good
1015 conscience want to perform this service.

1016 Dr. {Cassidy.} Will the gentleman yield?

1017 Mr. {Waxman.} I'd be pleased to yield but who is asking
1018 me to yield?

1019 Dr. {Cassidy.} Again, way down here in the corner.

1020 Mr. {Waxman.} Okay.

1021 Dr. {Cassidy.} This is Cassidy. So if a Catholic
1022 institution has as a mission to protect life and there is
1023 someone who is employed by them and theoretically is on the
1024 same team and is to reflect that mission and the Catholic
1025 institution is as part of their kind of same instinct at
1026 least to be able to set up a hospital and treat people leads
1027 them to instruct their employees not to make effectively
1028 referrals or be providers of information. I gather that
1029 this--

1030 Mr. {Waxman.} That policy--reclaiming my time which is
1031 just about out--that policy could be the policy of the

1032 hospital, but if someone gives that information they should
1033 not be penalized for giving that information and I think that
1034 that it gets to be beyond the conscience of the institution
1035 to be so narrow in their ability to not provide the service.

1036 The {Chairman.} Gentleman's time is expired. Is there
1037 further discussion on the amendment?

1038 Dr. {Cassidy.} Yes.

1039 The {Chairman.} Chair will recognize Mr. Cassidy.

1040 Dr. {Cassidy.} Just to continue that actually I
1041 understand that completely. It would be as if the person of
1042 poison controls said listen, I don't want you taking
1043 poisonous mushrooms. If you really want to kill yourself
1044 there is a more effective way. So I think that there is in a
1045 mission driven organization a certain ethic that each
1046 employee is expected to represent. Now what you say sounds
1047 very reasonable until it comes down to what is the mission of
1048 the institution. And if you have 1,000 employees and all
1049 1,000 decide well, we accept the admission or we don't accept
1050 the admission or we are going to go our own way then you
1051 cease to have a institution. You just have a collection of
1052 individuals. So I think this amendment does as I understand
1053 it would be to allow the individual to abnegate if you will
1054 their responsibility to reflect the institution's mission. I
1055 yield back.

1056 Mr. {Shimkus.} Will the gentleman yield?

1057 Mr. {Waxman.} Will the gentleman yield before yield
1058 back?

1059 Dr. {Cassidy.} I will yield, yes.

1060 Mr. {Waxman.} Who did you yield to?

1061 Dr. {Cassidy.} Whoever yelled first.

1062 Mr. {Shimkus.} No, I want to and Chairman Waxman. So
1063 you pick, Mr. Cassidy first.

1064 Dr. {Cassidy.} Who--I am sorry I was--

1065 Mr. {Shimkus.} Myself or Chairman Waxman.

1066 Dr. {Cassidy.} Mr. Shimkus and then Mr. Waxman.

1067 Mr. {Shimkus.} All right. Thank you. I just want to
1068 make a point. The issue of what many of what many of us fear
1069 that happened in the last health care debate was attempt to
1070 continue to federalize all health insurance issues. This can
1071 be done through the States. States are regulated--insurance
1072 is regulated by the States. So if your State wants to impose
1073 this new requirement then go for it. But for those of us who
1074 continue to want to keep any semblance of a federal system of
1075 government left that is why we would want to oppose this
1076 amendment to keep the requirements of insurance regulation by
1077 the States and I will yield back to Mr. Cassidy.

1078 Mr. {Waxman.} Mr. Cassidy if you will yield to me?

1079 Dr. {Cassidy.} I do yield to Mr. Waxman. The provision

1080 in the bill says nothing in this act shall be construed to
1081 require any health plan to provide coverage or--coverage of
1082 or access to abortion services. I don't think we have any
1083 definition of access to and so the DeGette amendment is
1084 defining access and they are saying access to does not
1085 include the provision of factually accurate information about
1086 abortion services including the provision of information
1087 regarding the availability or the limitations on insurance
1088 coverage or the location of available abortion services and
1089 the procedural requirements applicable to such coverage or
1090 services. So let us go down to this example. At a hospital
1091 where they won't provide services someone is asked well I
1092 want to know where I can get these services. And they say it
1093 is not our policy to provide the services or to give you
1094 information about it. If you want look it up in the yellow
1095 pages. And the person then looks it up in the yellow pages.
1096 I think that employee could be fired for giving access to
1097 that information. So we are trying to limit and define what
1098 access means and then we would permit under the DeGette
1099 amendment people to say they won't provide abortions,
1100 insurance companies won't provide it and then the locations
1101 of available abortion--

1102 Dr. {Cassidy.} Reclaiming my time. Really though I
1103 mean it is being repackaged in a more reasonable way yet, but

1104 it really sounds like you are giving license to an individual
1105 to reject the mission of a health care institution, number
1106 one. And number two, I mean, if what--you have just given us
1107 two different definitions of access. And so clearly there is
1108 an elasticity here which is frankly why we on this side are
1109 concerned about it. You first say, well, wait a second. You
1110 can actually go here and get it. Okay. That is one level of
1111 information. The other is we don't give it to you but you
1112 can check out the yellow pages. That is another level of
1113 information. And so there is an elasticity here which
1114 frankly in a morphus aspect of this which gives people on
1115 this side a concern and which is why I would oppose the
1116 amendment.

1117 Dr. {Burgess.} Will the gentleman yield?

1118 Dr. {Cassidy.} I will yield to Dr. Burgess.

1119 Dr. {Burgess.} Well, just as a practical matter when
1120 you get privileges at a Catholic institution their mission
1121 statement is quite clear and you voluntarily either to agree
1122 to comply or not comply. No one forces you to do it. No
1123 state law, no federal law. You agree to do it as a matter
1124 conscience. You can either accept or reject their mission
1125 and this amendment to me seems that it would abrogate that
1126 freedom of choice. So I would be opposed to the amendment
1127 and I will yield back to the gentleman.

1128 The {Chairman.} Does the gentleman yield back his time?

1129 Dr. {Cassidy.} I have 13 seconds. You can have it
1130 back.

1131 The {Chairman.} I have got it back. I recognize the
1132 gentlelady from California, Ms. Capps for five minutes to
1133 discuss the amendment.

1134 Mrs. {Capps.} Thank you very much Mr. Chairman. Now I
1135 think--from my opinion this discussion that we are having
1136 just underscores the vagueness in the underlying bill by lack
1137 of a definition of access to. And the reason I support the
1138 DeGette amendment is that we need clarification. You know
1139 the underlying legislation continues to be referred to by our
1140 friends on the other side as just like the Stupak language we
1141 debated last year. But in this amendment which our colleague
1142 Ms. DeGette has introduced, there is yet another place where
1143 supporters of this bill are determined to go way beyond
1144 Stupak to promote an even more extreme agenda. I call it a
1145 straight jacket prohibiting any requirement to provide access
1146 to abortion services. The--in many instances the Catholic
1147 hospital that has been described and we can all think of some
1148 in our districts. The one I am thinking of it the only place
1149 where health care is provided in a primary setting like a
1150 hospital from miles around. So the ability to really access
1151 that information is--people go to the hospitals that do that.

1152 This broad language would prohibit States and State based
1153 health insurance exchanges from ensuring that women even get
1154 information about the health care coverages that are
1155 available to them. Limiting access to information about the
1156 availability of plans that cover full reproductive care or
1157 similarly it could limit access to information about lack of
1158 availability of health plans that cover full reproductive
1159 care. Access could be interpreted to include a plan
1160 brochure, a referral, an email that gives someone range--
1161 information about where you can get a full range of services,
1162 even a phone book as Mr. Waxman just said. Our tricky health
1163 care system is confusing at best. The potential unknowns are
1164 clear but the true implications of this bill as written are
1165 not unclear. It is clear that supporters want to restrict
1166 the rights of women to their full range of women's health
1167 services guaranteed in the Constitution. But this language
1168 would restrict the rights of women to even simply
1169 information. So I am definitely supporting this amendment as
1170 a way of clarifying what access means. And I will yield to
1171 the author of the legislation.

1172 Ms. {DeGette.} I thank the gentlelady for yielding.
1173 Mr. Cassidy was exactly right. If you look at the way this
1174 section is worded this section was not in the Stupak
1175 amendment last year. And on page three of the bill lines

1176 four through seven it says nothing in this act or any
1177 amendment made by this act shall be construed to require any
1178 health care plan to provide coverage of or access to abortion
1179 services. That is all it says. So some provider could
1180 interpreter it lots of different ways. That is what I am
1181 trying to say. What would it mean? Would it mean
1182 transportation by an ambulance? Would it mean referral by a
1183 doctor to a hospital? Would it mean information given to a
1184 patient? As Mr. Waxman said you could have a hospital where
1185 the person at the front desk said well go look at the yellow
1186 pages and the hospital would deem that that was beyond the
1187 conscience clause of the hospital and fire that employee. So
1188 that is what I am trying to do is define what access coverage
1189 or access to abortion services means--nothing more, nothing
1190 less. What we are trying to say is this is what it means to
1191 provide access if you are going to do it. That is all we are
1192 trying to do is clarify this so that the providers, the
1193 hospitals, and the patients all know what they are getting.
1194 And that is all it is. I thank the gentlelady for yielding.

1195 The {Chairman.} Does the gentlelady yield back her
1196 time? Okay. Gentlelady yields back her time. Is there
1197 further discussion on the amendment? If not, the gentlelady
1198 asks for a recorded vote. Those in favor of the amendment
1199 will be recorded as saying aye. Those opposed say no. The

1200 Clerk will call the roll.

1201 The {Clerk.} Mr. Barton?

1202 Mr. {Barton.} No.

1203 The {Clerk.} Mr. Barton, no.

1204 Mr. Stearns?

1205 Mr. {Stearns.} No.

1206 The {Clerk.} Mr. Stearns, no.

1207 Mr. Whitfield?

1208 Mr. {Mr. Whitfield.} No.

1209 The {Clerk.} Mr. Whitfield, no.

1210 Mr. Shimkus?

1211 Mr. {Shimkus.} No.

1212 The {Clerk.} Mr. Shimkus, no.

1213 Mr. Pitts?

1214 Mr. {Pitts.} No.

1215 The {Clerk.} Mr. Pitts, no.

1216 Mrs. Bono Mack?

1217 Ms. {Bono Mack.} No.

1218 The {Clerk.} Ms. Bono Mack, no.

1219 Mr. Walden?

1220 Mr. {Walden.} No.

1221 The {Clerk.} Mr. Walden, no.

1222 Mr. Terry?

1223 Mr. {Terry.} No.

- 1224 The {Clerk.} Mr. Terry, no.
- 1225 Mr. Rogers?
- 1226 Mr. {Rogers.} No.
- 1227 The {Clerk.} Mr. Rogers, no.
- 1228 Ms. Myrick?
- 1229 Mrs. {Myrick.} No.
- 1230 The {Clerk.} Ms. Myrick, no.
- 1231 Mr. Sullivan?
- 1232 Mr. {Sullivan.} No.
- 1233 The {Clerk.} Mr. Sullivan, no.
- 1234 Mr. Murphy?
- 1235 Mr. {Murphy.} No.
- 1236 The {Clerk.} Mr. Murphy, no.
- 1237 Mr. Burgess?
- 1238 Dr. {Burgess.} No.
- 1239 The {Clerk.} Mr. Burgess, no.
- 1240 Ms. Blackburn?
- 1241 [No response.]
- 1242 The {Clerk.} Mr. Bilbray?
- 1243 Mr. {Bilbray.} No.
- 1244 The {Clerk.} Mr. Bilbray, no.
- 1245 Mr. Bass?
- 1246 Mr. {Bass.} No.
- 1247 The {Clerk.} Mr. Bass, no.

1248 Mr. Gingrey?
1249 Dr. {Gingrey.} No.
1250 The {Clerk.} Mr. Gingrey, no.
1251 Mr. Scalise?
1252 Mr. {Scalise.} No.
1253 The {Clerk.} Mr. Scalise, no.
1254 Mr. Latta?
1255 Mr. {Latta.} No.
1256 The {Clerk.} Mr. Latta, no.
1257 Ms. McMorris Rodgers?
1258 Ms. {McMorris Rodgers.} No.
1259 The {Clerk.} Ms. McMorris Rodgers, no.
1260 Mr. Harper?
1261 Mr. {Harper.} No.
1262 The {Clerk.} Mr. Harper, no.
1263 Mr. Lance?
1264 Mr. {Lance.} No.
1265 The {Clerk.} Mr. Lance, no.
1266 Mr. Cassidy?
1267 Dr. {Cassidy.} No.
1268 The {Clerk.} Mr. Cassidy, no.
1269 Mr. Guthrie?
1270 Mr. {Guthrie.} No.
1271 The {Clerk.} Mr. Guthrie, no.

1272 Mr. Olson?

1273 Mr. {Olson.} No.

1274 The {Clerk.} Mr. Olson, no.

1275 Mr. McKinley?

1276 Mr. {McKinley.} No.

1277 The {Clerk.} Mr. McKinley, no.

1278 Mr. Gardner?

1279 Mr. {Gardner.} No.

1280 The {Clerk.} Mr. Gardner, no.

1281 Mr. Pompeo?

1282 Mr. {Pompeo.} No.

1283 The {Clerk.} Mr. Pompeo, no.

1284 Mr. Kinzinger?

1285 Mr. {Kinzinger.} No.

1286 The {Clerk.} Mr. Kinzinger, no.

1287 Mr. Griffith?

1288 Mr. {Griffith.} No.

1289 The {Clerk.} Mr. Griffith, no.

1290 Mr. Waxman?

1291 Mr. {Waxman.} Aye.

1292 The {Clerk.} Mr. Waxman, aye.

1293 Mr. Dingell?

1294 [No response.]

1295 The {Clerk.} Mr. Markey?

1296 Mr. {Markey.} Aye.

1297 The {Clerk.} Mr. Markey, aye.

1298 Mr. Towns? Aye?

1299 Mr. {Towns.} Aye.

1300 The {Clerk.} Mr. Towns, aye?

1301 Mr. Pallone?

1302 Mr. {Pallone.} Aye.

1303 The {Clerk.} Mr. Pallone, aye.

1304 Mr. Rush?

1305 [No response.]

1306 The {Clerk.} Ms. Eshoo?

1307 Ms. {Eshoo.} Aye.

1308 The {Clerk.} Ms. Eshoo, aye.

1309 Mr. Engel?

1310 Mr. {Engel.} Aye.

1311 The {Clerk.} Mr. Engel, aye.

1312 Mr. Green?

1313 [No response.]

1314 The {Clerk.} Ms. DeGette?

1315 Ms. {DeGette.} Aye.

1316 The {Clerk.} Ms. DeGette, aye.

1317 Ms. Capps?

1318 Mrs. {Capps.} Aye.

1319 The {Clerk.} Ms. Capps, aye.

1320 Mr. Doyle?
1321 Mr. {Doyle.} Aye.
1322 The {Clerk.} Mr. Doyle, aye.
1323 Ms. Harman?
1324 [No response.]
1325 The {Clerk.} Ms. Schakowsky?
1326 Ms. {Schakowsky.} Aye.
1327 The {Clerk.} Ms. Schakowsky, aye.
1328 Mr. Gonzalez?
1329 [No response.]
1330 The {Clerk.} Mr. Inslee?
1331 Mr. {Inslee.} Aye.
1332 The {Clerk.} Mr. Inslee, aye.
1333 Ms. Baldwin?
1334 Ms. {Baldwin.} Aye.
1335 The {Clerk.} Ms. Baldwin, aye.
1336 Mr. Ross?
1337 [No response.]
1338 The {Clerk.} Mr. Weiner?
1339 Mr. {Weiner.} Aye.
1340 The {Clerk.} Mr. Weiner, aye.
1341 Mr. Matheson?
1342 [No response.]
1343 The {Clerk.} Mr. Butterfield?

1344 Mr. {Butterfield.} Aye.

1345 The {Clerk.} Mr. Butterfield, aye.

1346 Mr. Barrow?

1347 Mr. {Barrow.} Aye.

1348 The {Clerk.} Mr. Barrow, aye.

1349 Ms. Matsui?

1350 Ms. {Matsui.} Aye.

1351 The {Clerk.} Ms. Matsui, aye.

1352 Mr. Upton?

1353 Mr. {Upton.} No.

1354 The {Clerk.} Mr. Upton, no.

1355 The {Chairman.} Are there members still wishing to cast
1356 their vote? Ms. Blackburn?

1357 The {Clerk.} Ms. Blackburn, no.

1358 Mr. Ross?

1359 Mr. {Ross.} No.

1360 The {Clerk.} Mr. Ross, no.

1361 The {Chairman.} Mr. Green?

1362 Mr. {Green.} Aye.

1363 The {Clerk.} Mr. Green, aye.

1364 The {Chairman.} Are there other members wishing to cast
1365 their vote? Seeing none the clerk will report the results.

1366 The {Clerk.} Mr. Chairman, 17 ayes, 32 nays.

1367 The {Chairman.} The DeGette amendment is not adopted.

1368 For what purposes did gentlelady from Wisconsin seek
1369 recognition?

1370 Ms. {Baldwin.} Mr. Chairman, I move to strike the
1371 requisite number of words.

1372 The {Chairman.} Gentlelady is recognized for five
1373 minutes.

1374 Ms. {Baldwin.} Thank you, Mr. Chairman. I have some
1375 matters that I would like to ask Counsel to clarify before we
1376 move forward with the markup. Giving the serious
1377 implications of the ambiguity of the language about the reach
1378 of the conscience rights, it is critical to ensure that we
1379 know how this language is going to be applied. In statutory
1380 interpretation courts will always interpret an amendment to a
1381 statute to as making a difference to the underlying meaning
1382 of that statute. So Counsel, I would refer you to page six
1383 of the committee print lines six to 10. Current law is
1384 entitled application of State and Federal laws regarding
1385 abortion and no pre-emption of State laws regarding abortion.
1386 But the bill at these lines strikes the words regarding
1387 abortion in both of those sections. So Counsel, would I be
1388 correct if I said that the effect on this is that the
1389 provisions are no longer strictly limited to abortion since
1390 we are striking the words regarding abortion?

1391 {Counsel.} The first two provisions you referred to are

1392 the headings of the section. The section C-1 of PPACA--

1393 Ms. {Baldwin.} Indeed you are correct. These are
1394 headings. But we are still amending underlying statute and
1395 amendments give meaning to that so would I be correct if I
1396 said the effect of this is that the provisions are no longer
1397 strictly limited to abortion?

1398 {Counsel.} The underlying amendment does add conscience
1399 protections into 1303 C-1.

1400 Ms. {Baldwin.} Okay.

1401 {Counsel.} That the conscience protection is near what
1402 is in 1303 C-2 related to federal law.

1403 Ms. {Baldwin.} Okay. So please take a look then on the
1404 same page lines 13 and 14 of the committee print. In that
1405 section the bill adds the phrase protecting conscience rights
1406 to the list of items in State laws that are not pre-empted.
1407 Could--Counsel, could the term conscience rights include
1408 anything other than abortion given the previous section we
1409 discussed?

1410 {Counsel.} Yes, it could be but the section that you
1411 are referring to is just the effect that the law is having on
1412 State laws.

1413 Ms. {Baldwin.} Correct.

1414 {Counsel.} It does not pre-empt them. It just say
1415 that--

1416 Ms. {Baldwin.} No, correct. So Counsel, could
1417 conscience rights be interpreted in certain States to include
1418 refusing to provide information about the morning after pill
1419 to a rape victim? Could it?

1420 {Counsel.} Yes, it could.

1421 Ms. {Baldwin.} Counsel, could conscience rights be
1422 interpreted to include refusing to provide fertility
1423 treatments including artificial insemination to a lesbian on
1424 the basis of her sexual orientation?

1425 {Counsel.} Yes, it could.

1426 Ms. {Baldwin.} How about refusal to provide fertility
1427 treatment to a single woman on the basis of her marital
1428 status?

1429 {Counsel.} If the State law provided for that.

1430 Ms. {Baldwin.} So the answer is yes, it could?

1431 {Counsel.} If the State law provided for that.

1432 Ms. {Baldwin.} Counsel, could conscience rights be
1433 interpreted to include refusing to provide mental health
1434 counseling to a gay teenager contemplating suicide because
1435 his family or community is not supportive of his sexual
1436 orientation?

1437 {Counsel.} Again, it would depend on what the State
1438 law--

1439 Ms. {Baldwin.} But it could?

1440 {Counsel.} --if the State law precluded that then it
1441 would protect the State law.

1442 Ms. {Baldwin.} Counsel, could conscience rights be
1443 interpreted to override the new HHS rule that guarantees
1444 hospital visitation rights for same sex couples?

1445 {Counsel.} The underlying statute relates to federal
1446 law and conscience rights, so I guess in 1303 C-2 regarding
1447 federal law we are saying that the Protect Life Act does not
1448 have any effect on federal law. And I guess you were
1449 referring to HHS regulations which would be federal law.

1450 Ms. {Baldwin.} Okay. Counsel, could conscience rights
1451 be interpreted to undo the essential benefits package under
1452 health care reform? Can some health plans assert their
1453 conscience does not permit them to cover contraception and/or
1454 family planning?

1455 {Counsel.} The essential benefits plan is a federal
1456 law. What we are talking about--

1457 Ms. {Baldwin.} Which would be implemented by States?

1458 {Counsel.} Which and would be regulated by the
1459 secretary of HHS. What Section 1303 C-1 refers to is the
1460 nonpreemption of State laws--

1461 Ms. {Baldwin.} Okay.

1462 {Counsel.} --and in that instance I believe the State
1463 law would be in conflict with the federal law.

1464 Ms. {Baldwin.} Counsel, could this provision, the
1465 conscience rights provision be interpreted to allow denial of
1466 maternity care for a woman living with HIV?

1467 {Counsel.} Again, this is determinative of what the
1468 State law is.

1469 Ms. {Baldwin.} Correct. But could it be?

1470 {Counsel.} If a State had such a law.

1471 Ms. {Baldwin.} Thank you, Counsel.

1472 The {Chairman.} Gentlelady's time has expired. Chair
1473 would recognize the gentlewoman from Illinois for what
1474 purpose?

1475 Ms. {Schakowsky.} I have an amendment at the desk.

1476 The {Chairman.} Clerk will report the title of the
1477 amendment.

1478 The {Clerk.} The Amendment offered by Ms. Schakowsky of
1479 Illinois.

1480 [The amendment follows:]

1481 ***** INSERT 6 *****

|
1482 The {Chairman.} Without objection the reading of the
1483 amendment is dispensed with. The clerks will disperse the
1484 amendments. Gentlelady is recognized for five minutes in
1485 support of her amendment.

1486 Ms. {Schakowsky.} Thank you, Mr. Chairman. My
1487 amendment follows on the heels of the questioning of counsel
1488 that was just conducted by Congresswoman Baldwin. What my
1489 amendment does is reinstate the words regarding abortion that
1490 are contained in the current law, adds the phrase regarding
1491 abortion to the vague and undefined term conscience rights.
1492 There has been from the start of this debate a focus on
1493 abortion that this is to make sure that federal dollars don't
1494 go to fund abortion, that it clarifies the Stupak amendment.
1495 As has been perfectly clear, it is obvious that the Pitts
1496 language whether intentionally or not is ambiguous about the
1497 reach of those so called conscience rights. And so what my
1498 amendment does it make very clear that these provisions as
1499 did the underlying bill are solely about abortion. My
1500 amendment would prevent conscience rights, a vague and
1501 undefined term from being interpreted to include conscience
1502 objections to contraception, HIV testing, mental health or
1503 substance abuse, counseling, the rights of gays and lesbians.
1504 The reason that I am concerned about the ambiguous reach of

1505 conscience rights in H.R. 358 is because we know that some
1506 medical providers in Illinois have relied on a broad
1507 interpretation of the term to do the following: to refuse to
1508 provide insurance payments for not only abortion but also
1509 contraception. Refuse to dispense medications at pharmacies
1510 and refuse to refer or transfer prescriptions even to go to
1511 another pharmacy. Refuse to provide information about
1512 referrals for condoms for patients concerned about protecting
1513 themselves from HIV. These are real life situations. They
1514 do not have to do with abortion. This is an expansion of the
1515 current law and very different from what the sponsor of the
1516 legislation claims is the purpose of this bill. So when you
1517 say that H.R. 358 is simply codifying the Hyde amendment or
1518 extending the status quo that isn't the case. The ambiguity
1519 surrounding the reach of so called conscience rights is just
1520 one example of how this legislation goes beyond current law.
1521 So I would urge my colleagues to limit the scope of their
1522 legislation to what they said it was about and not to expand
1523 these conscience rights to include things that don't relate
1524 to abortion but in fact go far beyond. So if your intention
1525 is not to deal with the areas of HIV of contraception in this
1526 legislation, to deal with issues like the rights of gay and
1527 lesbian couples, of single adults, then I would suggest that
1528 you reinsert--take out--reinsert the language of regarding

1529 abortion on page six of the legislation and I yield back.

1530 Well, and I yield back--gentleman from--did you want?

1531 The {Chairman.} The gentlelady yields back her time?

1532 Is there further?

1533 Ms. {Schakowsky.} I yield back.

1534 The {Chairman.} Gentleman from Illinois, Mr. Shimkus.

1535 Mr. {Shimkus.} Thank you, Mr. Chairman. Speak against
1536 the amendment?

1537 The {Chairman.} Gentleman is recognized for five
1538 minutes.

1539 Mr. {Shimkus.} Thank you. I have a great respect for
1540 my friend and colleague from Chicago land. I am a
1541 downstater. As I mentioned in the subcommittee hearing it
1542 shows the great diversity of a State. Many of us come from
1543 states--big urban areas, large rural areas, different values,
1544 different opinions. This is an Illinois issue in which the
1545 legislature has addressed and this is about prescribing and
1546 really as I was corrected last time dispensing of
1547 abortifacients--RU-486. When in Illinois, many pharmacists
1548 did not want to be partners to abortion and they didn't want
1549 to be mandated to dispensing the abortifacient RU-486.
1550 Obviously in a great huge state like Illinois, a great
1551 diversity of opinion, great battles in the General Assembly
1552 the law was established to provide a conscience clause for

1553 the pharmacist in dispensing. It is curious that we now at
1554 the federal level, the macro, big federal level want to
1555 determine what should be the conscience of the individual and
1556 determine what that is. I mean, not only do we want to get
1557 involved in the state activities, now we are trying to get
1558 involved in the individual health care providers decision
1559 making process of what is morally unacceptable to them. And
1560 Illinois, again, huge state, great diversity, reconciled it
1561 through the General Assembly. I would plead with my
1562 colleagues to support State's rights and the ability of the
1563 States to make this determination as the State of Illinois
1564 did in protecting conscience rights and I yield back the
1565 balance of my time.

1566 The {Chairman.} Gentleman yielded back his time. Chair
1567 will recognize the gentlelady from Wisconsin for five minutes
1568 on the amendment.

1569 Ms. {Baldwin.} Thank you, Mr. Chairman. I speak in
1570 strong support of Congresswoman Schakowsky's amendment. If
1571 there is one thing that our hearings and subcommittee markup
1572 have demonstrated it is that this extreme and intrusive bill
1573 has serious consequences including limiting access to health
1574 care for millions of Americans. As my earlier questioning
1575 revealed this amendment is needed in order to ensure that the
1576 undefined term conscience rights applies only to abortion.

1577 Intentionally or unintentionally, the Pitts language is
1578 notably ambiguous about the reach of conscience rights. The
1579 implications of this ambiguity are tremendous and I am very
1580 concerned that this bill before us today could undermine care
1581 provided to lesbian, gay, bi-sexual, and transgender
1582 individuals. This bill raises several important questions.
1583 Could the language allow a health care institution or medical
1584 professional to refuse to provide care for LGBT Americans?
1585 Could it allow a hospital or its staff to refuse visitation
1586 to a partner of a gay or lesbian patient? Mr. Chairman, I
1587 would like to share with you a case decided by the California
1588 Supreme Court in 2008. A Guadalupe Benitez, a lesbian,
1589 brought suit against the North Coast Woman's Care, a medical
1590 clinic that was treating her infertility. Two doctors at the
1591 clinic declined to perform artificial insemination for Ms.
1592 Benitez's claiming religious objections because she is a
1593 lesbian. The Supreme Court held that the First Amendment to
1594 free exercise of religion does not guarantee a right to deny
1595 fertility treatment to lesbian patients. But my concern is
1596 that under the ambiguous language of the Pitts bill more
1597 patients like Ms. Benitez will be denied care. This
1598 amendment could also open the door for denial of care for
1599 LGBT individuals seeking mental health treatment. In
1600 Michigan, a graduate level counseling student refused to

1601 counsel a gay man about a same sex relationship because she
1602 believes homosexuality is immoral and being gay is a choice
1603 and therefore could not in good conscience counsel that
1604 client. And Mr. Chairman, perhaps a grown man or woman has
1605 the ability to seek counseling elsewhere if turned away
1606 because of prejudice but my colleagues know that we are
1607 facing a harrowing surge of teen suicides in the LGBT
1608 community. It is unconscionable to me to think that our
1609 young people might be turned away from the help that they
1610 need and deserve because of the bill that we are considering
1611 today. Furthermore, this bill could have serious
1612 implications on hospital visitation. As you know, President
1613 Obama issued presidential memorandum last April that will
1614 ensure LGBT Americans receive equal treatment and
1615 compassionate care at U.S. hospitals by allowing visitors
1616 designated by the patient without regard to sexual
1617 orientation or gender identity. It is critical that we ask
1618 how this bill would impact this new rule. Would a specific
1619 doctor, nurse, or other medical professional be allowed to
1620 pass over dealing with a LGBT patient and his or her family
1621 to a colleague if he or she had some sort of moral objection?
1622 Is your intent to send us back to the dark ages where same
1623 sex partners are separated from each other during their time
1624 of desperate need because of a staff member's conscience

1625 rights. Mr. Chairman while I expose--opposed this extreme
1626 bill for many reasons, I believe that the least that we can
1627 do is ensure that the conscience rights language is limited.
1628 This bill is supposed to be about abortion. Let us not make
1629 it about opening the door to denying any form of health care
1630 to Americans. I urge my colleagues to support this
1631 amendment.

1632 The {Chairman.} Does the gentlelady yield back her
1633 time? Further discussion on amendment? Dr. Gingrey.

1634 Dr. {Gingrey.} Mr. Chairman, not discussion on the
1635 amendment but a question of counsel. Counsel, referencing
1636 the joint committee print of the Patient Protection and
1637 Affordable Care Act Section 1303 C-2, the question is does
1638 the preemptions contained in this section of the Patient
1639 Protection and Affordable Care Act apply only to abortions?

1640 {Counsel.} No, the section regarding the effect on
1641 federal law is broadly applied to all conscience protections.

1642 Dr. {Gingrey.} Okay. Thank you.

1643 The {Chairman.} Does the gentleman yield back his time?
1644 Gentleman yields back his time. Is there further discussion
1645 on the amendment? Gentleman from New Jersey, Mr. Pallone, is
1646 recognized for five minutes.

1647 Mr. {Pallone.} Mr. Chairman, I am really disturbed by
1648 the debate. I support this amendment. I think this

1649 amendment is crucial because of what we are hearing today in
1650 the debate. My colleagues on the other side of the aisle
1651 repeatedly said in the subcommittee hearing they were just
1652 trying to prevent the government from funding abortions. But
1653 it is clear based on questions that have been posed by
1654 members on both side of the aisle at this point that this is
1655 much broader and you are going against women's health and you
1656 are going after more than just government funding of
1657 abortion. And it is just another indication of why this bill
1658 is too extreme, it is overreaching, I would go so far as to
1659 say now it seems like it is intentionally overreaching. Some
1660 of the members are commenting on the other side and
1661 suggesting that this is what they had in mind from the
1662 beginning. So that--this amendment is--this amendment is
1663 really crucial if we are going to reign in this overreaching
1664 and not just you know open up the possibility of really--of
1665 really restricting women's health and even beyond women's
1666 health. I yield back the balance of--I yield to the
1667 gentlewoman--or the gentleman from Washington.

1668 Mr. {Inslee.} This morning I woke up and I saw a
1669 headline. It said Republican war on contraception and I
1670 thought well that has to be an overstatement. Surely in
1671 today's age we wouldn't have one of the major parties of the
1672 noble tradition really taking action to prevent women and men

1673 from getting contraceptive services. But this discussion has
1674 shown this was not an accident. It was not an incidental
1675 foul up by some drafter. It is an intent to reduce the
1676 availability of contraceptive services in America. Not
1677 abortion, but emergency contraception. I was Regional
1678 Director of HHS when emergency contraception had its first
1679 sort of trials out in Seattle areas in the mid '90's. It has
1680 now been proven to be extremely effective, extremely safe,
1681 and extremely acceptable to the American people and yet this
1682 appears to be a conscious effort to prevent people from
1683 getting access to emergency contraception. Now I understand
1684 conscience clauses, but where does this stop? Where does it
1685 stop? And we do have people who are good Americans who have
1686 good consciences who believe that blood transfusions are not
1687 within the Almighty's plan. But we don't allow them to deny
1688 people blood when they go to the emergency room and we should
1689 now allow pharmacists and others to deny people contraceptive
1690 services in this country, at this stage, under this
1691 constitution. You want to talk about the conscience clause?
1692 How about the oath we have all taken to the U.S.
1693 Constitution? And the U.S. Constitution according to the
1694 only organ that we have to interpret it, the Supreme Court,
1695 it said men and women have a privacy right in regard to these
1696 services in *Griswold v. Connecticut*. And we took an oath to

1697 that, all of us and we have different views about our
1698 personal lives but we ought to share the recognition that
1699 this is a constitutional right. And this is a conscience
1700 willful effort and maybe that headline wasn't so far off the
1701 case. So I urge us to pass this amendment. Let us protect
1702 emergency contraception and our respect for people's rights.
1703 Thank you. And I will yield to Ms. Schakowsky.

1704 Ms. {Schakowsky.} And also I want to be very clear,
1705 too, that the section that I am mending clearly has to do
1706 with abortion. However, I want to make sure we all heard the
1707 answer to Mr. Gingrey's question. You said does the use of
1708 the word conscience rights refer just to abortions and the
1709 answer without equivocation was no. I am trying to clarify
1710 that section to make sure that it refers just to the issue of
1711 abortion as it has been stated over and over again.

1712 Mr. {Pallone.} If there is time I yield to Ms. Harman
1713 if she wants the 40 minutes or take your own time.

1714 The {Chairman.} Seconds. Seconds.

1715 Mr. {Pallone.} All right, I will yield back.

1716 The {Chairman.} Gentleman yields back his time.

1717 Further discussion on the amendment?

1718 Dr. {Gingrey.} Mr. Chairman, thank you. To--again to
1719 Counsel, referring back to Ms. Baldwin's hypotheticals, the
1720 points she listed, could the implications and scenarios cited

1721 happen because of the Protect Life Act or would States
1722 actually need to pass or have a law first?

1723 {Counsel.} The Protect Life Act just protects against
1724 the preemption of State laws regarding certain conscience
1725 rights. So in those scenarios a State would have to pass a
1726 law that would allow for someone to implicate their
1727 conscience rights regarding any of the scenarios that she
1728 mentioned, so yes. They would have to pass a State law
1729 before those scenarios could take place.

1730 Dr. {Gingrey.} Great. Anything else.

1731 Mr. {Shimkus.} Will the gentleman yield?

1732 Mr. {Gingrey.} Gentleman yield, Mr. Gingrey, behind
1733 you?

1734 The {Chairman.} Yes, I will yield to the gentlewoman
1735 from Illinois.

1736 Mr. {Shimkus.} Thank you. Again, emergency
1737 contraceptive as my friend from Washington State was
1738 defining--I am assuming is an abortifacient, RU-486 which
1739 does--no it doesn't? So define for me. It is an
1740 abortifacient?

1741 Ms. {DeGette.} Does the gentleman yield?

1742 Mr. {Shimkus.} I would be happy to.

1743 Ms. {DeGette.} RU-486 is a drug induced abortion.

1744 Mr. {Shimkus.} Abortion. Right.

1745 Ms. {DeGette.} Morning after pill is a birth control
1746 pill--

1747 Mr. {Shimkus.} All right, okay. Well--

1748 Ms. {DeGette.} --developed that prevents pregnancy.
1749 They are two totally different things.

1750 Mr. {Shimkus.} Well, I--again, I would go back to the
1751 Illinois issue of depriving the State who has made a decision
1752 on our conscience clause for pharmacists who do not want to
1753 support abortion through prescribing or dispensing RU--an
1754 abortifacient drug. That is what Illinois decided through
1755 state law.

1756 Ms. {DeGette.} But with the--

1757 Mr. {Shimkus.} And--no--I am not finished.

1758 Ms. {DeGette.} Okay.

1759 Mr. {Shimkus.} And as my friend from New York who we
1760 did talk about and there will be issues on the
1761 constitutionality and we should have the constitutionality of
1762 when life begins and when life is protected. But for folks
1763 to go down the ride of the rights and privileges of citizens
1764 in this country, and the unborn not having the rights to be
1765 deprived of--and being deprived of life through abortion that
1766 is where we stand firm. So it is the issue. The issue in
1767 Illinois is simple as I said earlier and I didn't want to--
1768 the Illinois General Assembly had this debate. Pharmacists

1769 said we have a moral objection to being forced to dispense an
1770 abortifacient. They went--and I will--and they went to the
1771 General Assembly. The law was passed to protect them. All--
1772 what we want to do is protect the rights of states and had
1773 that not being overridden by federal law. And I would yield
1774 to my colleague from Illinois.

1775 Ms. {DeGette.} Thank you. This--you are acting as if
1776 this amendment that says regarding--reinstating the regarding
1777 abortion would somehow negate Illinois law. It--or
1778 conscience on anything. It does not. It only--if to the
1779 extent that it would relate to abortion. So if you argue
1780 that it is an abortifacient then that is another matter.
1781 This is--

1782 Mr. {Shimkus.} And that's--reclaiming my time and I
1783 will bounce back but I-- that is the issue.

1784 Ms. {DeGette.} So, but it--this does not preempt State
1785 law. This says this is only conscience regarding abortion
1786 because that is what this bill is about.

1787 Mr. {Shimkus.} And many of us feel that abortifacients
1788 is abortion and pharmacists do not want to be forced to
1789 prescribe that. And that is what our issue was in the State
1790 of Illinois and that is what our General Assembly--

1791 Ms. {DeGette.} And this legislation would relate to
1792 that.

1793 Mr. {Shimkus.} And we not want--and we don't-- no.

1794 Ms. {DeGette.} This legislation will relate to that.

1795 Mr. {Shimkus.} And I disagree. So--that's why I would
1796 ask--it is my time. That is why I would continue to ask my
1797 colleagues in part of this debate to protect State law was--
1798 been decided by the Illinois General Assembly at with which
1799 much debate and the pharmacists who have a conscience and
1800 want to and this amendment we feel would deprive the State
1801 and our pharmacists from being able to deny abortifacients
1802 based upon--

1803 Ms. {DeGette.} That is not--that is just not the case.

1804 Mr. {Shimkus.} I believe it is. My friend Mr. Weiner,
1805 no, we don't have enough time for you. I yield back my time.

1806 The {Chairman.} The gentleman yields--actually it is
1807 Dr. Gingrey's time he yields back his time. I would
1808 recognize the gentlelady from California, Ms. Harman.

1809 Ms. {Harman.} Thank you, Mr. Chairman. This may be my
1810 last Full Committee Markup before I resign my seat in a
1811 couple of weeks. And I want to thank you and the Ranking
1812 Member, and all of our colleagues for years and years and
1813 years of partnership and occasionally a few scratchy moments,
1814 but thank you all for your friendship and for your service.
1815 I have enjoyed particularly, Mr. Chairman, working with you
1816 on a number of issues, working very closely to coauthor

1817 legislation and to promote causes in which we both believe.
1818 I have to say I regret that the first markup of this
1819 committee under your leadership is on this subject. A
1820 subject which we painfully addressed during health care
1821 markup last year and I thought resolved in a way that was not
1822 fully satisfactory to anyone but we resolved it and where we
1823 are back again in the morass. I, as a woman, and a mother,
1824 and a grandmother, this issue goes to the core of my own
1825 moral code. I respect the right of any woman or man to
1826 oppose my views, but in return I expect those who oppose my
1827 views to respect my views. I believe that abortion should be
1828 safe and rare but that a woman's constitutional right to
1829 privacy as articulated in Roe v. Wade is inviolable. And as
1830 we get more deeply into issues like this amendment it is very
1831 clear that at least to me that we are going into territory
1832 that will hurt a woman's right to choose as protected under
1833 the constitution and in Roe v. Wade. I would like the record
1834 to show that had a been present a bit earlier I would have
1835 strongly supported the DeGette amendment and I would urge us
1836 as the debate proceeds this morning to try to be as
1837 respectful as possible. But I would hope to try to put this
1838 issue aside and proceed with the compromise we reached very
1839 carefully and painfully last year and leave that undisturbed
1840 in this new congress. Again, I thank you and my colleagues

1841 for enormous friend ship which hope will continue and I say
1842 to my pals over here on this side of the aisle that I may be
1843 leaving Congress but I am strongly with you always. Thank
1844 you. I--yes, I have two minutes left and I would yield to my
1845 colleague from California.

1846 Mrs. {Capps.} And that gives me a chance to say how
1847 much we are going to miss our dear California colleague and
1848 she's not going very far away, but she is going to leave
1849 Congress and you have contributed a great deal, not solely
1850 the legislation you did with Mr. Upton, but adding enormous
1851 weight and value to your constituents in California. And I
1852 want to underscore that I also find it very much a dismaying
1853 fact that we are talking--we in this committee with such a
1854 noble agenda and tradition are beginning our new Congress
1855 under new leadership on this very divisive issue which--and I
1856 believe this conversation regarding Ms. Schakowsky's
1857 amendment is so critically important as it regards the rights
1858 of Americans and what we stand up for when we speak of
1859 conscience. And it is clear from the questioning that
1860 happened in the markup in the subcommittee on Friday,
1861 questions of counsel and questions of counsel today,
1862 questioned--clarified by Dr. Gingrey on the other side with
1863 counsel that this amendment which seeks to restrict the
1864 discussion solely to the topic of abortion which is what the

1865 bill is about actually has an unintended or perhaps intended
1866 consequence of reaching far into the right of not just women,
1867 but people in terms of conscience and I want us to be mindful
1868 of that. This common sense amendment is what we should do to
1869 clarify the role that we have in this committee but also what
1870 the healthcare law intended under the Stupak provision that
1871 became the status quo law that was a part of health care in
1872 the Reform Act that is now law. And we want to make sure
1873 that people have access to health care where their States
1874 allow provisions that it be--there not be a straightjacket
1875 put on employees of a hospital where the rights for abortion
1876 have been restricted but the rights for access to care should
1877 still be allowed. And that is why this clarifying amendment
1878 along with the one that was proposed by Ms. DeGette are
1879 really critically important for us to continue, so I strongly
1880 support the Schakowsky amendment. I yield back.

1881 The {Chairman.} The lady's time has expired. Are there
1882 other members wishing to speak on the amendment? Seeing none
1883 I think we are prepared to vote on the amendment. All those
1884 in favor say aye. All those opposed say no. No--roll call--
1885 the clerk will call the roll.

1886 The {Clerk.} Mr. Barton?

1887 [No response.]

1888 The {Clerk.} Mr. Stearns?

1889 Mr. {Stearns.} No.
1890 The {Clerk.} Mr. Stearns, no.
1891 Mr. Whitfield?
1892 Mr. {Whitfield.} No.
1893 The {Clerk.} Mr. Whitfield, no.
1894 Mr. Shimkus?
1895 Mr. {Shimkus.} No.
1896 The {Clerk.} Mr. Shimkus, no.
1897 Mr. Pitts?
1898 Mr. {Pitts.} No.
1899 The {Clerk.} Mr. Pitts, no.
1900 Ms. Bono Mack?
1901 Ms. {Bono Mack.} No.
1902 The {Clerk.} Ms. Bono Mack, no.
1903 Mr. Walden?
1904 [No response.]
1905 The {Clerk.} Mr. Terry?
1906 [No response.]
1907 The {Clerk.} Mr. Rogers?
1908 [No response.]
1909 Ms. Myrick?
1910 Mrs. {Myrick.} No.
1911 The {Clerk.} Ms. Myrick, no.
1912 Mr. Sullivan?

1913 [No response.]
1914 The {Clerk.} Mr. Murphy?
1915 Mr. {Murphy.} No.
1916 The {Clerk.} Mr. Murphy, no.
1917 Mr. Burgess?
1918 Dr. {Burgess.} No.
1919 The {Clerk.} Mr. Burgess, no.
1920 Ms. Blackburn?
1921 Mrs. {Blackburn.} No.
1922 The {Clerk.} Ms. Blackburn, no.
1923 Mr. Bilbray?
1924 Mr. {Bilbray.} No.
1925 The {Clerk.} Mr. Bilbray, no.
1926 Mr. Bass?
1927 Mr. {Bass.} No.
1928 The {Clerk.} Mr. Bass, no.
1929 Mr. Gingrey?
1930 Dr. {Gingrey.} No.
1931 The {Clerk.} Mr. Gingrey, no.
1932 Mr. Scalise?
1933 Mr. {Scalise.} No.
1934 The {Clerk.} Mr. Scalise, no.
1935 Mr. Latta?
1936 Mr. {Latta.} No.

1937 The {Clerk.} Mr. Latta, no.
1938 Ms. McMorris Rodgers?
1939 Ms. {McMorris Rodgers.} No.
1940 The {Clerk.} Ms. McMorris Rodgers, no.
1941 Mr. Harper?
1942 [No response.]
1943 The {Clerk.} Mr. Lance?
1944 Mr. {Lance.} No.
1945 The {Clerk.} Mr. Lance, no.
1946 Mr. Cassidy?
1947 [No response.]
1948 The {Clerk.} Mr. Guthrie?
1949 Mr. {Guthrie.} No.
1950 The {Clerk.} Mr. Guthrie, no.
1951 Mr. Olson?
1952 Mr. {Olson.} No.
1953 The {Clerk.} Mr. Olson, no.
1954 Mr. McKinley?
1955 Mr. {McKinley.} No.
1956 The {Clerk.} Mr. McKinley, no.
1957 Mr. Gardner?
1958 Mr. {Gardner.} No.
1959 The {Clerk.} Mr. Gardner, no.
1960 Mr. Pompeo?

1961 Mr. {Pompeo.} No.

1962 The {Clerk.} Mr. Pompeo, no.

1963 Mr. Kinzinger?

1964 Mr. {Kinzinger.} No.

1965 The {Clerk.} Mr. Kinzinger, no.

1966 Mr. Griffith?

1967 Mr. {Griffith.} No.

1968 The {Clerk.} Mr. Griffith, no.

1969 Mr. Waxman?

1970 Mr. {Waxman.} Aye.

1971 The {Clerk.} Mr. Waxman, aye.

1972 Mr. Dingell?

1973 [No response.]

1974 The {Clerk.} Mr. Markey?

1975 Mr. {Markey.} Aye.

1976 The {Clerk.} Mr. Markey, aye.

1977 Mr. Towns?

1978 Mr. {Towns.} Aye.

1979 The {Clerk.} Mr. Towns, aye.

1980 Mr. Pallone?

1981 Mr. {Pallone.} Aye.

1982 The {Clerk.} Mr. Pallone, aye.

1983 Mr. Rush?

1984 [No response.]

1985 The {Clerk.} Ms. Eshoo?
1986 Ms. {Eshoo.} Aye.
1987 The {Clerk.} Ms. Eshoo, aye.
1988 Mr. Engel?
1989 Mr. {Engel.} Aye.
1990 The {Clerk.} Mr. Engel, aye.
1991 Mr. Green?
1992 Mr. {Green.} Aye.
1993 Ms. DeGette?
1994 Ms. {DeGette.} Aye.
1995 The {Clerk.} Ms. DeGette, aye.
1996 Ms. Capps?
1997 Mrs. {Capps.} Aye.
1998 The {Clerk.} Ms. Capps, aye.
1999 Mr. Doyle?
2000 Mr. {Doyle.} Yes.
2001 The {Clerk.} Mr. Doyle, aye.
2002 Ms. Harman?
2003 Ms. {Harman.} Aye.
2004 The {Clerk.} Ms. Harman, aye.
2005 Ms. Schakowsky?
2006 Ms. {Schakowsky.} Aye.
2007 The {Clerk.} Ms. Schakowsky, aye.
2008 Mr. Gonzalez?

2009 Mr. {Gonzalez.} Aye.

2010 The {Clerk.} Mr. Gonzalez, aye.

2011 Mr. Inslee?

2012 Mr. {Inslee.} Aye.

2013 The {Clerk.} Mr. Inslee, aye.

2014 Ms. Baldwin?

2015 Ms. {Baldwin.} Aye.

2016 The {Clerk.} Ms. Baldwin, aye.

2017 Mr. Ross?

2018 Mr. {Ross.} No.

2019 The {Clerk.} Mr. Ross, no.

2020 Mr. Weiner?

2021 Mr. {Weiner.} Aye.

2022 The {Clerk.} Mr. Weiner, aye.

2023 Mr. Matheson?

2024 [No response.]

2025 The {Clerk.} Mr. Butterfield?

2026 Mr. {Butterfield.} Aye.

2027 The {Clerk.} Mr. Butterfield, aye.

2028 Mr. Barrow?

2029 Mr. {Barrow.} Aye.

2030 The {Clerk.} Mr. Barrow, aye.

2031 Ms. Matsui?

2032 Ms. {Matsui.} Aye.

2033 The {Clerk.} Ms. Matsui, aye.

2034 Mr. Upton?

2035 Mr. {Upton.} Votes no.

2036 The {Clerk.} Mr. Upton, no.

2037 The {Chairman.} Are there members who have not been--

2038 Mr. Barton.

2039 Mr. {Barton.} No.

2040 The {Clerk.} Mr. Barton, no.

2041 The {Chairman.} Mr. Walden?

2042 Mr. {Walden.} No.

2043 The {Clerk.} Mr. Walden, no.

2044 The {Chairman.} Mr. Cassidy?

2045 Dr. {Cassidy.} No.

2046 The {Clerk.} Mr. Cassidy, no.

2047 The {Chairman.} Mr. Harper?

2048 Mr. {Harper.} No.

2049 The {Clerk.} Mr. Harper, no.

2050 The {Chairman.} Mr. Terry, did you vote?

2051 Mr. {Terry.} Vote no.

2052 The {Clerk.} Mr. Terry, no.

2053 The {Chairman.} Members on this side not recorded? Are

2054 there any other members not recorded that would like to

2055 record their vote? If not, the clerk will report the total.

2056 Mr. Rogers are you recorded?

2057 The {Clerk.} Mr. Rogers is not recorded.

2058 Mr. {Rogers.} No.

2059 The {Clerk.} Mr. Rogers, no. Mr. Chairman, 19 ayes, 31
2060 nays.

2061 The {Chairman.} Nineteen ayes, 31 nays. The amendment
2062 is not agreed to. For what purposes does the gentleman from
2063 New York seek recognition?

2064 Mr. {Engel.} Mr. Chairman, I move to strike the last
2065 word.

2066 The {Chairman.} Gentleman is recognized for five
2067 minutes.

2068 Mr. {Engel.} Thank you, Mr. Chairman. I have questions
2069 for counsel. Thank you. The existing Church amendment named
2070 for its principle sponsor then Senator Frank Church which has
2071 been in place since 1973 and the Affordable Care Act both
2072 provide protections against discrimination for doctors that
2073 perform abortion and for doctors that do not perform
2074 abortions. The protections in that law are neutral. So I
2075 would like to ask Counsel, is there anything in the new
2076 ``nondiscrimination provision'' added by the new Subsection G
2077 in H.R. 358 beginning on page six that provides protections
2078 against discrimination for pro choice doctors and
2079 institutions?

2080 {Counsel.} Are you referring to how the Protect Life

2081 Act amends Section 1303 of PPACA?

2082 Mr. {Engel.} Yes.

2083 {Counsel.} Under Section 1303 C-2 there isn't an effect
2084 on federal law regarding abortion. That includes the
2085 willingness or refusal to provide abortion. So the Church
2086 amendment should still apply because that is federal law,
2087 i.e. 1303 C-2 would not affect that.

2088 Mr. {Engel.} Well, I would like a yes or no answer in
2089 terms of again, let me repeat it. Is there anything in the
2090 new ``nondiscrimination provision'' added by the new
2091 Subsection G in H.R. 358 that provides protections against
2092 discrimination for pro-choice doctors and institutions? I
2093 believe the answer to that is no, but I would like to hear
2094 what you have to say.

2095 {Counsel.} Again, in Subsection G there is not but
2096 there is the savings in 1303 C on effects of federal law.
2097 The Church amendment is still federal law so that does
2098 protect the willingness or refusal to provide abortion.

2099 Mr. {Engel.} Well, if the Church amendment is really,
2100 the protections there are neutral and the way I read the new-
2101 -the page H.R. 358 Subsection G it is rolling back
2102 protections. So I think the answer is no.

2103 {Counsel.} Subsection G does refer to a healthcare's
2104 entities refusal to undergo training for abortion or

2105 participate in providing abortion. But clause C of 1303
2106 still has the effect on federal law.

2107 Mr. {Engel.} Well, that isn't really my question. My
2108 question is about Subsection G and the way I read it there is
2109 no protection for people who want to provide abortions. The
2110 protections are a one way street for those people who are
2111 opposed to abortion? Is that correct?

2112 {Counsel.} In Subsection G it does refer only to
2113 refusal, but again, Subsection C it does--it states it
2114 doesn't have any effect on current law regarding abortion--
2115 the willingness or refusal to do so.

2116 Mr. {Engel.} But Subsection G does not protect a pro-
2117 choice people. Is that not true?

2118 {Counsel.} But according to Subsection C, it doesn't
2119 trump existing law related to the willingness or refusal to
2120 perform an abortion.

2121 Mr. {Engel.} Okay. Let me ask you this. If a
2122 physician refuses to perform an abortion for a rape victim at
2123 a private clinic under the discrimination section of H.R.
2124 358, is he or she protected from being fired from a public
2125 hospital?

2126 {Counsel.} Not under G, but if there is a federal law
2127 that already does so that federal law is--

2128 Mr. {Engel.} And my last question is if a physician

2129 performs an abortion for a rape victim in a private clinic
2130 under the nondiscrimination section is he or she protected
2131 from being fired from a public hospital?

2132 {Counsel.} Again, not under G, but other federal law
2133 applies.

2134 Mr. {Engel.} Okay. So the answer is no. Thank you.
2135 Thank you, Mr. Chairman.

2136 The {Chairman.} Gentleman's time is expired. Are there
2137 further amendments to the bill?

2138 Mr. {Engel.} Yes, Mr. Chairman. I have an amendment at
2139 the desk.

2140 The {Chairman.} The gentleman from New York has an
2141 amendment at the desk. The clerk will read the title of the
2142 amendment or read the amendment.

2143 The {Clerk.} An amendment offered by Mr. Engel of New
2144 York.

2145 The {Chairman.} The staff will circulate the amendments
2146 and the gentleman is recognized for five minutes in support
2147 of his amendment.

2148 [The amendment follows:]

2149 ***** INSERT 7 *****

|

2150 Mr. {Engel.} Thank you very much, Mr. Chairman. In
2151 line with the answers the counsel has just given me it only
2152 reiterates why I think we need this amendment that I am about
2153 to put forward. I believe in the right for doctors and
2154 hospitals who do not believe in abortion to not be forced to
2155 provide abortion services. I think that is only fair. I
2156 don't think that anyone should be forced to do something that
2157 goes against their conscience or do something that they do
2158 not want to do. But I do think that conscience is a two way
2159 street. Provisions of current law both in health reform and
2160 in the long standing Church amendment named for its principle
2161 sponsor Senator Frank Church protects both doctors who do not
2162 believe in abortion and those who do. State laws are not
2163 preempted no matter which group they protect. Federal laws
2164 are unaffected as they apply to either group and the Church
2165 amendment protects providers who participate and refuse to
2166 participate in abortion. But the bill we are considering
2167 today changes all that. Again, as you can tell, the answers
2168 I got from the counsel. It changes current law. It changes
2169 the balance we have had for these many years and creates a
2170 one way street protecting only those providers who oppose
2171 abortion. Again, I respect those who oppose abortion and I
2172 believe that conscience protection is a very serious issue.

2173 But we should not ignore long standing law and protect one
2174 side while at the same time not protect the other side. I am
2175 sure that there are doctors and nurses who believe that they
2176 are ethically bound to provide abortion services when the
2177 pregnancy endangers the health of the woman. I am also
2178 confident that there are doctors and nurses who believe that
2179 they are morally required to provide a requested abortion to
2180 a victim of rape or incest and they should be allowed to do
2181 so. Yet my colleagues on the other side of the aisle seem to
2182 want to protect only one group's conscience and not the
2183 others. This seems wrong to me particularly since it upends
2184 longstanding, long tradition in this country. This doesn't
2185 seem like conscience protection. This seems like the
2186 government advancement of a particular viewpoint on abortion.
2187 And it is wrong to say as a majority witness did in a
2188 subcommittee hearing last week that these protections are
2189 already provided by Roe v. Wade. It is not true and it is
2190 ridiculous. If a hospital fires a doctor because he performs
2191 abortion elsewhere that is not protected by Roe v. Wade. If
2192 a nurse is not given a job because she has provided
2193 counseling on abortion that is not protected by Roe v. Wade.
2194 If a hospital chooses to provide training on safe abortion
2195 methods and is denied a grant as a result, that is not
2196 protected in Roe v. Wade. If a clerk outside a hospital says

2197 to a woman sorry, we don't provide abortion services but the
2198 clinic 10 blocks down the street does, that person can be
2199 fired. We should not protect one group's conscience and
2200 criminalize another's. It is not fair and it is not right.
2201 We need the two way protections that exist in current law and
2202 my amendment provides that. I would like to make clear that
2203 my amendment does not include protecting the woman's
2204 conscience which I think is really the one which needs to be
2205 protected. We talk about everybody else's conscience but the
2206 woman who has to make the choice about whether or not to have
2207 an abortion we somehow disregard and throw away her
2208 conscience as if she is a being or a piece of stone, her
2209 beliefs, her conscience doesn't count. But I know we are not
2210 going to win that fight. My amendment just deals with health
2211 care providers and doctors. If a woman makes the difficult
2212 decision to have an abortion or is an emergency and needs to
2213 access one to save her life, then doctors should be allowed
2214 to do the procedure without penalty. I now yield to Ms.
2215 Capps.

2216 Mrs. {Capps.} Thank you for yielding, but I am going to
2217 wait to get my own time.

2218 Mr. {Engel.} Okay. Thank you, Mr. Chairman, and I
2219 yield back the balance of my time.

2220 The {Chairman.} The gentleman yields back his time.

2221 Are there other members wishing to speak on the amendment?

2222 Gentleman from Kentucky, Mr. Guthrie recognized for five

2223 minutes.

2224 Mr. {Guthrie.} Thank you, Mr. Chairman. This amendment

2225 changes the conscience protection to prohibit a federal

2226 agency or State or local government from receiving health

2227 care act funds from discriminating against any health care

2228 entity because the entity requires training for abortions,

2229 performs abortions, or covers or pays for abortions. This

2230 amendment would make regulatory enforcement of laws regarding

2231 abortion subject to litigation. While the bill does prevent

2232 preemption of State laws, enforcement of laws would be

2233 considered discriminatory and subject to litigation because

2234 they treat those who perform abortions differently from those

2235 who do not. Implementation of the first half of the Pitts

2236 bill, preventing federal tax subsidies to help plans that

2237 cover elective abortions could itself be nullified because it

2238 discriminates between plans that cover abortions and those

2239 that do not. This change could even result in a back door

2240 Freedom of Choice Act that provides a legal basis to overturn

2241 any enforcement of any State or federal laws that regulate or

2242 restrict abortion by calling such enforcement discriminatory.

2243 The Gosnell situation in Pennsylvania demonstrates that more

2244 not less regulation of abortion providers is necessary. In

2245 the Gosnell case the State failed to do proper inspections or
2246 comply with Pennsylvania Abortion Control Act. Under this
2247 amendment, if the health department had targeted Gosnell
2248 Clinic for investigation, it certainly was warranted, Gosnell
2249 would have had the grounds to sue the State. The change is
2250 also internally and consistent. For example, the bill's
2251 underlying conscience protections insure that government
2252 programs cannot require training in abortion because such a
2253 requirement discriminates against individuals who do not
2254 participate in the practice of abortion. This law adds a
2255 contradictory provision protecting the requirement for
2256 abortion training thus helping to violate the conscience of
2257 any applicant who is opposed to doing abortions. At best
2258 this is an ambiguity in the law. I yield back.

2259 The {Chairman.} Gentleman yields back his time. Are
2260 there other members--the gentlelady from California, Ms.
2261 Capps, recognized for five minutes.

2262 Mrs. {Capps.} Thank you, Mr. Chairman. Thank you. I
2263 think we all can agree that this topic of conscience clause
2264 is sensitive. While there are medical professionals who do
2265 oppose abortion, there are those that believe that they are
2266 morally and ethically bound to perform those services if the
2267 situation warrant. However, as counsel even underscored,
2268 this extreme legislation is one sided and would allow

2269 Congress to deem who is worthy of conscience protections and
2270 who is not. So I believe we should see how this would play
2271 out in the real world and this is a concrete example that I
2272 want to relay and it is from the Director of the Section of
2273 Family Planning and Contraception at Northwest University.
2274 His name is Dr. Hammond. Through his work he has seen the
2275 gauntlet of instances where despite that pregnant woman's
2276 intention to carry her pregnancy to term it is sometimes not
2277 possible. He recounts the following story of a patient with
2278 a rupture of the amniotic sac at 20 weeks gestation. The
2279 patient had a complete Placenta previa, a condition where the
2280 afterbirth covers the opening to the uterus. Although the
2281 patient hoped the pregnancy might continue, fervently hoped,
2282 she began contracting and suddenly hemorrhaged losing nearly
2283 a liter of blood into her bed in a single gush. Had his team
2284 not quickly intervened to terminate the pregnancy she would
2285 have bled to death. Doctor--if Dr. Hammond was working in a
2286 hospital that refused to allow him and his team to provide
2287 the range of services needed to save her life she would have
2288 bled to death. And this is what happens in subsahara and
2289 Africa and countries with limited access to an obstetric
2290 services. If they choose to act despite the hospital's
2291 policy the providers who saved her life would be out of a
2292 job. Despite the arguments from the other side, this

2293 protection is not currently offered by Roe and many doctors
2294 and nurses who perform abortions or provide counseling are
2295 routinely discriminated against. That is why all providers
2296 should have access to conscience protections whether or not
2297 their views conform with those on either side of the aisle.
2298 That is an issue of fairness. That is what this amendment is
2299 about. I believe we have an obligation to support this
2300 amendment and I urge my colleagues to do so and I will yield
2301 to my neighbor, Ms. DeGette.

2302 Ms. {DeGette.} Thank you very much. I just wanted to--
2303 I have been sitting here thinking and Mr. Engel, I want to
2304 thank you for bringing this amendment. I have been sitting
2305 here thinking about Mr. Engel's colloquy with counsel about
2306 what the intention here is. Because according to Counsel,
2307 the Church amendment which applies both directions to the
2308 conscience clause--either to people who are opposed to
2309 providing abortions or who want to be able to provide this
2310 legal service to women, it oppose across the board in the
2311 Public Health Service Act. So the question is then what is
2312 the intention here because the court interpreting the
2313 legislation intent either they could say one of two things.
2314 Number one, as counsel said they could say well, they apply
2315 side by side so that in the cases that that particular act
2316 applies to then the conscience clause would go both ways.

2317 But here under a much broader act it would only go one way.
2318 And I don't really understand what the intention is because
2319 if the intention is to make this law parallel with current
2320 law you would adopt the Engel amendment. It would make sense
2321 to say conscience clause goes both directions. And in
2322 addition as I have been sitting here thinking I think there
2323 might be some constitutional problems with this too, because
2324 you can't simply give one set of providers a conscience
2325 clause and not the other set of providers. So not--I mean,
2326 if this amendment were not adopted, I think what could well
2327 happen would be aside from years of litigation would be that
2328 you would have disparate results in the law. And like all of
2329 my colleagues said I think it was recognized years ago in
2330 Congress these things can and should go both directions. And
2331 frankly from my perspective as the co-chair of the Pro-Choice
2332 Caucus, I also agree that people should be able to exercise
2333 the conscience clause. I also agree that if a provider has a
2334 moral opposition to providing abortions they shouldn't be
2335 forced to do that. But on the other hand, I think that if
2336 somebody wants to provide that service they should not be
2337 discriminated against for doing that either. I frankly
2338 really can't understand why anybody would say otherwise. And
2339 with that I thank the gentlelady for yielding and I yield
2340 back.

2341 The {Chairman.} Gentlelady yields back her time. Are
2342 there other members wishing to speak on the amendment?
2343 Seeing none, I think we are ready for the call of question.
2344 Those in favor of the amendment offered by the gentleman from
2345 New York, say aye.

2346 Mr. {Engel.} A recorded vote, please.

2347 The {Chairman.} A recorded vote is asked for. The
2348 clerk will call the roll.

2349 The {Clerk.} Mr. Barton?

2350 [No response.]

2351 The {Clerk.} Mr. Stearns?

2352 [No response.]

2353 Mr. Whitfield?

2354 [No response.]

2355 The {Clerk.} Mr. Shimkus?

2356 Mr. {Shimkus.} No.

2357 The {Clerk.} Mr. Shimkus, no.

2358 Mr. Pitts?

2359 Mr. {Pitts.} No.

2360 The {Clerk.} Mr. Pitts, no.

2361 Ms. Bono Mack?

2362 Ms. {Bono Mack.} No.

2363 The {Clerk.} Ms. Bono Mack, no.

2364 Mr. Walden?

2365 Mr. {Walden.} No.

2366 The {Clerk} Mr. Walden, no.

2367 Mr. Terry?

2368 Mr. {Terry.} No.

2369 The {Clerk.} Mr. Terry, no.

2370 Mr. Rogers?

2371 Mr. {Rogers.} No.

2372 The {Clerk.} Mr. Rogers, no.

2373 Ms. Myrick?

2374 Mrs. {Myrick.} No.

2375 The {Clerk.} Ms. Myrick, no.

2376 Mr. Sullivan?

2377 [No response.]

2378 The {Clerk.} Mr. Murphy?

2379 Mr. {Murphy.} No.

2380 The {Clerk.} Mr. Murphy, no.

2381 Mr. Burgess?

2382 Dr. {Burgess.} No.

2383 The {Clerk.} Mr. Burgess, no.

2384 Ms. Blackburn?

2385 Mrs. {Blackburn.} No.

2386 The {Clerk.} Ms. Blackburn, no.

2387 Mr. Bilbray?

2388 Mr. {Bilbray.} No.

- 2389 The {Clerk.} Mr. Bilbray, no.
- 2390 Mr. Bass?
- 2391 Mr. {Bass.} No.
- 2392 The {Clerk.} Mr. Bass, no.
- 2393 Mr. Gingrey?
- 2394 Dr. {Gingrey.} No.
- 2395 The {Clerk.} Mr. Gingrey, no.
- 2396 Mr. Scalise?
- 2397 Mr. {Scalise.} No.
- 2398 The {Clerk.} Mr. Scalise, no.
- 2399 Mr. Latta?
- 2400 Mr. {Latta.} No.
- 2401 The {Clerk.} Mr. Latta, no.
- 2402 Ms. McMorris Rodgers?
- 2403 Ms. {McMorris Rodgers.} No.
- 2404 The {Clerk.} Ms. McMorris Rodgers, no.
- 2405 Mr. Harper?
- 2406 Mr. {Harper.} No.
- 2407 The {Clerk.} Mr. Harper, no.
- 2408 Mr. Lance?
- 2409 Mr. {Lance.} No.
- 2410 The {Clerk.} Mr. Lance, no.
- 2411 Mr. Cassidy?
- 2412 Dr. {Cassidy.} No.

2413 The {Clerk.} Mr. Cassidy, no.
2414 Mr. Guthrie?
2415 Mr. {Guthrie.} No.
2416 The {Clerk.} Mr. Guthrie, no.
2417 Mr. Olson?
2418 Mr. {Olson.} No.
2419 The {Clerk.} Mr. Olson, no.
2420 Mr. McKinley?
2421 Mr. {McKinley.} No.
2422 The {Clerk.} Mr. McKinley, no.
2423 Mr. Gardner?
2424 Mr. {Gardner.} No.
2425 The {Clerk.} Mr. Gardner, no.
2426 Mr. Pompeo?
2427 Mr. {Pompeo.} No.
2428 The {Clerk.} Mr. Pompeo, no.
2429 Mr. Kinzinger?
2430 Mr. {Kinzinger.} No.
2431 The {Clerk.} Mr. Kinzinger, no.
2432 Mr. Griffith?
2433 Mr. {Griffith.} No.
2434 The {Clerk.} Mr. Griffith, no.
2435 Mr. Waxman?
2436 Mr. {Waxman.} Aye.

2437 The {Clerk.} Mr. Waxman, aye.
2438 Mr. Dingell?
2439 [No response.]
2440 The {Clerk.} Mr. Markey?
2441 Mr. {Markey.} Aye.
2442 The {Clerk.} Mr. Markey, aye.
2443 Mr. Towns?
2444 Mr. {Towns.} Aye.
2445 The {Clerk.} Mr. Towns, aye.
2446 Mr. Pallone?
2447 Mr. {Pallone.} Aye.
2448 The {Clerk.} Mr. Pallone, aye.
2449 Mr. Rush?
2450 [No response.]
2451 The {Clerk.} Ms. Eshoo?
2452 Ms. {Eshoo.} Aye.
2453 The {Clerk.} Ms. Eshoo, aye.
2454 Mr. Engel?
2455 Mr. {Engel.} Aye.
2456 The {Clerk.} Mr. Engel, aye.
2457 Mr. Green?
2458 Mr. {Green.} Aye.
2459 The {Clerk.} Mr. Green, aye.
2460 Ms. DeGette?

2461 Ms. {DeGette.} Aye.

2462 The {Clerk.} Ms. DeGette, aye.

2463 Ms. Capps?

2464 Mrs. {Capps.} Aye.

2465 The {Clerk.} Ms. Capps, aye.

2466 Mr. Doyle?

2467 Mr. {Doyle.} Aye.

2468 The {Clerk.} Mr. Doyle, aye.

2469 Ms. Harman?

2470 Mr. {Harman.} Aye.

2471 The {Clerk.} Ms. Harman, aye.

2472 Ms. Schakowsky?

2473 Ms. {Schakowsky.} Aye.

2474 The {Clerk.} Ms. Schakowsky, aye.

2475 Mr. Gonzalez?

2476 [No response.]

2477 The {Clerk.} Mr. Inslee?

2478 Mr. {Inslee.} Aye.

2479 The {Clerk.} Mr. Inslee, aye.

2480 Ms. Baldwin?

2481 Ms. {Baldwin.} Aye.

2482 The {Clerk.} Ms. Baldwin, aye.

2483 Mr. Ross?

2484 Mr. {Ross.} No.

- 2485 The {Clerk.} Mr. Ross, no.
- 2486 Mr. Weiner?
- 2487 Mr. {Weiner.} Aye.
- 2488 The {Clerk.} Mr. Weiner, aye.
- 2489 Mr. Matheson?
- 2490 Mr. {Matheson.} Aye.
- 2491 The {Clerk.} Mr. Matheson, aye.
- 2492 Mr. Butterfield?
- 2493 Mr. {Butterfield.} Aye.
- 2494 The {Clerk.} Mr. Butterfield, aye.
- 2495 Mr. Barrow?
- 2496 Mr. {Barrow.} Aye.
- 2497 The {Clerk.} Mr. Barrow, aye.
- 2498 Ms. Matsui?
- 2499 Ms. {Matsui.} Aye.
- 2500 The {Clerk.} Ms. Matsui, aye.
- 2501 Mr. Upton?
- 2502 Mr. {Upton.} Votes no.
- 2503 The {Clerk.} Mr. Upton, no.
- 2504 The {Chairman.} Are there members still wishing to cast
- 2505 their vote? Mr. Whitfield?
- 2506 Mr. {Whitfield.} No.
- 2507 The {Clerk.} Mr. Whitfield, no.
- 2508 The {Chairman.} Mr. Stearns?

2509 Mr. {Stearns.} No.

2510 The {Clerk.} Mr. Stearns, no.

2511 The {Chairman.} Mr. Barton?

2512 Mr. {Barton.} No.

2513 The {Clerk.} Mr. Barton, no.

2514 The {Chairman.} Are there other members seeking
2515 recognition to vote? Seeing none, the clerk will tally the
2516 count.

2517 The {Clerk.} Mr. Chairman, 19 ayes, 31 nays.

2518 The {Chairman.} Nineteen ayes, 31 nays, the amendment
2519 is not agreed to. Are there other members wishing to offer
2520 an amendment to the bill? For what purpose does the
2521 gentleman seek recognition?

2522 Mr. {Weiner.} To strike the requisite number of words,
2523 Mr. Chairman.

2524 The {Chairman.} Gentleman from New York is recognized
2525 for five minutes.

2526 Mr. {Weiner.} Mr. Chairman, I thank you and I don't
2527 want to redo the bidding from the subcommittee markup less
2528 some members we will be here for awhile.

2529 The {Chairman.} We did ask the police to stand by.

2530 Mr. {Weiner.} Excuse me? I just want to ask the
2531 counsel a couple of foundational questions. Counsel, in the
2532 rules that approved for the beginning of this Congress there

2533 is a rule that now requires the constitutional underpinning
2534 for a bill be stipulated to in the Congressional Record when
2535 the bill is introduced and I want to read Rule 12, Section 7,
2536 5 C-1 and just confirm that I am reading it correctly. When
2537 a bill or resolution is introduced the words shall be entered
2538 into the journal and printed to the Congressional Record
2539 including a statement citing as specifically as practicable
2540 the power or powers granted to Congress in the Constitution
2541 to enact the bill or joint resolution. The statement shall
2542 appear in the portion of the Congressional Record designated
2543 for that purpose. Is that a correct reading of the rule of
2544 the House?

2545 {Counsel.} Yes, sir, I believe it is. I don't have it
2546 in front of me but--

2547 Mr. {Weiner.} I would be glad to pass it down to you if
2548 it is necessary, but--

2549 {Counsel.} No, sir.

2550 Mr. {Weiner.} I think it is--that wasn't the tough
2551 question.

2552 {Counsel.} No, it was not. Thank you.

2553 Mr. {Weiner.} Mr.--Counsel, would you confirm that on
2554 January 20, 2011, a Thursday when this bill was introduced
2555 the following language was included and as part of the record
2556 that is supposed to include the congressional statement the

2557 Constitutional statement? H.R. 358 by Mr. Pitts. Congress
2558 has the power to enact this legislation pursuant to the
2559 following: The Protect Life Act would overturn an
2560 unconstitutional mandate regarding abortion in the Patient
2561 Protection and Affordable Care Act. Was that the statement
2562 that was included?

2563 {Counsel.} That is consistent with my recollection,
2564 yes.

2565 Mr. {Weiner.} Further, one final questions, Counsel.
2566 Where it says in the record that it has to include the power
2567 granted to Congress in the Constitution, is there any
2568 reference in that explanation that I just read to you, any
2569 reference to a section, an article, an amendment to the
2570 Constitution?

2571 {Counsel.} It doesn't appear so.

2572 Mr. {Weiner.} I thank you very much, Mr. Counsel. I am
2573 going to be--I am not going to use my full time because I am
2574 going to offer an amendment that I think will allow us to fix
2575 up what was acknowledged at the subcommittee markup as a
2576 mistake. I think that many of us believe it was a good rule
2577 to be putting into place that we should remind of the
2578 Constitutional underpinning and when this rule was offered
2579 there was a memo sent to all of us: Members of the 112th
2580 Congress, committee staff directors, counsels, members,

2581 staff, from Speaker designate Bayner, Majority Elect there
2582 are canter, Rules committee chairman, David Dryer, Transition
2583 team chairman, Walden, dated December 17 where a new
2584 Congressional authority requirement for legislation. We all
2585 got a copy of this and it offered suggestions about how to
2586 fill out that statement. One was the Constitutional
2587 authority as enumerated in Article I, Section 8, Clause 14.
2588 Another example is this bill enacted pursuant to Section 2 of
2589 Amendment VX of the U.S. Constitution. And other examples,
2590 in fact every one of us as we have--as best my research has--
2591 is derived, everyone of us that has introduce bills in this
2592 Congress has filled this out correctly except for this one.
2593 So I am going to offering an amendment in a moment that is
2594 going to clarify this. It is going to say that this mistake
2595 was made. It was not a lethal mistake, but it was a mistake
2596 and it is our first bill that we are hearing here. Let us
2597 make sure we get it right. And it is going to say that a
2598 correct one has to be put into Congress Record before the
2599 vote can go into effect. It can be as--it can be tomorrow.
2600 But just so that we do it and we don't start off saying that
2601 just about anything we put in is going to satisfy that. Mr.
2602 Barton, in our debate in subcommittee actually put it right.
2603 He said, well, it is a law and any law amends the
2604 Constitution therefore we can really put anything in and this

2605 was inartful. Okay. Inartful is one way to put it, but it
2606 clearly wasn't in compliance with the law, with our rules and
2607 I want to caution my colleagues if we don't clean this up
2608 then we will lose any ability to enforce that rule hereafter.
2609 So what my amendment says and it is pretty clear and we are
2610 going to get to it in a moment is it says the whereas clauses
2611 of the three questions I just asked counsel and the resolve
2612 clause simply says that the provisions and amendments of this
2613 law whether you are going to vote yes or no on it--and I
2614 think it is going to wind up passing I can count whether you
2615 vote yes or no on it it doesn't go into effect until
2616 something has been put into the Congressional record to
2617 clarify the Congressional fee, Constitutional underpinning
2618 and I yield back the balance of my time.

2619 The {Chairman.} Gentleman yields back his time.

2620 Mr. {Pallone.} Mr. Chairman?

2621 The {Chairman.} Gentleman from New Jersey.

2622 Mr. {Pallone.} It is to strike the last word.

2623 The {Chairman.} Gentleman is recognized for five
2624 minutes.

2625 Mr. {Pallone.} Mr. Chairman, I wanted to ask--I have
2626 asked unanimous consent to submit to the record a letter to
2627 yourself from myself and Mr. Waxman with regard to the issue
2628 that Mr. Weiner has just raised. If I could ask unanimous

2629 consent?

2630 The {Chairman.} Without objection the letter can be

2631 entered into the record.

2632 [The information follows:]

2633 ***** COMMITTEE INSERT *****

|
2634 Mr. {Pallone.} And Mr. Chairman--

2635 Mr. {Weiner.} Can we see the letter?

2636 Mr. {Pallone.} Yeah, I will give it--we already sent it
2637 to him but I will give you another copy.

2638 Mr. {Weiner.} If he is putting a letter in the record.

2639 Mr. {Pallone.} What I would--the point I would like to
2640 make and it is the same point that is in the letter and Mr.
2641 Weiner has stated it very succinctly is that if there is not
2642 some opportunity you know either here or in the subcommittee
2643 or at some point to raise this Constitutional issue, then I
2644 don't really see what the point is. I mean, the way I
2645 understood the counsel during the subcommittee basically the
2646 counsel said that as long as the--or maybe some of the
2647 members said as long as the--Mr. Pitts submitted some
2648 statement even if it didn't reference the Constitution in any
2649 way or certainly raised the--or in any way specified why his
2650 legislation was constitutional that was okay. And it was
2651 unclear when the opportunity would be to question the basis
2652 for the constitutionality. In other words, if I just say--if
2653 I submit a bill and I simply say okay here is my statement
2654 about why it is constitutional but I don't cite any section
2655 or explain it anyway why it is constitutional, just issue a
2656 statement of any purpose but that is sufficient. And I just

2657 think that makes a mockery. I mean, as the letter says, it
2658 makes a mockery of the rule requiring submission of a
2659 statement of constitutional authority. The reason the
2660 statement is submitted is because you want to show that your
2661 bill is constitutional. If you don't have to say it is or
2662 there is not discussion about it is I don't see why there is
2663 any point of even having the statement and the whole thing
2664 becomes absurd. So I--it just seems to me and it also raises
2665 the issue about whether or not Mr. Pitts even has the ability
2666 to explain why his legislation is constitutional. And I
2667 don't think it is. So you know, if he doesn't have to say
2668 why then we can all submit things that are not constitutional
2669 and not have to worry about it because it never comes up. So
2670 I just think that this is a very important issue and you know
2671 was raised by the Republicans, by the Chief party. We read
2672 the constitution on the floor. I participated in it although
2673 I was interrupted by one of the bursars but that is another
2674 story--

2675 The {Chairman.} Don't go there.

2676 Mr. {Pallone.} The point I am trying to make is you
2677 guys are saying over and over again that the Constitution is
2678 important. Don't make a mockery of the Constitution by
2679 saying I can submit something. It doesn't have to say any
2680 basis for the constitutional authority. We don't have to

2681 discuss it at any point and that is sufficient. I think that
2682 is wrong and that is why we sent this letter asking that the
2683 bill not be considered unless the statement of constitutional
2684 authority was given. And I want to join with my colleague
2685 Mr. Weiner who I think has an amendment to try to correct
2686 this.

2687 Mr. {Weiner.} Would the gentleman yield his remaining
2688 time?

2689 Mr. {Pallone.} Certainly. I yield to Mr. Weiner.

2690 Mr. {Weiner.} If I could just make clear something
2691 here. Nothing about this amendment in any slows down the
2692 process of all this isn't going to go into the force of law
2693 tomorrow and yet it could be cleaned up in the Congressional
2694 Record tomorrow. And one thing that I have observed that is
2695 something that we did in the majority that this is an
2696 opportunity to show that maybe you have learned some of the
2697 lessons we have taught. Sometimes it is this instinctive
2698 thing--well they proposed it we go to be against it. This is
2699 actually something that is going to help. You know I
2700 believe, you know I believe we should have fidelity to these--
2701 -to the rules. This also places a foundation on which we say
2702 that you what? There are going to be some mistakes that are
2703 going to be made. There is a new leadership, Mr. Upton. You
2704 know I--he's got two years as leader here. He shouldn't get

2705 too comfortable, but I want him to be a success. One of the
2706 ways, one of the ways we can do it is to make sure that we
2707 say you know what when we identify slip ups like this let us
2708 go ahead and fix them. And I would want to make one final
2709 point for anyone new to this discussion. This is not about
2710 whether the bill is constitutional or not. I believe
2711 violations of the Fourth Amendment are a pretty big deal.
2712 Some people who support this bill don't feel that way. That
2713 is not the issue. The issue is whether or not we are going
2714 to put the language in that points to the specific section of
2715 the Constitution. You can look at today's Congressional
2716 Record. Every single bill introduced yesterday had it right
2717 and this is a way to clear it up without costing us a moment
2718 of enactment time without advancing this much further. But
2719 it is a way to remedy something we all basically acknowledge
2720 existed in the subcommittee.

2721 Mr. {Pallone.} And in addition to that if I could take
2722 back the little time I have, I think it is a good idea,
2723 frankly to talk about the constitutionality of bills and so I
2724 don't want it to be a joke. I want it to be real. And the
2725 only what that is going to happen is with the Weiner
2726 amendment.

2727 The {Chairman.} The gentleman's time is expired. And
2728 it is my understanding that the gentleman from New York has

2729 an amendment and it is my understanding that it may be the
2730 last amendment to the bill. The clerk will report the title
2731 of the amendment.

2732 The {Clerk.} Mr. Weiner is it AMD-10? Okay. Amendment
2733 offered by Mr. Weiner of New York.

2734 [The amendment follows:]

2735 ***** INSERT 8 *****

|
2736 The {Chairman.} Without objection--

2737 Mrs. {Myrick.} Mr. Chairman?

2738 The {Chairman.} Gentlelady from North Carolina.

2739 Mrs. {Myrick.} Yes, I reserve a point of order.

2740 The {Chairman.} Point of Order is reserved. The--I

2741 would ask that the gentleman from New York would be

2742 recognized for five minutes in defense of his amendment.

2743 Mr. {Weiner.} Thank you. Mr. Chairman. As I explained

2744 earlier it is very simple. One, the first section of the

2745 findings just reiterates what the House rule is. The second

2746 section of the findings restates what the section--the

2747 statement that was made and attached to the bill. The third

2748 states the obvious clear fact that there is no reference to

2749 congressional section in the Constitution. For--and the

2750 third section the enactment constitutes to require authority

2751 requires--just says that until someone submits the

2752 Congressional Record a corrected statement then this can't

2753 become a live bill. It won't be anyway. We have to wait for

2754 the Senate to act on this anyway, so it doesn't cost

2755 anything. It just to further explain for those of you who

2756 haven't read the rule as carefully as I have, what the rule

2757 says is not that you can put anything in explaining why you

2758 think it is constitutional. It specifically says a bill or

2759 joint resolution may not be introduced unless the sponsor
2760 submits for printing in the Congressional Record a statement
2761 citing as specifically as practical the power or powers
2762 granted in the Constitution. So it has to allude to a
2763 section, an article, it has to allude to an amendment and
2764 that didn't get done. Let me just--that same day that 358
2765 was introduced there was a bill by Ms. Richardson citing
2766 Article I, Section 8, Clause 3. Well, Ms. Blackburn had one
2767 that day citing Article I, Section 8, Clause 3. Ms. Fox had
2768 one that day, Article I, Section 8, Clause 18. Mr. Kildey
2769 had one, Article I, Section 8, Clause 3. The simple fact is
2770 everyone has gotten it right except for this bill. This is a
2771 remedy. It is a simply remedy. It is a way for us to
2772 proceed forward. And if the Point of Order is insisted upon
2773 and I am ruled against I have other amendments that will be
2774 in order that I think will address this just not as artfully
2775 as this amendment. And with that being said if no one seeks
2776 my time, I yield back my time.

2777 The {Chairman.} Gentleman yields back his time. Does
2778 the gentlelady insist on her Point of Order?

2779 Mrs. {Myrick.} Yes, Mr. Chairman, I must insist on the
2780 Point of Order because the amendment violates clause seven
2781 and rule 16 of the Rules of the House because it is not
2782 germane to the underlying bill.

2783 Mr. {Weiner.} Does Chair--

2784 Mrs. {Myrick.} The amendment deals solely with an
2785 operation of a new rule of the house and its application to
2786 debate in this committee. The underlying bill in sharp
2787 contrast deals with certain carefully defined matters under
2788 the health care law enacted last year. The two have nothing
2789 to do with each other. The amendment is therefore not
2790 germane and I insist on my point of order.

2791 The {Chairman.} Gentlelady insists on her Point of
2792 Order. Would the gentleman like to respond?

2793 Mr. {Weiner.} I would like to report to the Point of
2794 Order.

2795 The {Chairman.} Gentleman is recognized for his--

2796 Mr. {Weiner.} If the Chair is to uphold the Point of
2797 Order he would be stipulating to the notion that the
2798 constitutional underpinning of these laws in every committee,
2799 not just here, in every committee are not actionable meaning
2800 that we would have a rule with no effect. Meaning that the
2801 only way to enforce the rule is to ridicule it. The only way
2802 to enforce the rule is to just hold up your hand and say you
2803 didn't follow it. In order for a rule to be a rule it has to
2804 actionable in some way. And to rule in favor of the gentle
2805 lady's Point of Order would be to say you know what it is a
2806 rule, but it is not a really a rule because it is not germane

2807 to anything except the House Rules. I mean, frankly it is
2808 mindboggling because think about this, my colleagues. You
2809 can contest the house rule when the rule is passed at the
2810 beginning of Congress. We can come up, we can have a debate,
2811 we can go back and forth.

2812 Mr. {Barton.} Will the gentleman yield?

2813 Mr. {Weiner.} Okay. I was just reaching my crescendo,
2814 but--

2815 Mr. {Barton.} That is why I asked. I have had a
2816 discussion with Chairman Upton and the--our staff. We accept
2817 the premise of what you are trying to do. The problem is if
2818 they accept the amendment that is not germane it puts it in
2819 the bill and that in itself could be a problem if and when
2820 this bill goes to the Senate. If you are willing to work
2821 with Chairman Upton, though, he is very willing to get with
2822 you and Chairman Pitts and work something out so that before
2823 the bill goes to the floor it will be like you want it.

2824 Mr. {Weiner.} Well, I will accept--

2825 Mr. {Barton.} At least that is my understanding.

2826 Mr. {Weiner.} Reclaiming my time. Here is what I will--
2827 -because I don't want to do anything--well, I was going to
2828 say I don't want to do anything to slow up the bill. That
2829 really is not true, but here is what I would accept. Mr.
2830 Upton, if you as Chairman of the Committee would be willing

2831 to essentially put these three findings and a clarified
2832 statement of constitutional authority in the record
2833 freestanding just to say look, this wasn't in there. We know
2834 it is the rule that it should be in there just to clarify--
2835 just as a freestanding statement of congressional record I
2836 would accept that because then I think we can go back and
2837 point to it as an attempt to remedy the shortcoming if this
2838 ever comes up in the future. I would accept that and would
2839 withdraw my amendment under that circumstance.

2840 The {Chairman.} I am not prepared to do that, but I am
2841 prepared to rule. Would you like to--

2842 Mr. {Weiner.} Will the gentleman--

2843 Mr. {Barton.} Let me continue my--

2844 The {Chairman.} Go ahead, brief--

2845 Mr. {Weiner.} --with an offer of a compromise and I
2846 thought I responded with a fair one. Look, the point is that
2847 I was making is that if you are saying and if you rule this
2848 way you are saying that the only place to enforce the rules
2849 that we agree upon for our behavior is at the very first day
2850 and if someone violates those rules day by day we in the
2851 committee are powerless to insist upon their enforcement then
2852 in fact you are saying the rule is null. You are in fact
2853 saying--you are saying that Mr. Pitts, although he stipulated
2854 that no constitutional authority was stated, no section in

2855 the Constitution as required by the law. If you say well the
2856 only time to do that because of the Point of Order raised by
2857 the gentlelady is absent the bill then why would you ever
2858 have to include it? And I think you are going to see members
2859 who are going to simply say okay. Then why--if there is no
2860 enforcement mechanism and you can't enforce it in committee
2861 and you have already missed the chance to enforce it on the
2862 floor because how would I be able to anticipate--how would I
2863 know Mr. Pitts was going to put the language in wrong back in
2864 January 10 which would be the meaning of your ruling? So I
2865 believe that having this language clarifies it. It
2866 strengthens the bill. It makes it clear we are going to take
2867 the rules seriously and I would urge you to rule against the
2868 Point of Order and let us go to a vote on the bill.

2869 The {Chairman.} The Chair is prepared to rule and if--

2870 Mr. {Barton.} Mr. Chairman--

2871 The {Chairman.} And before I do I will be glad to have
2872 further discussion with the gentleman from New York, but as
2873 the gentlelady noted, Clause seven of rule 16 of the Rules of
2874 the House prohibits the Committee from considering non-
2875 germane amendments. Precedence of the house set forth
2876 several general tests for germaneness. Having reviewed the
2877 amendment and listened to the arguments, the Chair finds that
2878 the amendment does not concern itself with the same subject

2879 as the underlying bill and therefore the Chair sustains the
2880 Point of Order.

2881 The {Chairman.} Gentleman from New Jersey.

2882 Mr. {Weiner.} Mr. Chairman, strike the last word. I
2883 know that you had offered to address this at some point when
2884 it goes to the floor. My only request is that it is
2885 addressed in a fashion that basically provides the
2886 constitutional authority. In other words, between the
2887 subcommittee and the Full Committee, you know Mr. Pitts could
2888 have put something in the record explaining what the
2889 constitutional authority is and I think that it is necessary
2890 that whatever you do between now and going to the floor
2891 express that. That is what I would like to see.

2892 The {Chairman.} I would be glad to have further
2893 discussions with the gentleman from New Jersey but the
2894 amendment has been dispensed with as it was ruled non-
2895 germane. Are there further amendments to the bill?

2896 The {Chairman.} Mr.--gentleman from New York.

2897 Mrs. {Myrick.} Mr. Chairman, I reserve the right to
2898 object.

2899 The {Chairman.} Gentlelady, no, no, wait.

2900 Mrs. {Myrick.} May I reserve a Point of Order? Sorry.

2901 The {Chairman.} Clerk will report the amendment first.
2902 Sorry.

2903 The {Clerk.} An amendment offered by Mr. Weiner of New
2904 York.

2905 [The amendment follows:]

2906 ***** INSERT 9 *****

|
2907 The {Chairman.} Gentlelady from North Carolina.

2908 Mrs. {Myrick.} Yes, I reserve.

2909 The {Chairman.} Reserves. Gentleman is recognized for
2910 five minutes in defense of his amendment.

2911 Mr. {Weiner.} Thank you, Mr. Chairman. This is a far
2912 less artful way to do it but it is clearly germane. That is
2913 what you get when you get the chump seats down here. This
2914 is--this has some slightly different findings, but it goes to
2915 the same point and then concludes by striking the enactment
2916 clause which unfortunately is apparently the only way that
2917 you can go about enforcing this rule is to stop the bill in
2918 its entirety and make everyone start again. I find it just
2919 remarkable that when you have three facts which are not in
2920 dispute that there is a rule requiring something, that it
2921 wasn't done, and that we should want it to be done that we
2922 can't just arrive at some common sense solution to his
2923 problem. To say that it is not germane whether it is
2924 constitutional or not is stunning. I mean, the whole mantra
2925 of this Congress is that we are going to make sure there is
2926 constitutional underpinning of every single thing we do and
2927 we just heard in the last ruling that the germaneness of the
2928 constitution--the constitutionality is not germane. I mean,
2929 I just don't understand the inconsistency here. Now the

2930 irony and maybe that is what you were pursuing is irony of
2931 having a law that diminishes women's Fourth Amendment rights
2932 and then when it fails to have any constitutional authority
2933 stated it is ruled not germane whether it is constitutional?
2934 Is this really the way we are going to function? I mean, I
2935 say to my colleagues, you know, we had a debate in the text
2936 of the bill about whether of not the stated objective of
2937 clarifying Hyde was really just a subterfuge for wanting to
2938 dramatically expand the infringement on people's
2939 constitutional rights. It turned out in question with
2940 counsel that was what it was about. Now we say that the
2941 desire to follow the constitution is really an option. It is
2942 really not even germane to our discussions. That was the
2943 literal ruling of the chair that it is not even germane to
2944 this bill. I mean, I would think that at least we get
2945 through February before the phoniness of the hearings to the
2946 Constitution becomes apparent. I would have thought we would
2947 at least get to--I don't know, March madness or something. I
2948 didn't think that already in our first markup we would be
2949 saying the words the constitutionality is not germane to this
2950 discussion and yet that is where we are. And I now, I guess
2951 the door is open now. Now whenever a bill you want to
2952 introduce anything that you can just write anything in the
2953 whereas clause, in the constitutional underpinning clause.

2954 We read the constitution on the first day and in the second
2955 month in the first markup we start saying that it is not
2956 germane to our conversations. Well, I think it should be
2957 germane. I think the Constitution's a pretty important
2958 thing. I guess it is the same psychology that goes into
2959 saying I want limited government and I want government not to
2960 get in between doctors and patients except if you are a woman
2961 who wants reproductive health care. Then we want doctors
2962 having congressmen in their way, rules, writers in their way.
2963 Now, I heard they want State legislators in their way. You
2964 want a room full of people when it comes to a woman's right
2965 to reproductive health. And the same hypocrisy is existing
2966 here. You made a mistake I thought. You forgot to put
2967 something in I thought. No, it is not germane we are
2968 hearing. The Constitution isn't germane to this
2969 conversation. Stop with the Constitution. Stop with all
2970 that stuff. We read it. Is not that enough? Well, we got
2971 that wrong, too, I read the next--I mean, the fact is we
2972 should take this a little bit more seriously and if we find a
2973 mistake let us have the gumption to say you know what I made
2974 a mistake. Here is a simple way to fix it. Instead the
2975 answer is that is not germane. The Constitution isn't
2976 germane in this case. Well, now we have another version of
2977 the amendment and have six others here ready to go. This one

2978 says we are going to strike the whereas clause and in this
2979 case--in case it wasn't--the last one was too subtle, this
2980 one has sections of findings with other examples written by
2981 Speaker Boehner on how it is supposed to be done. This is
2982 not my rule. I like it but it ain't my rule. It is yours.
2983 You won. You wrote the rule. Why don't you want to enforce
2984 it here today? This is not germane. Let someone else do it.
2985 This is like already with a committee that said let someone
2986 else fix it. We are the Energy and Commerce Committee. Mr.
2987 Dingle used to have a picture in his office of the earth
2988 photographed from the moon and when people would say Mr.
2989 Dingle what is that a picture of he would say that is the
2990 jurisdiction of this committee. No, on this date the
2991 Constitution isn't even in our jurisdiction and that is
2992 regrettable. I call for a yes vote.

2993 Mr. {Shimkus.} Mr. Chairman?

2994 The {Chairman.} Does the gentlelady insist on her Point
2995 of Order?

2996 Mrs. {Myrick.} Yes, I do insist on the Point of Order.
2997 The amendment violates Clause seven and rule 16 of the Rules
2998 of the House because it is not germane to the underlying
2999 bill. The amendment deals solely with the operation of a new
3000 rule of the house and its application to debate in this
3001 committee. The underlying bill in sharp contrast deals with

3002 certain carefully defined matters under the health care law
3003 enacted last year. The two have nothing to do with each
3004 other. The amendment is therefore not germane and I insist
3005 on my Point of Order.

3006 The {Chairman.} Chair is--

3007 Mr. {Pallone.} Will the gentleman--

3008 The {Chairman.} --prepared to rule on the Point of
3009 Order.

3010 Mr. {Pallone.} Mr. Chairman, I mean we are just going
3011 to continue--

3012 The {Chairman.} I am ruling on this.

3013 Mr. {Pallone.} I understand but he will--he is going to
3014 have another five or six amendments.

3015 The {Chairman.} He can put them on blocks if he would
3016 like to.

3017 Mr. {Pallone.} Mr. Chairman, all I am asking is could
3018 you explain what you intend to do in order to address this?

3019 The {Chairman.} Let me rule on this and then you can
3020 strike the last work.

3021 Mr. {Pallone.} All right.

3022 The {Chairman.} As the gentlelady noted, Clause seven
3023 and Rule 16 of the Rules of the House prohibits the committee
3024 from considering nongermane amendments. President of the
3025 House set forth several general tests for germaneness.

3026 Having reviewed the amendment and listened to the arguments
3027 the Chair finds that the amendment does not concern itself
3028 with the same subject as the underlying bill and therefore
3029 sustains the Point of Order. Does the gentleman from New
3030 Jersey wish to strike the last word?

3031 Mr. {Pallone.} Yes.

3032 The {Chairman.} Gentleman is recognized for five
3033 minutes.

3034 Mr. {Pallone.} Mr. Chairman, look, both myself and Mr.
3035 Waxman sent you a letter which is now in the record on this
3036 issue. Mr. Weiner has now brought up two amendments. He
3037 says he has others. I know you made a statement earlier that
3038 you were going to try to address this.

3039 The {Chairman.} If the gentleman will yield?

3040 Mr. {Pallone.} Yes.

3041 The {Chairman.} I look forward to reading the letter
3042 that has been put into the record and responding. I have not
3043 had a chance to do that since I have been sitting in the
3044 chair.

3045 Mr. {Pallone.} No, I understand--

3046 The {Chairman.} I look forward to doing that and--

3047 Mr. {Pallone.} Getting back my time, what I am asking,
3048 Mr. Chairman is you made a statement earlier about how you
3049 were going to try to address this. I didn't quite understand

3050 what you meant. Would you clarify a little better how you
3051 intend to address it between now and the Full Committee? Are
3052 we going to have a discussion what are we going to do?

3053 The {Chairman.} Be glad to have a discussion. I would
3054 like to read and review the letter. I will respond to the
3055 letter. At that point we could sit down and discuss not only
3056 your letter to me but my response back. I have not had a
3057 chance to do that since the letter has been put into the
3058 record.

3059 Mr. {Pallone.} All right, yield to Mr. Waxman.

3060 Mr. {Waxman.} I thank you for yielding. I would hope
3061 that the idea behind the Weiner amendment gets accomplished
3062 as a practical matter and I would urge that the responses of
3063 this legislation be--who are also the sponsors of the House
3064 Rule to require the identification of the Constitution that
3065 would allow such a proposal to be put--offered--would review
3066 this and decide to put in an accurate statement as to the
3067 constitutional authority for the bill. I would just--it
3068 sounds to me like the Chairman is willing to look at that and
3069 I would encourage him to do it.

3070 Mr. {Pallone.} I yield also to Mr. Inslee.

3071 Mr. {Inslee.} We would appreciate the Chair thinking
3072 about this, too, and the reason is when we started this
3073 discussion when we thought about the constitutional aspects

3074 of this bill we were working on we were all thinking out of
3075 the shoot just about Roe v. Wade, a woman's right of privacy
3076 and a right of choice. But now while we are going through
3077 this we find out that there really is an effort to reduce an
3078 woman's and a man's right to contraceptive services. And
3079 when you start to impinge on an American's right of
3080 contraceptive services that is another constitutional
3081 principle and Griswold v. Connecticut. And in answer to Mr.
3082 Shimkus, he argued that emergency contraception wasn't
3083 abortion. That is simply not the case. Any scientific
3084 review will show that the abortifacients are dramatically
3085 different than the emergency contraception that is now used
3086 to great effect by many of our constituents. And I just hope
3087 that we will have a discussion of these constitutional
3088 principles because now the Republican effort to reduce
3089 people's access to contraception is really affecting another
3090 constitutional right the Supreme Court has identified. So I
3091 hope the Chair will think about that. Thank you.

3092 Mr. {Pallone.} Thank you. I just before my time is up
3093 I appreciate what you are saying, Mr. Chairman, but I think
3094 that Mr. Inslee makes a very good point which is that you
3095 know I have felt from the very beginning the reason there was
3096 no constitutional statement was because there couldn't be.
3097 And because of the debate today on these issues going beyond

3098 abortion I think there is a real issue here of how
3099 overreaching this legislation is and that overreaching
3100 directly relates to the Constitution and the issue of privacy
3101 under Roe v. Wade among other things. So I think this is a
3102 very important issue that Mr. Weiner has addressed and I
3103 appreciate the fact that you are--we are going to have
3104 further conversations about it because I think it is really
3105 important. I yield back.

3106 The {Chairman.} Gentleman yields back. I am going to
3107 yield for one minute to the gentleman from Illinois to talk
3108 about the next hearing. Mr. Shimkus.

3109 Mr. {Shimkus.} There is a hearing scheduled for my
3110 subcommittee and Gene Green is the Ranking Member. The
3111 intent was to go on a time if--but I really have to ask my
3112 colleague from New York if he is still offering five
3113 amendments and we will have to postpone that until vote is on
3114 the floor or until the last vote here. So I am trying to get
3115 some conclusion--

3116 The {Chairman.} Let us just see. What--

3117 Mr. {Shimkus.} Can I yield to my colleague from New
3118 York and if we are going to--

3119 Mr. {Weiner.} Well, I was going to strike the last word
3120 to engage in one final colloquy with the Chairman to try to
3121 resolve this to obviate the need for any further--

3122 Mr. {Shimkus.} It is the Chairman's time, so.

3123 The {Chairman.} Gentleman from New York is recognized
3124 to strike the last word.

3125 Mr. {Weiner.} I strike the last word. Mr. Chairman,
3126 you have--you have never been dishonest with me. You have
3127 always lived up to your commitments and I take you--

3128 The {Chairman.} By the way, I do take affront that
3129 saying you are in the cheap seats. You are in the dugout.
3130 We may be at home plate, but you are in the dugout.

3131 Mr. {Weiner.} Thank you, sir. I am also closest to the
3132 exit which might be useful in this committee. Mr. Chairman,
3133 can I just engage you in a brief colloquy. Are any of the
3134 three things that I have talked about in the original
3135 amendment that the rule requires a specific citation in the
3136 Constitution that the statement that was provided by the
3137 maker of the--was not in compliance with that. Or/and that
3138 it is good--it is a good thing for us to, that it is a good
3139 rule for use to follow. If I can get you on the record
3140 saying those three things then I know that at least then we
3141 can move forward on the same foundation of understanding. If
3142 it is really the case that it is your interpretation of the
3143 rules that none of these things are germane to our
3144 discussions then I don't know how an off the record or
3145 private conversation is going to be any different. If we can

3146 just stipulate to those three things which are not contested.
3147 I haven't heard anyone say the rule should be thrown out. I
3148 haven't heard anyone say that the rule doesn't exist, and I
3149 haven't said anyone say that the statement of January 20
3150 complied with the rule. So if you can just say that for the
3151 record then I will take that small victory and when--we will
3152 have further discussions offline. I yield.

3153 The {Chairman.} I just respond it is one that did
3154 support the rules package. It is my understanding that as we
3155 had conversations with the House Rules Committee that it did
3156 comply. Now could we have done maybe a little better job at--
3157 -we add a little, perhaps. I am not afraid to confess that.
3158 I will assure you that we will work very closely to make sure
3159 that the Rules of the House are followed as we look at
3160 legislation from yesterday and the days forward.

3161 Mr. {Weiner.} Well, all right, well, we--I understand
3162 but there is no, there is no--we can all read it together.
3163 You don't need to be a lawyer. It says it citing
3164 specifically as practical the power powers granted in the
3165 Constitution, in the Constitution. It is not a question--you
3166 don't need to call the Rules Committee to find that. I mean,
3167 the counsel answered the question correctly that there is no
3168 citation to anything in the Constitution.

3169 Mr. {Waxman.} Gentleman yields to me.

3170 Mr. {Weiner.} Certainly, Mr. Waxman.

3171 Mr. {Waxman.} You are absolutely right. The rule might
3172 have been complied with according to the parliamentarian only
3173 because no one objected to it when the bill was introduced
3174 which means the rule is completely unenforceable. But the
3175 language that was put in by the authors of this bill no one
3176 could argue with in response to the rule that required a very
3177 specific identification of the constitutional provisions that
3178 would allow such a bill to be introduced. So I want to join
3179 you in urging the Chairman--

3180 Mr. {Weiner.} Let me reclaim my time. Mr. Upton can I
3181 get your concession on this? Is the Constitution always
3182 germane in this committee?

3183 The {Chairman.} We have a copy of the Constitution if
3184 you would like to read it, but yeah.

3185 Mr. {Weiner.} No, I am asking you, Mr. Chairman.

3186 The {Chairman.} Yeah, it is.

3187 Mr. {Weiner.} Is the Constitution always germane in
3188 this committee?

3189 The {Chairman.} It ought to be, yes.

3190 Mr. {Weiner.} Okay. Thank you.

3191 The {Chairman.} All right, I look forward to responding
3192 to the letter. Are there further amendments to the bill?
3193 Gentleman from Pennsylvania.

3194 Mr. {Doyle.} I move to strike the last word.

3195 The {Chairman.} Gentleman is recognized for five
3196 minutes.

3197 Mr. {Doyle.} I don't have an amendment, Mr. Chairman,
3198 but now that all amendments have been offered I want to just
3199 comment briefly on the bill generally. You would think that
3200 by listening to some of the conversations of our colleagues
3201 that current law allows federal funds to be used to fund
3202 abortion. It does not. I guess in this day and age
3203 everybody's entitled to their own reality but I just want to
3204 state for the record what current law is. Current law
3205 prohibits abortion coverage from being required as a part of
3206 the federally established essential health benefits package.
3207 This law allows states to prohibit coverage for any abortion
3208 by all private plans in their state based exchanges. The law
3209 requires at least one plan within a state exchange not cover
3210 abortion services beyond those permitted under federal law.
3211 It allows private plans in a state exchange to offer coverage
3212 beyond that permitted under federal law so long as no federal
3213 subsidies for premiums or cost sharing are used to purchase
3214 such a plan. Only private dollars are used to purchase
3215 abortion coverage and the plan collects two separate premiums
3216 from all enrollees. One payment for the value of the
3217 abortion benefit and one payment for all other covered

3218 services. It prohibits private plans from discriminating
3219 against any individual health care provider or health care
3220 facility because of its unwillingness to pay for, provide
3221 coverage, or refer for abortion. In addition to those
3222 provisions the Affordable Care Act has no effect on State
3223 laws regarding coverage, funding, or procedural requirements
3224 such as parental notification or consent laws. States can
3225 use state only funds to pay for medically necessary abortion
3226 beyond those permitted under federal law under Medicaid or to
3227 pay for abortion coverage and plans offered in exchange. In
3228 addition, the Nelson provisions have no effect on federal
3229 laws regarding conscience protection on the rights and
3230 obligations of employers or employees under Title VII of the
3231 1964 Civil Rights Act or the obligation of health care
3232 providers to provide emergency services as required under
3233 either State or federal law known as EMTALA. And finally,
3234 Mr. Chairman, President Obama signed Executive order 13535
3235 which ensures the enforcement and implementation of abortion
3236 restrictions included in the Affordable Care Act. This order
3237 reinforces the prohibition on the use of federal funds for
3238 abortion services under the Affordable Care Act clarifies
3239 that such prohibition applies to community health centers
3240 receiving funds under the Affordable Care Act and directs the
3241 Office of Management and Budget to develop a model set of

3242 guidelines for State health insurance commissioners to use in
3243 determining whether State exchange plans are complying with
3244 ACA's public private dollar segregation requirements and he
3245 published preregulatory guidelines on September 20, 2010. So
3246 I think it is quite clear that we don't permit federal funds
3247 to fund abortion. I voted for this bill. Now, I know my
3248 colleagues on the other side of the aisle didn't vote for
3249 this bill and perhaps today is their way of voting for
3250 something on their own, but those of us on this side of the
3251 aisle are well convinced that we have gone the extra mile to
3252 make sure federal funds are not used to fund abortion. The
3253 act that is putting up today H.R. 358 goes way beyond these
3254 provisions in many troubling ways which was explained today.
3255 I for one, Mr. Chairman, am content with what we did in the
3256 Affordable Care Act has protected federal dollars from being
3257 used for abortion and I will not be supporting this bill
3258 today. Yes, I will yield my time to Ms. Harman.

3259 Ms. {Harman.} I thank Mr. Doyle for his careful
3260 recitation of the compromise we agreed on last year. This is
3261 what I was talking about earlier. It was a painful
3262 compromise and he in particular showed enormous courage to
3263 support it. So did Mr. Stupak, our former colleague. And
3264 now we are reopening this debate which I think we should have
3265 resolved last year. I just want to say, Mr. Chairman, that I

3266 hope the future markups in this committee will not reopen
3267 subjects that are tough, person, social issues like this one.
3268 We will do much better to focus on energy and commerce which
3269 are the names in the title of this committee where we offer
3270 on a bipartisan basis an enormous amount of expertise and
3271 where we can really add value. I regret this debate today.
3272 I don't know how it will come out but I do want to say that
3273 Mr. Doyle has very carefully put on the record the details of
3274 what we agreed to last year and I wish that we would have
3275 left well enough alone.

3276 Mr. {Doyle.} I yield back my time.

3277 The {Chairman.} Gentleman yields back his time. Are
3278 there further amendments to the bill? If not, the question
3279 occurs unfavorably reporting the bill as amended in the
3280 subcommittee. We will have a roll call vote. The clerk will
3281 call the roll.

3282 The {Clerk.} Mr. Barton?

3283 Mr. {Barton.} Aye.

3284 The {Clerk.} Mr. Barton, aye.

3285 Mr. Stearns?

3286 Mr. {Stearns.} Aye.

3287 The {Clerk.} Mr. Stearns, aye.

3288 Mr. Whitfield?

3289 [No response.]

3290 The {Clerk.} Mr. Shimkus?
3291 Mr. {Shimkus.} Aye.
3292 The {Clerk.} Mr. Shimkus, aye.
3293 Mr. Pitts?
3294 Mr. {Pitts.} Aye.
3295 The {Clerk.} Mr. Pitts, aye.
3296 Ms. Bono Mack?
3297 Ms. {Bono Mack.} Aye.
3298 The {Clerk.} Ms. Bono Mack, aye.
3299 Mr. Walden?
3300 Mr. {Walden.} Aye.
3301 The {Clerk.} Mr. Walden, aye.
3302 Mr. Terry?
3303 Mr. {Terry.} Aye.
3304 The {Clerk.} Mr. Terry, aye.
3305 Mr. Rogers?
3306 [No response.]
3307 The {Clerk.} Ms. Myrick?
3308 Mrs. {Myrick.} Aye.
3309 The {Clerk.} Ms. Myrick, aye.
3310 Mr. Sullivan?
3311 [No response.]
3312 The {Clerk.} Mr. Murphy?
3313 Mr. {Murphy.} Aye.

3314 The {Clerk.} Mr. Murphy, aye.
3315 Mr. Burgess?
3316 [No response.]
3317 The {Clerk.} Ms. Blackburn?
3318 Mrs. {Blackburn.} Aye.
3319 The {Clerk.} Ms. Blackburn, aye.
3320 Mr. Bilbray?
3321 Mr. {Bilbray.} Aye.
3322 The {Clerk.} Mr. Bilbray, aye.
3323 Mr. Bass?
3324 Mr. {Bass.} Aye.
3325 The {Clerk.} Mr. Bass, aye.
3326 Mr. Gingrey?
3327 [No response.]
3328 The {Clerk.} Mr. Scalise?
3329 Mr. {Scalise.} Aye.
3330 The {Clerk.} Mr. Scalise, aye.
3331 Mr. Latta?
3332 Mr. {Latta.} Aye.
3333 The {Clerk.} Mr. Latta, aye.
3334 Ms. McMorris Rodgers?
3335 Ms. {McMorris Rodgers.} Aye.
3336 The {Clerk.} Ms. McMorris Rodgers, aye.
3337 Mr. Harper?

3338 Mr. {Harper.} Aye.
3339 The {Clerk.} Mr. Harper, aye.
3340 Mr. Lance?
3341 Mr. {Lance.} Aye.
3342 The {Clerk.} Mr. Lance, aye.
3343 Mr. Cassidy?
3344 Dr. {Cassidy.} Aye.
3345 Mr. {Clerk.} Mr. Cassidy, aye.
3346 Mr. Guthrie?
3347 Mr. {Guthrie.} Aye.
3348 The {Clerk.} Mr. Guthrie, aye.
3349 Mr. Olson?
3350 Mr. {Olson.} Aye.
3351 The {Clerk.} Mr. Olson, aye.
3352 Mr. McKinley?
3353 Mr. {McKinley.} Aye.
3354 The {Clerk.} Mr. McKinley, aye.
3355 Mr. Gardner?
3356 Mr. {Gardner.} Aye.
3357 The {Clerk.} Mr. Gardner, aye.
3358 Mr. Pompeo?
3359 Mr. {Pompeo.} Aye.
3360 The {Clerk.} Mr. Pompeo, aye.
3361 Mr. Kinzinger?

3362 Mr. {Kinzinger.} Aye.

3363 The {Clerk.} Mr. Kinzinger, aye.

3364 Mr. Griffith?

3365 Mr. {Griffith.} Aye.

3366 The {Clerk.} Mr. Griffith, aye.

3367 Mr. Waxman?

3368 Mr. {Waxman.} No.

3369 The {Clerk.} Mr. Waxman, no.

3370 Mr. Dingell?

3371 [No response.]

3372 The {Clerk.} Mr. Markey?

3373 Mr. {Markey.} No.

3374 The {Clerk.} Mr. Markey, no.

3375 Mr. Towns?

3376 Mr. {Towns.} No.

3377 The {Clerk.} Mr. Towns, no.

3378 Mr. Pallone?

3379 Mr. {Pallone.} No.

3380 The {Clerk.} Mr. Pallone, no.

3381 Mr. Rush?

3382 [No response.]

3383 The {Clerk.} Ms. Eshoo?

3384 Ms. {Eshoo.} No.

3385 The {Clerk.} Ms. Eshoo, no.

3386 Mr. Engel?
3387 Mr. {Engel.} No.
3388 The {Clerk.} Mr. Engel, no.
3389 Mr. Green?
3390 Mr. {Green.} No.
3391 The {Clerk.} Mr. Green, no.
3392 Ms. DeGette?
3393 Ms. {DeGette.} No.
3394 The {Clerk.} Ms. DeGette, no.
3395 Ms. Capps?
3396 Mrs. {Capps.} No.
3397 The {Clerk.} Ms. Capps, no.
3398 Mr. Doyle?
3399 Mr. {Doyle.} No.
3400 The {Clerk.} Mr. Doyle, no.
3401 Ms. Harman?
3402 Mr. {Harman.} No.
3403 The {Clerk.} Ms. Harman, no.
3404 Ms. Schakowsky?
3405 Ms. {Schakowsky.} No.
3406 The {Clerk.} Ms. Schakowsky, no.
3407 Mr. Gonzalez?
3408 [No response.]
3409 The {Clerk.} Mr. Inslee?

3410 Mr. {Inslee.} No.
3411 The {Clerk.} Mr. Inslee, no.
3412 Ms. Baldwin?
3413 Ms. {Baldwin.} No.
3414 The {Clerk.} Ms. Baldwin, no.
3415 Mr. Ross?
3416 Mr. {Ross.} Aye.
3417 The {Clerk.} Mr. Ross, aye.
3418 Mr. Weiner?
3419 Mr. {Weiner.} No.
3420 The {Clerk.} Mr. Weiner, no.
3421 Mr. Matheson?
3422 Mr. {Matheson.} Aye.
3423 The {Clerk.} Mr. Matheson, aye.
3424 Mr. Butterfield?
3425 Mr. {Butterfield.} No.
3426 The {Clerk.} Mr. Butterfield, no.
3427 Mr. Barrow?
3428 Mr. {Barrow.} No.
3429 The {Clerk.} Mr. Barrow, no.
3430 Ms. Matsui?
3431 Ms. {Matsui.} No.
3432 The {Clerk.} Ms. Matsui, no.
3433 Mr. Upton?

- 3434 Mr. {Upton.} Votes aye.
- 3435 The {Chairman.} Mr. Whitfield?
- 3436 Mr. {Whitfield.} Aye.
- 3437 The {Clerk.} Mr. Whitfield, aye.
- 3438 The {Chairman.} Dr. Gingrey?
- 3439 Mr. {Gingery.} Aye.
- 3440 The {Clerk.} Dr. Gingrey, aye.
- 3441 The {Chairman.} Mr. Sullivan?
- 3442 Mr. {Sullivan.} Aye.
- 3443 The {Clerk.} Mr. Sullivan, aye.
- 3444 The {Chairman.} Dr. Burgess?
- 3445 Dr. {Burgess.} Aye.
- 3446 The {Clerk.} Dr. Burgess, aye.
- 3447 The {Chairman.} Mr. Rogers from the Great State of
- 3448 Michigan?
- 3449 Mr. {Rogers.} Aye.
- 3450 The {Clerk.} Mr. Rogers, aye.
- 3451 The {Chairman.} Are there members still wishing to cast
- 3452 their vote? Mr. Whitfield?
- 3453 Mr. {Whitfield.} No.
- 3454 The {Clerk.} Mr. Whitfield, no.
- 3455 The {Chairman.} Mr. Stearns?
- 3456 Mr. {Stearns.} No.
- 3457 The {Clerk.} Mr. Stearns, no.

3458 The {Chairman.} Mr. Barton?
3459 Mr. {Green.} No.
3460 The {Clerk.} Mr. Barton, no.
3461 The {Chairman.} Are there other members seeking
3462 recognition to vote? If not, the clerk will tally.
3463 The {Clerk.} Mr. Chairman, 33 ayes, 18 nays.
3464 The {Chairman.} Thirty-three ayes, 18 nays. The bill
3465 is--gentleman from Illinois, Mr. Rush. Mr. Rush is not
3466 recorded. How would you like to record yourself? Mr. Rush
3467 votes no.
3468 The {Clerk.} Mr. Rush, nay.
3469 The {Chairman.} So the clerk will give me a final
3470 tally.
3471 The {Clerk.} Mr. Chairman, 33 ayes, 19 nays.
3472 The {Chairman.} Thirty-three ayes, 19 nays, the ayes
3473 have it. The bill is ordered reported favorably. Committee
3474 will now turn to the oversight plan for the 112th Congress.
3475 Chair offers a resolution to adopt the oversight plan that
3476 reflects language agreed upon by both the majority and the
3477 minority. Clerk will read the title.
3478 The {Clerk.} Resolution offered by Mr. Upton.
3479 [The resolution follows:]

3480 ***** INSERT 10 *****

|

3481 The {Chairman.} Without objection the text of the
3482 resolution will be considered as read. The Chair recognizes
3483 himself briefly. Under the Rules of the House the committees
3484 are required to adopt an oversight plan and submit it to the
3485 Committee on Government Reform and House Administration by
3486 today. The oversight plan before us sets forth some markers
3487 on what this committee intends to do on oversight during the
3488 Congress. The plan does not limit in any way the matters
3489 that we may decide to look into during the next two years.
3490 Since we circulated the plan on Friday, majority and minority
3491 staff have reached an agreement on a number of improvements
3492 reflected in the resolution now before us. I should note
3493 that the committee's oversight efforts will focus on 1),
3494 cutting government spending through the elimination of waste,
3495 fraud, and abuse; 2), increasing individual liberty and
3496 personal freedom by indentifying and eliminating burdensome
3497 government mandates and red tape; 3), promoting economic
3498 growth by fostering certainty and civility in the laws and
3499 regs that affect job creators. Are there amendments to the
3500 resolution? Gentleman from California, Mr. Waxman.

3501 Mr. {Waxman.} Mr. Chairman, I have no amendment but I
3502 do want to address this resolution. Oversight is one of our
3503 core responsibilities as members of Congress. Through

3504 vigorous oversight we can identify waste, fraud, and abuse
3505 and save taxpayers money. We can assure our laws are
3506 operating efficiently and effectively and we can obtain
3507 information important for understanding where our laws need
3508 improvement. I am pleased that Chairman Upton and his staff
3509 worked with us in drafting this oversight plan. While
3510 Chairman Upton's plan has different priorities for oversight
3511 than I would pick that is his prerogative as Chair. The plan
3512 does cover numerous areas in which oversight is important and
3513 necessary such as examining the costs and benefits of the
3514 Clean Air Act, reviewing issues relating to the safety of our
3515 food and medical devices, investigating Medicare and Medicaid
3516 fraud, and evaluating our national energy policy. Moreover,
3517 the language of the plan reflects productive discussions
3518 between the majority and minority committee staff. For these
3519 reasons I urge support of the plan. I also want to thank
3520 Chairman Upton for agreeing to join with me in inquiring
3521 about the veracity of testimony received last Congress from
3522 Patrick Michaels. Last month we received information that
3523 raised questions about Mr. Michael's claim that he does not
3524 received significant funding from oil companies and other
3525 polluting industries. Chairman Upton has appropriately
3526 agreed to send a letter with me seeking more information from
3527 Mr. Michaels. While I am a strong believer in oversight, I

3528 also believe Congress must exercise its tremendous oversight
3529 powers thoughtfully and responsibly. The subpoena authority
3530 and the ability to call witnesses before public hearings
3531 Congress has the tools to misuse oversight and the
3532 unreasonably burdensome demands--with unreasonably burdensome
3533 demands more fishing expeditions. I recognize that there are
3534 members on the Republican side who are opposed to health
3535 reform. I respect our differences of opinion, but I would--
3536 but it would be an abuse of Congress's investigative power to
3537 make overbroad or unreasonable oversight demands for the
3538 purpose of preventing government officials from carrying out
3539 their responsibilities. That is why I have been urging that
3540 our oversight request be tailored to the legitimate needs of
3541 the committee. We need to follow the goldilocks principle.
3542 Our request should not be so burdensome that they interfere
3543 with the proper operation of government nor so modest that
3544 they deny us the information we need. They need to be
3545 carefully tailored and constructed so they are just right. I
3546 hope we can work together to achieve these objectives and
3547 carry forward the committee's tradition of vigorous
3548 bipartisan oversight.

3549 Ms. {DeGette.} Will the Ranking Member yield?

3550 Mr. {Waxman.} Yes, I am pleased to yield to the Ranking
3551 Member of the Oversight Subcommittee.

3552 Ms. {DeGette.} I just wanted to add my thanks to the
3553 majority staff and also the minority staff for working
3554 together to put this plan in place. I think the Goldilocks
3555 principle is one that we should adhere to, but we have
3556 already had some good hearings and I know we are going to
3557 have more good hearings in the subcommittee. And the staff
3558 played the biggest part in that. So I just wanted to thank
3559 the staff.

3560 Mr. {Waxman.} We of course will exercise our conscience
3561 in advising Goldilocks on reproductive health issues if we
3562 are still permitted to speak our minds on this issue. I
3563 yield back the balance of my time.

3564 The {Chairman.} I thank the gentleman and again I want
3565 to thank the staff on both sides and the cooperation that we
3566 have seen. I think this is a better document than was
3567 circulated last week and we look forward to its adoption.
3568 Are there any amendments? Seeing none no further discussion,
3569 the question occurs on the motion all those in favor say aye.
3570 Aye. Those opposed say no. The ayes have it. The motion is
3571 agreed to and we are done for the day. Yeah, no done for the
3572 day in terms of the Full Committee. Oh is there--I would ask
3573 unanimous consent that the staff my make technical
3574 corrections as they may find and we look forward to the next
3575 day. Thank you. Giving the gavel to Mr. Shimkus.

3576 [Whereupon, at 1:10 p.m., the Subcommittee was
3577 adjourned.]